

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF REVENUE

In the Matter of the Revocation of the
Sales Tax Permit of:
Solace, Inc.
1625 Hennepin Avenue
Minneapolis, MN 55403-1701
Tax ID No: 3771440

FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION

The above-entitled matter is pending before the undersigned Administrative Law Judge pursuant to a Notice and Order for Hearing filed on July 8, 1999. Prior to the hearing on August 18, 1999, the taxpayer, Solace, Inc., agreed to the entry of a default recommendation against it if it was unable, within 18 days, to negotiate a payment agreement satisfactory to the Department or pay its tax liabilities in full.

Wayne Sather, Minnesota Department of Revenue, Mail Station 2220, 600 North Robert Street, St. Paul, MN 55146-0220, appeared on behalf of the Minnesota Department of Revenue. David Anderson and Monte Schulz, Solace, Inc., 1625 Hennepin Avenue, Minneapolis, MN 55403-1701, appeared on behalf of Solace, Inc. The record closed on September 17, 1999 when the Administrative Law Judge received written notice that the Taxpayer had not paid its sales tax delinquencies or executed a payment agreement with the Department to pay those taxes with the 18-day period agreed to by the parties.

NOTICE

This report contains a Recommendation only. It is not a final decision. The Commissioner of Revenue will make a final decision after reviewing the record and may adopt, reject, or modify the Findings of Fact, Conclusions and Recommendations made herein. Under Minn. Stat. § 14.61, the Commissioner's final decision shall not be made until this Report has been made available to the parties to the proceeding for at least ten (10) days. An opportunity must be afforded each party adversely affected by this Report to file exceptions and present argument to the Commissioner. The parties should contact Wayne Sather, Minnesota Department of Revenue, Mail Station 2220, 600 North Robert Street, St. Paul, MN 55146-0220, telephone (651) 296-8228 to ascertain the procedure for filing exceptions or presenting argument to the Commissioner.

STATEMENT OF ISSUES

Respondent, who currently holds a sales and use tax permit, is making taxable sales but has refused to pay all Minnesota sales taxes owed to the Department of Revenue. As a result of the Respondent's failure to pay

delinquent sales taxes owed or execute a payment agreement, should the Taxpayer's sales tax permit be revoked?

Based upon all of the files, records and proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Pursuant to a Notice and Order for Hearing filed on July 8, 1999, a contested case hearing was scheduled to be held on Wednesday, August 18, 1999 at the Office of Administrative Hearings in Minneapolis, Minnesota.

2. Prior to the time of the scheduled hearing the parties reached an agreement resolving the issues in this proceeding. Taxpayer agreed, at that time, to be defaulted by the Commissioner in 18 days if the Taxpayer did not reach a payment agreement satisfactory to the Department or pay its tax liabilities in full during that 18-day period.

3. Respondent did not pay his outstanding sales tax liabilities or execute a payment agreement satisfactory to the Department within the 18-day period set forth in its agreement with the Department.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Commissioner and the Administrative Law Judge are statutorily authorized to consider the proposed cancellation of the Respondent's sales tax permit under Minn. Stat. §§ 297A.26 or 289A.20 and 14.50 (1998) and Minn. R. 1400.6000 (1996).

2. The Department has the burden of proof under Minn. R. 1400.7300, subp. 5 to establish that the Respondent has failed to pay Minnesota sales taxes owed to the state.

3. The Taxpayer received proper notice of the hearing and of the charges against it and this matter is, therefore, properly before the Administrative Law Judge.

4. Under Minn. R. 1400.6000 on default the allegations of or the issues set out in the hearing notice may be taken as true or deemed proved without further evidence.

5. The Taxpayer is in default herein and its sales tax permit should, therefore, be revoked.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Commissioner of Revenue revoke sales and use tax ID No. 3771440 issued to Solace, Inc.

Dated this 21st day of September, 1999

JON L. LUNDE
Administrative Law Judge

Reported: Taped