

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

HONORABLE PHILIP S. LENSKI, ADMINISTRATIVE LAW JUDGE

RECEIVED

CASE NO. 13-ALJ-17-0244-CC
APPELLATE CASE NO. 2017-000968

MAY 31 2017

SC Court of Appeals

Richard Beltram,.....Appellant/Respondent,

v.

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

REPLY TO APPELLANT/RESPONDENT’S RETURN TO MOTION TO DISMISS

Pursuant to Rule 240(f), SCACR, Respondent/Appellant South Carolina Department of Revenue (Department) replies to Appellant/Respondent Richard Beltram’s (Beltram) Return to Motion to Dismiss (Return). By way of background, on April 27, 2017, the Department filed with this Court its Motion to Dismiss Appeal With Prejudice (Motion). In its Motion, the Department submits that due to Beltram’s failure to pay the tax or post bond on such tax found to be due by the Administrative Law Court (ALC) prior to his appeal to this Court, such failure deprives this Court of appellate jurisdiction and requires dismissal of the instant appeal. For the reasons set forth in the Department’s Motion and as set forth below, the Department respectfully requests this Court to dismiss Beltram’s appeal with prejudice.

I. The South Carolina Court of Appeals Lacks Appellate Jurisdiction in This Matter.

In his Return, Beltram asserts that he has properly perfected his Notice of Appeal in this matter and argues that S.C. Code Ann. § 12-60-3370 (2014) “cannot override the specific rules of the South Carolina Court of Appeals” for complying with the procedural requirement for perfecting an appeal.” (Return, p. 2.) The Department disagrees. The Revenue Procedures Act, specifically section 12-60-3370, provides a requirement to taxpayers who wish to appeal a final decision of the Administrative Law Court, and to the extent Beltram argues this section conflicts with the South Carolina Appellate Court Rules, the Department respectfully submits the language of the statute must control in this matter.

A. South Carolina Revenue Procedures Act Requires Payment of the Tax or Posting of a Bond.

In South Carolina, a taxpayer’s right to challenge a dispute with the Department is authorized pursuant to the South Carolina Revenue Procedures Act (RPA). Specifically, in 1995, the South Carolina Legislature created the RPA “to provide the people of this State with a straightforward procedure to determine a dispute with the Department of Revenue” S.C. Code Ann. 12-60-20(2014); 1995 Act No. 60, § 4A. Further, the RPA “must be interpreted and construed in accordance with, and in furtherance of, that intent.” *Id.* Pursuant to the S.C. Code Ann. § 12-60-3340 (2014), contested case hearings are held by the ALC to determine disputes between taxpayers and the Department. At the time of the RPA’s enactment, appeals of ALC decisions regarding a dispute between a taxpayer and the Department were taken to the circuit court pursuant to then-existing section 12-60-3370¹ and S.C. Code Ann. § 1-23-610. In 2006,

¹The requirement that the “taxpayer shall pay, or post a bond for, all taxes, including interest, penalties, and other amounts determined to be due by the Administrative Law Judge” was included in 1995 Act No. 60, § 60 (eff. Jun. 12, 1995).

these sections, in addition to S.C. Code Ann. § 12-60-3380, were amended to provide that appeals from ALC decisions are to the Court of Appeals. See 2006 Act No. 387, § 5, eff. July 1, 2006 (amending 1-23-610); 2006 Act No. 387, § 12, eff. July 1, 2006 (amending 12-60-3370); and 2006 Act No. 387, § 13, eff. July 1, 2006 (amending 12-60-3380). Section 53 of 2006 Act 387 further provides:

This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling.

Pursuant to section 12-60-3370 of the RPA, the South Carolina Legislature explicitly conditioned a taxpayer's ability to appeal an ALC decision to this Court. Specifically, the RPA provides a definite requirement for a taxpayer seeking to challenge an ALC decision before this Court. Section 12-60-3370 states 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). Based on the plain language of section 12-60-3370, payment of the tax, or bond for such tax, is a prerequisite to filing a notice of appeal of the ALC's decision. Hodges v. Rainey, 341 S.C.79, 85, 533 S.E2d 578, 581 (2000) ("Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.") Beltram's interpretation of section 12-60-3370 renders such section superfluous and meaningless. Accordingly, Beltram would have this Court rule that the Legislature made a futile act by establishing section 12-60-3770, despite including a mandatory prerequisite requirement on a taxpayer prior to his filing a notice of appeal with this Court. Denene, Inc. v. City of Charleston, 353 S.C. 208, 574 S.E.2d 196 (2002) ("The Court must presume the legislature did not intend a futile act, but rather intended its statutes to accomplish something.").

Moreover, section 12-60-3370 does not contain any permissive or optional language but instead includes the mandate “shall.” The word “shall” in section 12-60-3370 must be afforded its plain and ordinary meaning. Buist v. Huggins, 367 S.C. 268, 625 S.E.2d 636 (2006) (“The words of a statute must be given their plain and ordinary meaning without resorting to subtle or forced construction or limit to expand the statute’s operation.”). Furthermore, words within a statute cannot be omitted. Savannah Bank and Trust v. Shuman, 250 S.C.344, 157 S.E.2d 864 (1962) (“It is axiomatic that words in a statute cannot be ignored or deleted.”). Section 12-60-3370 can only reasonably be read to provide a mandatory requirement to pay the tax, or post a bond for such tax, determined to be due by the administrative law judge prior to appealing the decision to this Court.

B. S.C. Code Ann. § 12-60-3370 Applies in This Matter.

Despite Beltram’s assertion, without citation from supporting authority, that section 12-60-3370 “cannot override the specific rules of the South Carolina Court of Appeals,” the Department asserts that section 12-60-3370 can be read together with the South Carolina Appellate Court rules. Nevertheless, to the extent the Court determines section 12-60-3370 is in conflict with Rule 203(b)(6) and (d)(2), SCACR, Rule 263(b), SCRCP or any other court rules of procedure, the Department respectfully submits that the requirement of section 12-60-3370 must control in this matter. State v. Cottingham, 224 S.C. 181, 187, 77 S.E.2d 897, 900 (1953) (“Statutes override rules of court, if in conflict.”); see also Skinner v. Westinghouse Elec. Corp., 380 S.C. 91, 94, 668 S.C.2d 795, 796-797 (2008) (“Our jurisprudence confirms that jurisdictional appealability issues are governed by statute, and not by the rules of civil procedure.”) (citing N.C. Fed. Sav. & Loan Ass’n v. Twin States Dev. Corp., 289 S.C. 480, 481, 347 S.E.2d 97, 97 (1986) (rejecting an attempt to invoke a rule of civil procedure as a basis of the right to appeal and holding, “[t]he right of

appeal arises from and is controlled by statutory law”)); see also S.C. Code Ann. § 14-3-330 (Supp. 2007) (primary statute addressing appellate jurisdiction). Accordingly, the Department respectfully submits this Court lacks appellate jurisdiction in this matter and requests that Beltram’s appeal be dismissed with prejudice.

C. A Taxpayer’s “Lack of Knowledge” of Section 12-60-3370 is Not a Sufficient Reason to Excuse Him from Complying with the Requirements of the Statute.

In his Return, to include the accompanying affidavit, Beltram acknowledges that he did not pay either the amounts due under the ALC’s Amended Final Order or post a bond prior to filing his appeal in this case as is required under 12-60-3370. (Return, p. 2; Beltram Affidavit, para. 4). Nevertheless, Beltram argues that this Court should excuse him from the requirements of section 12-60-3370 because “he was not aware of this requirement.” (Return, p. 2.) It is a well-established principle “that ignorance of the law is no excuse” to relieve an individual from an act required under the law. Beltram cannot be excused from the statutory requirement of section 12-60-3370 simply because he was “unaware” of its existence.²

D. Beltram’s Subsequent Remedial Action is Insufficient to Grant Appellate Jurisdiction to This Court.

In his Return and supporting affidavit, Beltram asserts that upon “notice of the requirement” to pay the tax or post bond, he completed the following actions:

Beltram provided counsel with credit card information that would enable a prompt and full payment of the amounts at issue in order to proceed with his appeal. Beltram attempted to make an online payment to SCDOR, but there was no accommodation on the website for the collection of this type of payment.

²In his Return, Beltram asserts that the tax owed is \$13,602.11. As explained in Part II, below, the Department believes that Beltram’s interpretation of the ALC’s Amended Final Order is incorrect and that the ALC has instead ordered Beltram to pay \$52,273.05 in tax, including interest. Nevertheless, for the purposes of the Department’s Motion and Reply, what is important is that Beltram failed to pay even the amount of tax he claims is owed (or post a bond for that amount) prior to filing his appeal as required by section 12-60-3370.

(Return, p. 2). Beltram's subsequent remedial actions are insufficient to grant appellate jurisdiction to this Court.

Section 12-60-3370 clearly and plainly requires a taxpayer to pay the tax or post a bond prior to filing the notice of appeal with the Court, and a taxpayer's failure to comply with section 12-60-3370 deprives this Court of appellate jurisdiction. See supra. Further, there are no exceptions to the requirements of section 12-60-3370. A party's failure to comply with statutory requirements prescribed by the Legislature should not be excused by the party's subsequent attempt to untimely rectify its previous error.³

II. The Department Correctly Determined the Tax Liability at Issue.

Although Beltram asserts that the Department did not accurately interpret the ALC's determination with regard to the "correct" amount of tax due in this matter, this issue is not relevant to this Court's analysis of whether it has appellate jurisdiction in this matter. Regardless of the correct interpretation of the ALC's decision, the fact remains that Beltram failed to pay any tax prior to filing his appeal – including the amount he asserts is the "correct" tax due. Nevertheless, because Beltram raised such issue in his Return, the Department believes it is necessary to provide the Court with supporting evidence showing that the Department correctly interpreted the ALC's Amended Final Order and Decision.

In support of its Motion, the Department submitted the affidavit of Perry T. Mathis, a Regional Manager with the Department. In his affidavit, Mr. Mathis confirmed that pursuant to the Department's interpretation of the ALC's Amended Final Order, Beltram's tax liability in this matter is \$52,273.05 and such tax liability remains unpaid. (Aff. of Perry T. Mathis, p. 9; see also

³Regardless of a remedial attempt to pay any of the amounts due in this matter or post a bond for said amounts, Beltram failed to do so prior to filing his appeal in this matter.

Beltram's Return, Aff. of Richard Beltram.). However, in his Return, Beltram asserts that the tax liability determined to be due by the ALC in this matter is \$13,602.11. For the reasons set forth below, the Department disagrees with Beltram's lower amount.

A. Beltram's Tax Liability Includes Accrued Interest Pursuant to S.C. Code Ann. § 12-60-30(37) (2014).

As outlined in Beltram's affidavit submitted with his Return, Beltram asserts that the total tax liability determined to be due by the ALC in this matter is \$13,602.11. In his computation, Beltram included the following amounts as derived from the "lien date" for the withholding periods of September 2003, December 2003, March 2004, and June 2004, respectively: \$4,258.28; \$3,923.79; \$3,528.79; \$2,566.26; less (\$675.00 per ALC Order). As discussed above, section 12-60-3370 of the RPA provides that 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). The RPA defines "tax" or "taxes" as "taxes . . . including interest . . . imposed by this title, or subject to assessment or collection by the department." S.C. Code Ann. § 12-60-30(37) (2014). Furthermore, as noted by the ALC in the Amended Final Order, interest continues to accrue on such tax liability until "paid in its entirety." S.C. Code Ann. § 12-54-25(A); ALC Amended Order, p. 23 (finding that "there is no statutory authority for the waiver of interest in this case"). Thus, Beltram's tax liability determined to be due by the ALC, and required to be paid or post a bond for pursuant to section 12-60-3370, must include all applicable interest on such tax assessments. Beltram's computation is simply in error as it does not include, pursuant to section 12-60-30(37), the interest due upon the tax liability in this matter.

B. The Department Correctly Interpreted the ALC's Determination of Beltram's Tax Liability.

At a minimum, Beltram's calculation is inaccurate because it fails to include the statutory interest amounts upon the tax liability. See supra discussion Part II, A. Nevertheless, Beltram further argues that the Department's calculation of tax liability is incorrect because the ALC's Amended Final Order "does not set forth a specific money judgment. Rather, it calls for a calculation of the judgment based on certain time parameters set forth in the Amended Final Order." (Return, p. 2.) The Department disagrees with such statement; moreover, Beltram did not include all the time periods found to be due by the ALC when making his calculation as outlined in his affidavit attached to the Return.

In its Amended Final Order, the ALC made the following finding of fact:

27. This court finds, additionally, that as of this date, all of the above-listed withholding taxes, penalties, and interest remain unpaid. This court also finds that the first three (3) tax liens (see footnote 5) filed against Intedge⁹ have expired, since they were filed over ten (10) years ago.¹⁰ [sic] all before May 1, 2013, which was the date of the Department Determination in this matter. This court also finds that the first three (3) tax liens have expired. Additionally, the last three (3) tax liens were for unpaid taxes during the tax periods that occurred after the Petitioner was no longer a responsible party.¹¹ The remaining tax liens were incurred during the Petitioner's tenure as the responsible party and amounted to \$27,935.38, according to this court's calculations.¹²

¹² Though there may be a need for the Department to alter these calculations, based on a more thorough review of the taxes due for these dates.

(ALC Amended Order, p. 9.) At least, and based on the clear and unambiguous language of the ALC's finding of fact, Beltram is the responsible party for withholding taxes in the amount of \$27,935.38, subject to the Department's "more thorough review of the taxes due for these dates."

(ALC Amended Final Order, p. 9, n.12.)

Subsequent to the ALC's Amended Final Order, the Department determined – in accordance with footnote 12 of the Amended Final Order – that the total amount of the remaining tax liens incurred during Beltram's tenure as the responsible party is \$29,792.79. (Aff. of Perry Mathis.) In consideration of the ALC's reduction of the tax by \$675.00, the final amount of withholding tax due under the ALC's Amended Final Order is \$29,117.49. See Affidavit and Supplemental Affidavit of Perry T. Mathis. Further, because interest is included in the definition of "taxes" for purposes of section 12-60-3370, Beltram is also responsible for interest in the amount of \$23,155.56 as of April 30, 2017, and such interest amounts continues to accrue until the entire liability is paid in full.⁴

The ALC did exclude certain withholding tax periods and one sales tax period from collection by the Department in this matter:

22. Because the Department is barred from collecting any taxes secured by a lien that was filed more than ten years before the May 1, 2013 Department Determination, the court holds that the following employee withholding taxes owed by Intedge can no longer be collected:

- a. Employee withholding taxes for the third quarter of 1999 for which a lien was properly filed in August of 2001;
- b. Employee withholding taxes for the first quarter of 2001 for which a lien was properly filed in November of 2001; and
- c. Employee withholding taxes for the second quarter of 2001 for which a lien was properly filed in February of 2002.

(ALC Amended Order, p. 18.)

26. However, because the Petitioner lost control of Intedge in July 2005, the court holds that he is not personally liable for any tax liability accruing to Intedge after 2005. Therefore, the Petitioner is

⁴Notably, the requirement of section 12-60-3370 protects a taxpayer because it halts the accrual of interest during a potentially lengthy appeal process. A taxpayer paying a tax prior to appeal is further protected in that such amounts are held in trust during the pendency of the appeal.

not liable for Intedger's employee withholding taxes for the following periods:

- a. Legal tax lien July 5, 2006 (for taxes of \$4,320 due on October 31, 2005, along with penalties and interest);
- b. Legal tax lien December 14, 2006 (for taxes of \$634.35 due on February 28, 2006, along with penalties and interest); and
- c. Legal tax lien June 21, 2006 (for taxes of \$1,500 due on October 20, 2005, along with penalties and interest).^[5]

(ALC Amended Final Order, p. 20.)

29. As a retailer However, the court holds that the Petitioner no longer held a position of control within Intedger as of July 2005. Because the sales tax return should have been filed in September 2005, two months after the Petitioner lost his position of responsibility within Intedger, the court concludes that the Petitioner is not liable for the sales tax, interest, or penalty owed by Intedger.^[6]

(ALC Amended Final Order, p. 21.)

Finally, the Court made an additional conclusion of law that is consistent the above reference findings of fact and conclusions of law:

The court holds that the Petitioner is personally liable for the employee withholding taxes, penalties and interest owed by Intedger for the period of May 1, 2003, through July 1, 2005. Any taxes, penalties and interest accruing before that period are time-barred. Additionally, any taxes, penalties and interest accruing after the Petitioner was no longer a responsible party (July 1, 2005) are not attributable to the Petitioner and are also barred. Furthermore, the

⁵It appears the ALC Amended Order contains a harmless error with regard to the legal tax lien filed June 21, 2006 (for taxes of \$1,500 due on October 20, 2005). Specifically, the ALC Amended Order references the basis of this tax lien as employee withholding taxes. However, this filed tax lien relates to sales tax due for the September 2005 period. The Department's proposed assessment in this matter included one sales tax period and that period is September 2005. (A business that sold tangible personal property at retail for the period September 2005 was required to file and remit the sales tax due on or before October 20, 2005).

Because the ALC further found that Beltram was not liable for such sales tax period of September 2005, the resulting error is harmless. Essentially, the ALC barred collection of one tax period (in the amount of \$1,500.00) on two separate occasions within the same Amended Order.

⁶See *supra* n. 5.

court holds that the Petitioner is not liable for the penalties in this matter due to the Department's eight (8) year delay in pursuing the Petitioner as a responsible party. Furthermore, the Petitioner is required to pay interest that has continued to accrue, on the unpaid portion of the taxes for taxes Intedged incurred from May 1, 2003 through July 1, 2005.

(ALC Amended Order, pp. 24-25) (emphasis added.)

Despite Beltram's unsupported assertions to the contrary, the Department has considered the ALC's decision with regard to the barred time periods, and none of those periods are included in the Department's calculation of the tax liability due pursuant to section 12-60-3370. As further support for the Department's calculation, Exhibit "A" attached to this Reply includes a spreadsheet of all tax periods included by the Department in the proposed assessment issued to Beltram (the basis of the contested case hearing before the ALC.)⁷ Pursuant to the language of the ALC Amended Order, the Department excluded the first three withholding tax periods from its calculation: September 2009, March 2001, and June 2001. (Exhibit A, p. 1.)⁸ The Department also excluded the final three tax periods⁹ from its calculation: September 2005, December 2005, and September 2005. (Id. at p. 3.)¹⁰ The Department's calculation includes only the remaining withholding tax periods of the proposed assessment. This is clearly the decision rendered by the ALC. See ALC Amended Order, p. 9 ("The remaining tax liens were incurred during the Petitioner's tenure as the responsible party and amounted to \$27,935.38, according to this court's

⁷Exhibit A attached to this Reply was admitted, without objection, at the hearing before the ALC as Respondent's Exhibit 2.

⁸These three withholding tax periods amount to \$11,482.15. Notably, the ALC came to the same conclusion in footnote 9, page 9 of the Amended Final Order.

⁹The final three tax periods on Exhibit A include two withholding tax periods (September 2005 and December 2005) and one sales tax period (September 2005).

¹⁰These three tax periods amount to \$6,454.35. Notably, the ALC come to the same conclusion in footnote 11, page 9 of the Amended Final Order.

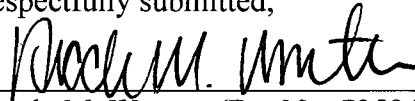
calculations.”; Id. at pp. 24-25 (“The court holds that the Petitioner is personally liable for the employee withholding taxes . . . and interest owed by Intedge for the period of May 1, 2003, through July 1, 2005.”).

Accordingly, there is simply no basis for Beltram’s assertion that the tax liability in this matter is limited to \$13,602.11. There is absolutely no language in the ALC Amended Order stating that Beltram is not responsible for the following withholding periods: September 2004, December 2004, March 2005, and June 2005. In fact, the ALC specifically found that “[Beltram] has not offered evidence or attempted to argue that all the tax liens [in this matter] have expired.” (ALC Amended Order, p. 9, n. 10.) As clearly articulated above, and as evidenced by the Affidavits of Perry Mathis and Exhibit A, the Department has correctly interpreted the ALC’s Amended Final Order. Further, “all taxes,” as contemplated by section 12-60-3370 in this matter are due in the amount of \$52,273.05 (with interest accrued as of April 30, 2017).

CONCLUSION

Accordingly, for the reasons set forth above and those contained in the Department’s Motion, the Department respectfully submits this Court lacks appellate jurisdiction in this matter and requests that Beltram’s appeal be dismissed with prejudice.

Respectfully submitted,



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May 30, 2017

EXHIBIT A

NOTICE SENT TO: (ENTITY OR INDIVIDUAL)	Period Covered	TYPE OF NOTICE	DATE SENT	Where Tax Reported If Any	Type of Tax	TAX SHOWN ON RETURN BY TAXPAYER	TAX NOT DEPOSITED OR PAID TO DEPARTMENT	PENALTIES	INTEREST	COSTS	TOTAL	LIEN
Intedge Industries Inc.	Sep-99	PNOA	3/29/2001	Return	Empl With	\$2,519.14	2519.14	113.36	164.49		2796.99	N
Intedge Industries Inc.	Sep-99	Assmt	5/15/2001	Return	Empl With		2519.14	239.31	368.22		3126.67	N
Intedge Industries Inc.	Sep-99	Tax Lien - 50366302-2	8/13/2001	Return	Empl With		2519.14	277.08	422.03	165.91	3384.16	Y
Intedge Industries Inc.	Mar-01	PNOA	6/27/2001	Return	Empl With	\$4,660.71	4660.71	146.60	62.72		4870.03	N
Intedge Industries Inc.	Mar-01	Assmt	8/14/2001	Return	Empl With		4660.71	193.20	119.21		4973.12	N
Intedge Industries Inc.	Mar-01	Tax Lien - 50385821-9	11/13/2001	Return	Empl With		4660.71	263.10	203.35	261.36	5388.52	Y
Intedge Industries Inc.	Jun-01	PNOA	10/10/2001	Return	Empl With	\$4,302.30	4302.30	43.02	50.62		4395.94	N
Intedge Industries Inc.	Jun-01	Assmt	11/27/2001	Return	Empl With		4302.30	107.55	128.10		4537.95	N
Intedge Industries Inc.	Jun-01	Tax Lien - 50399243-0	2/25/2002	Return	Empl With		4302.30	172.08	194.12	238.43	4906.93	Y
Intedge Industries Inc.	Mar-03	Return	4/30/2003	Return	Empl With	\$3,787.41						
Intedge Industries Inc.	Mar-03	PNOA	7/29/2003	Return	Empl With		1867.85	18.67	15.67		1902.19	N
Intedge Industries Inc.	Mar-03	Assmt	9/15/2003	Return	Empl With		1867.85	46.68	39.56		1954.09	N
Intedge Industries Inc.	Mar-03	Tax Lien - 50650728-2	10/7/2005	Return	Empl With				17.48	225.41	242.89	Y (includes 3/03 and 3/05)
Intedge Industries Inc.	Sep-03	Return	10/31/2003	Return	Empl With	\$4,258.28						
Intedge Industries Inc.	Sep-03	PNOA	2/17/2004	Return	Empl With		4258.28	63.87	43.11		4365.26	N
Intedge Industries Inc.	Sep-03	Assmt	5/18/2004	Return	Empl With		4258.28	170.32	125.57		4554.17	N
Intedge Industries Inc.	Sep-03	Tax Lien - 50577657-3	9/7/2004	Return	Empl With		4258.28	234.19	169.87	243.12	4905.46	Y
Intedge Industries Inc.	Dec-03	Return	2/28/2004	Return	Empl With	\$3,923.79						
Intedge Industries Inc.	Dec-03	PNOA	7/30/2004	Return	Empl With		3923.79	58.85	29.92		4012.56	N
Intedge Industries Inc.	Dec-03	Assmt	10/29/2004	Return	Empl With		3923.79	196.18	136.99		4256.96	N
Intedge Industries Inc.	Dec-03	Tax Lien - 50604526-5	2/16/2005	Return	Empl With		3923.79	274.62	204.80	424.11	4827.32	Y (includes 12/03 and 3/04)

Intedge Industries Inc.	Mar-04	Return	4/30/2004	Return	Empl With	\$4,044.90						
Intedge Industries Inc.	Mar-04	PNOA	7/30/2004	Return	Empl With		3528.79	35.28	29.53		3593.60	
Intedge Industries Inc.	Mar-04	Assmt	10/29/2004	Return	Empl With		3528.79	123.49	95.57		3747.85	
Intedge Industries Inc.	Mar-04	Tax Lien - 50604526-5	2/16/2005	Return	Empl With		3528.79	194.05	156.10		3878.94	Y (includes 12/03 and 3/04)
Intedge Industries Inc.	Jun-04	Return	7/31/2004	Return	Empl With	\$3,673.30						
Intedge Industries Inc.	Jun-04	PNOA	11/1/2004	Return	Empl With		2566.25	38.49	28.12		2632.86	N
Intedge Industries Inc.	Jun-04	Assmt	2/1/2005	Return	Empl With		2566.25	89.81	71.06		2727.12	N
Intedge Industries Inc.	Jun-04	Tax Lien - 50619243-7	5/23/2005	Return	Empl With		2566.25	141.13	122.19	151.48	2981.05	Y
Intedge Industries Inc.	Sep-04	Return	10/31/2004	Return	Empl With	\$4,711.65						
Intedge Industries Inc.	Sep-04	PNOA	1/14/2005	Return	Empl With		3995.31	59.92	50.57		4105.80	N
Intedge Industries Inc.	Sep-04	Assmt	4/15/2005	Return	Empl With		3995.31	119.84	103.56		4218.71	N
Intedge Industries Inc.	Sep-04	Tax Lien - 50630256-2	8/3/2005	Return	Empl With		3995.31	199.72	187.28	229.12	4611.43	Y
Intedge Industries Inc.	Dec-04	Return	2/28/2005	Return	Empl With	\$3,753.26						
Intedge Industries Inc.	Dec-04	PNOA	5/5/2005	Return	Empl With		3753.26	37.53	34.60		3825.39	N
Intedge Industries Inc.	Dec-04	Assmt	8/3/2005	Return	Empl With		3753.26	112.59	111.96		3977.81	N
Intedge Industries Inc.	Dec-04	Tax Lien - 50639161-6	9/6/2005	Return	Empl With		3753.26	131.35	131.07	210.78	4226.46	Y
Intedge Industries Inc.	Mar-05	Return	4/30/2005	Return	Empl With	\$4,041.85						
Intedge Industries Inc.	Mar-05	PNOA	6/1/2005	Return	Empl With		4041.85	40.41	40.73		4122.99	N
Intedge Industries Inc.	Mar-05	Assmt	8/31/2005	Return	Empl With		4041.85	101.03	102.94		4245.82	N
Intedge Industries Inc.	Mar-05	Tax Lien - 50650728-2	10/7/2005	Return	Empl With		4041.85	121.23	127.65		4290.73	Y (includes 3/03 and 3/05)
Intedge Industries Inc.	Jun-05	Return	7/31/2005	Return	Empl With	\$3,724.96						
Intedge Industries Inc.	Jun-05	PNOA	11/4/2005	Return	Empl With		3724.96	37.24	37.54		3799.74	N
Intedge Industries Inc.	Jun-05	Assmt	2/3/2006	Return	Empl With		3724.96	130.36	148.08		4003.40	N

Intedge Industries Inc.	Jun-05	Tax Lien - 50700406-9	3/6/2006	Return Office Aud	Empl With		3724.96	148.98	171.17	212.26	4257.37	Y
Intedge Industries Inc.	Sep-05	Return		Office Aud	Empl With							
Intedge Industries Inc.	Sep-05	PNOA	2/13/2006	Office Aud	Empl With		4320.00	1450.40	100.56		5870.96	N
Intedge Industries Inc.	Sep-05	Assmt	6/5/2006	Office Aud	Empl With		4320.00	1752.80	205.21		6278.01	N
Intedge Industries Inc.	Sep-05	Tax Lien - 50720549-7	7/5/2006	Office Aud	Empl With		4320.00	1774.40	236.06	326.52	6656.98	Y
Intedge Industries Inc.	Dec-05	Return	2/28/2006	Return	Empl With	\$634.35						
Intedge Industries Inc.	Dec-05	PNOA	8/14/2006	Return	Empl With		634.35	6.34	7.46		648.15	N
Intedge Industries Inc.	Dec-05	Assmt	11/14/2006	Return	Empl With		634.35	28.54	37.16		700.05	N
Intedge Industries Inc.	Dec-05	Tax Lien - 50762228-3	12/14/2006	Return	Empl With		634.35	31.71	41.74	45.39	753.19	Y
Intedge Industries Inc.	Sep-05	PNOA	1/30/2006	Delq Est	Sales		1500.00	912.50	38.15		2450.65	N
Intedge Industries Inc.	Sep-05	Assmt	5/22/2006	Delq Est	Sales		1500.00	942.50	74.56		2517.06	N
Intedge Industries Inc.	Sep-05	Tax Lien - 50719459-7	6/21/2006	Delq Est	Sales		1500.00	950.00	85.29	136.76	2672.05	Y
Richard S Beltram	Sep-99 to Dec-05 listed above	PNOA Resp Par	9/2/2009	Return (see above)	Empl With		41196.13	20552.32	25198.92		86947.37	N
Richard S Beltram	Sep-05 listed above	PNOA Resp Par	9/2/2009	Delq Est (see above)	Sales		1500.00	1550.00	706.92		3756.92	N
Legend: Date Sent Column for returns listed is the postmark date												

EXHIBIT B

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
HONORABLE PHILIP S. LENSKI, ADMINISTRATIVE LAW JUDGE

CASE NO. 13-ALJ-17-0244-CC

APPELLATE CASE NO. 2017-000968

Richard Beltram,.....Appellant/Respondent,

v.

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

SUPPLEMENTAL AFFIDAVIT OF PERRY T. MATHIS

COMES NOW, Perry T. Mathis, being duly sworn, deposes and states:

1. I am employed by the South Carolina Department of Revenue (Department) as a Regional Manager.
2. As Regional Manager, my duties and responsibilities include managing the Department's Field Collections' Midlands Region. As part of my duties with the Department, I have access to the Department's records concerning proposed tax assessments and outstanding tax liabilities.
3. At the request of the Department's Office of General Counsel, I was asked to determine the amount of Appellant's proposed tax assessments based upon the Department's

interpretation of the Administrative Law Court's March 17, 2017 Amended Final Order. Those proposed tax assessments are as follows:

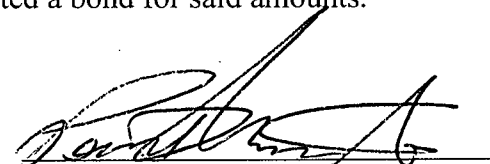
Tax Period	Tax Due	Interest*	TOTAL DUE
Sept. 2003	\$4,258.28	\$3,616.89	\$7,875.17
Dec. 2003	\$3,923.79	\$3,238.15	\$7,161.94
Mar. 2004	\$3,528.79	\$2,863.46	\$6,392.25
Jun. 2004	\$2,566.25	\$2,028.19	\$4,594.44
Sept. 2004	\$3,995.31	\$3,080.05	\$7,075.36
Dec. 2004	\$3,753.26	\$2,785.26	\$6,538.52
Mar. 2005	\$4,041.85	\$2,935.08	\$6,976.93
Jun. 2005	\$3,724.96	\$2,608.48	\$6,333.44
PER ORDER	(\$675.00)		(\$675.00)
	\$29,117.49	\$23,155.56	\$52,273.05

*Interest is accrued through April 30, 2017.

4. At the request of the Department's Office of General Counsel, I was asked to verify the status of Appellant's proposed tax assessments as outlines above.

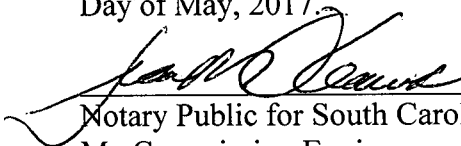
5. As of May 29, 2017, such proposed tax assessments remain outstanding in that Appellant has neither paid any of the amounts due nor posted a bond for said amounts.

FURTHER AFFIANT SAYETH NOT.



Perry T. Mathis

Sworn to and subscribed before me this 30th
Day of May, 2017.



Notary Public for South Carolina
My Commission Expires: 1-10-2018

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
HONORABLE PHILIP S. LENSKI, ADMINISTRATIVE LAW JUDGE

CASE NO. 13-ALJ-17-0244-CC
APPELLATE CASE NO. 2017-000968

Richard Beltram,.....Appellant,

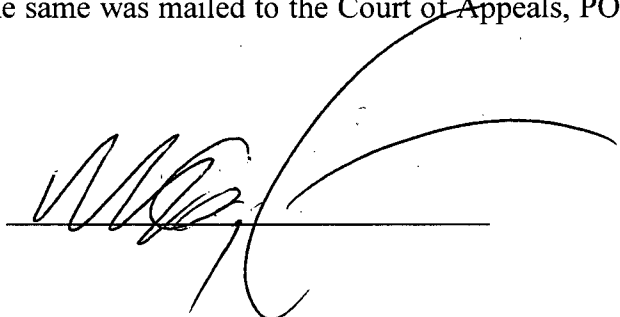
v.

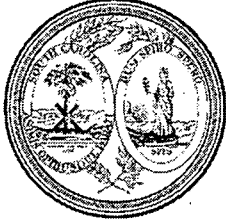
South Carolina Department of Revenue,.....Respondent.

PROOF OF SERVICE

RECEIVED
MAY 31 2017
SC Court of Appeals

I, Milton G. Kimpson, hereby certify that I have caused to be mailed a copy of the South Carolina Department of Revenue's Reply to Return to Motion to Dismiss regarding the above-referenced case, by depositing the same in the United States Mail, postage prepaid, on May 30, 2017, addressed to the attorney of record, Ginger D. Goforth, Esquire, The Ward Law Firm, P.A., P.O. Box 5663, Spartanburg, SC 29304. The same was mailed to the Court of Appeals, PO Box 11629, Columbia, SC 29211, this same date.





STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211-9979

May 30, 2017

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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MAY 31 2017

SC Court of Appeals

RE: Richard Beltram v. South Carolina Department of Revenue
Case No. 13-ALJ-17-0244-CC
Appellate Case No. 2017-000968

Dear Ms. Kitchings,

Enclosed for filing are the original and six copies of the Respondent's Reply to Return to Motion to Dismiss, with attachments. Also enclosed is a Proof of Service.

Sincerely,

OFFICE OF GENERAL COUNSEL

A handwritten signature in cursive script, appearing to read "Nicole M. Wooten".

Nicole M. Wooten
Counsel for Litigation

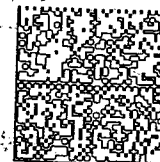
cc: Ginger D. Goforth, Esq.
Enclosures



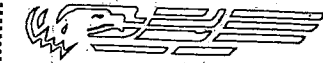
State of South Carolina
 Department of Revenue
 300A Outlet Pointe Blvd.
 P.O. Box 125
 Columbia, South Carolina 29214

CE-6

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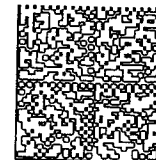


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SC Court of Appeals