

IT 12-01

Tax Type: Income Tax

Issue: Penalty Under 1002(d) – Failure to File/Pay Withholding

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

v.

JOHN DOE, JACK DOE, HENRY DOE
AND JANE DOE,

Taxpayers

No. XXXXX
1002D ID XXXXX
(John Doe)
1002D ID XXXXXX
(Jack Doe)
1002D ID XXXXXX
(Henry Doe)
1002D ID XXXXXX
(Jane Doe)
Period XXXXXX

Ted Sherrod
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Special Assistant Attorney General Matthew Crain on behalf of the Illinois Department of Revenue; John Doe, *pro se*; Jack Doe, *pro se*; James Zerkle, Esq. of Law Office of James Zerkle on behalf of Henry Doe; David Reid, Esq. of Reid Law Office, LLC on behalf of Jane Doe.

Synopsis:

This matter comes on for hearing pursuant to protests of 1002D penalties (“1002Ds”) issued by the Illinois Department of Revenue (“Department”) to John Doe (“John Doe”), Jane Doe (“Jane Doe”), Henry Doe (“Henry Doe”) and Jack Doe (“Jack Doe”) as responsible officers of ABC Business of Anywhere, Inc. (“ABC Business”). The 1002Ds represent penalty liabilities for payroll taxes for the fourth quarter of 2006, the first through fourth quarters of 2007 and the first quarter of 2008. A hearing was held on this matter on July 25, 2011 (“7/25 TR”), July 26,

2011 (“7/26 TR”) and July 27, 2011 (“7/27 TR”) with Jane Doe, Henry Doe, Jack Doe and five other witnesses providing oral testimony. Following the submission of all oral testimony and of documentary evidence, and a review of the record, it is recommended that the 1002Ds issued to John Doe, Henry Doe and Jack Doe be finalized as issued, and that the 1002D penalty issued Jane Doe be modified to include only the first quarter of 2008 and, as so modified, be finalized. In support of this recommendation, the following “Findings of Fact” and “Conclusions of Law” are made.

Findings of Fact:

Findings regarding ABC Business of Anywhere, Inc.

1. ABC Business of Anywhere, Inc. (“ABC Business”), an Illinois corporation having its principal place of business in Any City, Illinois, was incorporated on March 15, 2005. Taxpayer Ex. 10. ABC Business is the successor of XYZ Business which declared bankruptcy in 2005. 7/25 TR, pp. 131, 132; Taxpayer Ex. 20, Deposition of James Allen Jack Doe dated June 11, 2010, taken in Billy Bob Jack Doe, Jr. and Betty Jack Doe, No. 09-70428/John Doe v. Billy Bob Jack Doe, No. 09-07050 (United States Bankruptcy Court for Central District of Illinois) (“Jack Doe Dep. 6/11/10”) p. 8.¹
2. During the tax period in controversy, 4/Q/06 through 1/Q/08, ABC Business was engaged in the business of designing and building residential and commercial properties. 7/26 TR, pp. 10, 11; Taxpayer Ex. 6.
3. ABC Business had combined revenues of over \$5 million during the period 2005 through 2008. 7/27 TR, p. 46. Sufficient funds were available for the company to pay its payroll

¹ Depositions cited herein were admitted by agreement of the parties (7/27 TR, pp. 26-31) and cover events and facts pertaining to the issues in this case and to the tax period covered by the 1002D penalties in controversy herein.

tax liability if other creditors had not been preferred for payment over the Department.
7/26 TR, pp. 151, 152; Taxpayer Ex. 7.

Findings of Fact regarding John Doe

4. John Doe was the president of ABC Business. 7/25 TR, p. 163; 7/26 TR, p. 190; Taxpayer Ex. 3. He was the ultimate authority at ABC Business. 7/25 TR, pp. 163, 164; Taxpayer Ex. 8, Deposition of Henry Doe dated October 19, 2010, taken in John Doe v. United States, No. 3:10-cv-03021 (U.S. District Court, Central District of Illinois, Any City Division) (“Henry Doe Dep.”) p. 22. He supervised all of the company’s officers and employees. Jack Doe Dep. 6/11/10 pp. 9, 10.
5. John Doe, along with Jack Doe, ABC Business’s chief information officer, and Henry Doe, the company’s chief financial officer, established the company’s financial policies. 7/26 TR, p. 31.
6. John Doe had authority to write checks drawn on the company’s bank accounts at Anyplace Bank. Jack Doe Dep. 6/11/10 pp. 14, 15.
7. John Doe had the authority to hire and fire all of ABC Business’s employees. 7/25 TR, pp. 163, 164; Taxpayer Ex. 19, Deposition of James A. Jack Doe dated October 21, 2010 taken in John Doe v. United States of America, Civil No. 3:10-cv-03021 (U.S. District Court for the Central District of Illinois, Any City Division) (“Jack Doe Dep. 10/21/10”) pp. 27, 28.
8. John Doe had exclusive authority to decide how much compensation each ABC Business officer would receive. Jack Doe Dep. 6/11/10 p. 38. At the commencement of ABC Business, John Doe hired Jack Doe, Henry Doe and Hank Smith as officers, and agreed

to pay each of them \$112,500 annually, the same salary they received when they worked for ABC Business. 7/25 TR, p. 134; Jack Doe Dep. 6/11/10 p. 38; Jack Doe Dep. 10/21/10 p. 15.

9. John Doe understood that the financial condition of ABC Business was poor. Jack Doe Dep. 10/21/10 pp. 61, 62. Specifically, he knew that the company had checks that were not honored due to insufficient funds in the company's bank accounts. Jack Doe Dep. 10/21/10 pp. 158-59.
10. John Doe was aware that ABC Business's payroll taxes were not being paid. Jack Doe Dep. 6/11/10 p. 17; Jack Doe Dep. 10/21/10 p. 40.
11. John Doe and Jack Doe, his chief information officer and the company's accountant, met daily to discuss the company's business affairs. The company's failure to pay payroll taxes was discussed at each of these meetings. Jack Doe Dep. 10/21/10 p. 20. John Doe was also made aware of unpaid taxes through the presentation of balance sheets, check registers and cancelled checks showing no payments to cover the company's payroll tax liabilities. 7/25 TR, p. 128; Jack Doe Dep. 10/21/10 pp. 53, 66, 86.
12. John Doe held weekly meetings at which officers and senior employees of ABC Business would discuss the company's business operations and financial position. 7/25 TR, pp. 101, 102. In his capacity as the head of the company, John Doe was exclusively responsible for the preparation of weekly agendas for these meetings and decided what would be discussed at them. 7/25 TR, pp. 174, 175, 178.
13. John Doe specifically requested that withholding taxes be addressed at these meetings and unpaid payroll taxes were discussed. 7/25 TR, p. 178; Department Ex. 1 p. 56 (copy

of Agenda of weekly meeting held August 18, 2006 on which unpaid taxes appears as an agenda item).²

14. John Doe personally directed the payment of certain expenses including rent and utilities. He personally prioritized these expenses above the payment of taxes. 7/25 TR, p. 140; Jack Doe Dep. 6/11/10 pp. 32, 42, 43; Jack Doe Dep. 10/21/10 pp. 33-35, 82, 92, 129.
15. Without consulting any other officers of the company, John Doe personally decided to loan \$50,000 to Any Gym, a company he and his wife owned, when payroll taxes were not being paid. Jack Doe Dep. 6/11/10 p. 72; Jack Doe Dep. 10/21/10 pp. 62, 63. This loan was never repaid. *Id.*
16. John Doe took no action to see that unpaid taxes were paid based upon reports he received during weekly meetings and otherwise indicating that ABC Business's payroll taxes were delinquent. 7/25 TR, pp. 178-180.

Findings of Fact regarding Jack Doe

17. Jack Doe served as ABC Business's chief information officer during the tax period in controversy. 7/25 TR, p. 81; Jack Doe Dep. 6/11/10 p. 6; Jack Doe Dep. 10/21/10 p. 15. He was in charge of the company's accounting system and functioned as the company's bookkeeper and accountant. Henry Doe Dep. pp. 18-20. He, along with John Doe and Henry Doe, supervised the company's financial affairs. 7/26 TR, p. 31. He exercised authority equivalent to Henry Doe, the company's chief financial officer. 7/25 TR, p. 83.

² Jack Davis testified that taxes were not discussed at weekly meetings. 7/26 TR, p. 14. This testimony is contradicted by the testimony of Yagow and Shomidie, both of whom recalled discussing the company's unpaid withholding taxes multiple times. 7/25 TR, pp. 178, 179; 7/26 TR, pp. 70-72.

As the company's principal accountant, he prepared the company's books and records.
Henry Doe Dep. p. 32.

18. Jack Doe was responsible for the filing of payroll tax returns and making payroll tax payments to the State. 7/25 TR, pp. 64, 74, 77, 78.
19. Jack Doe understood that the financial condition of the business was poor and that the company was having difficulty meeting its expenses. Jack Doe Dep. 10/21/10 pp. 40, 62. He was aware that, during the tax period at issue, ABC Business was not paying payroll taxes due to the State. Jack Doe Dep. 6/11/10 pp. 17, 22; Jack Doe Dep. 10/21/10 pp. 19-22, 40, 73, 91.
20. Jack Doe was aware of ABC Business's duty to withhold and pay payroll taxes. Jack Doe Dep. 10/21/10 p. 70.
21. Jack Doe participated in decisions regarding which creditors would and would not be paid. 7/26 TR, p. 25; Jack Doe Dep. 6/11/10 p. 33. He agreed to the prioritization of payments decided upon at meetings during which decisions were made regarding which creditors would and would not be paid. 7/26 TR, p. 74.
22. During the tax period at issue, ABC Business had regular weekly meetings which Jack Doe attended along with John Doe and Henry Doe, the company's chief financial officer. 7/25 TR, pp. 179, 180; 7/26 TR, p. 13. During these meetings, the company's failure to pay its payroll taxes was discussed. 7/25 TR, pp. 103-108. This issue was discussed at meetings Jack Doe attended at least 15 to 20 times during the tax period in controversy. *Id.*; 7/26 TR, pp. 71, 72.
23. Jack Doe had check writing authority and was a signatory on all of the company's bank accounts, including all of its accounts at Post Bank and Anyplace Bank. 7/25 TR, p. 186;

Jack Doe Dep. 6/11/10 pp. 14, 51; Jack Doe Dep. 10/21/10 pp. 28, 29. He was also the custodian of the company's checkbooks. Henry Doe Dep. p. 20. He was authorized to write checks without obtaining the approval of John Doe, the company's president, Henry Doe, the company's chief financial officer or anyone else. 7/25 TR, pp. 185-188; Jack Doe Dep. 6/11/10 pp. 67, 68.

24. Jack Doe routinely approved the issuance of company checks to pay the company's bills. Jack Doe Dep. 6/11/10 p. 32; Taxpayer Ex. 5.

Findings of Fact regarding Henry Doe

25. Henry Doe served as ABC Business's chief financial officer ("CFO") during the tax period in controversy. 7/26 TR, p. 57; Henry Doe Dep. pp. 11, 18. He, along with Jack Doe, supervised the company's financial affairs. 7/26 TR, p. 31. Henry Doe was also the CFO of Any Gym, a company owned by John Doe and Jane Doe, John Doe's wife, and the CFO of several other companies owned by John Doe. 7/26 TR, p. 188.
26. Henry Doe understood from the inception of the company that it was undercapitalized, that the financial condition of the company was poor and that there were problems getting business for the company and paying the company's expenses. 7/26 TR, pp. 66, 67; Henry Doe Dep. pp. 21, 51. He monitored, and was aware of the company's deteriorating cash flow position during the 2005 through 2007 period. Henry Doe Dep. p. 28.
27. Henry Doe was aware of ABC Business's duty to pay payroll taxes. Henry Doe Dep. p. 60. He was concerned that, if these obligations were not met, he would be held responsible. *Id.*

28. Henry Doe was aware that, during the tax period at issue, ABC Business was not paying withholding tax to the State. 7/25 TR, pp. 106, 107; 7/26 TR, p. 64; Jack Doe Dep. 10/21/10 p. 21; Henry Doe Dep. pp. 31, 33. He was also aware that the company had sufficient revenues to pay payroll taxes had other creditors not been preferred for payment over the Department. 7/26 TR, pp. 151, 152; Taxpayer Ex. 7.
29. Henry Doe had check writing authority and signed checks written on the company's bank accounts. 7/26 TR, pp. 79-84, 132, 148; Henry Doe Dep. pp. 19, 20. He signed checks paying company expenses other than taxes during the tax period in controversy. Taxpayer Ex. 5.
30. Henry Doe authorized the issuance of payroll and salary checks during the period covered by the 1002D penalty issued to him for ABC Business's unpaid payroll taxes. 7/26 TR, pp. 39, 136.
31. During the period at issue, Henry Doe attended regular company meetings during which the company's failure to pay over to the state and federal government withholding taxes and payroll taxes was discussed. 7/25 TR, pp. 103-106; 7/26 TR, pp. 71, 72; Henry Doe Dep. pp. 28, 29.
32. Henry Doe participated in decisions regarding which creditors would and would not be paid. *Id.* Henry Doe agreed to the prioritization of payments in a manner resulting in the nonpayment of payroll taxes. 7/26 TR, p. 74.
33. Henry Doe was responsible for the preparation and filing of the company's income tax returns during the tax period at issue. 7/25 TR, p. 114; Henry Doe Dep. p. 30. He also signed at least one of the company payroll tax returns during this period. Henry Doe Dep. p. 33.

Findings of Fact regarding Jane Doe

34. Jane Doe was the sole shareholder of ABC Business and owned 100 percent of the company's stock. 7/26 TR, pp. 187, 190. Her equity stake was received in exchange for a capital contribution of \$20,000. Henry Doe Dep. p. 51. She was also an officer of the corporation. Taxpayer Ex. 9, Deposition of Jane Doe dated 10/19/10 taken in John Doe v. United States, Civil No. 3:10-cv-03021 (United States District Court for Central District of Illinois, Any City Division) ("Jane Doe Dep.") p. 18.
35. Jane Doe was not involved in the day-to-day operations of ABC Business and did not know of the company's financial condition or the state of its financial affairs prior to January, 2008. 7/26 TR, pp. 41, 42; Jane Doe Dep. pp. 15, 22, 23, 58; Henry Doe Dep. p. 24; Jack Doe 10/21/10 Dep. pp. 44, 45.
36. Jane Doe received compensation from ABC Business. 7/25 TR, p. 137; Jane Doe Dep. pp. 19, 51, 53. However, she assumed no active duties until 2008 when she began signing the corporation's checks and other documents and overseeing the corporation's checking accounts in early January 2008. Jane Doe Dep. pp. 32-36.
37. Jane Doe had signature authority on the corporation's bank accounts. Jane Doe Dep. pp. 33-35.
38. Jane Doe was not aware of the company's failure to pay payroll taxes prior to January 2008. 7/25 TR, pp. 153-156, 158; 7/26 TR, p. 180; Jack Doe Dep. 10/21/10 p. 40; Jane Doe Dep. pp. 30, 31, 71, 72.
39. Jane Doe never participated in any weekly meetings concerning the corporation's operations and financial management. 7/25 TR, pp. 108, 109, 179, 180; 7/26 TR, pp. 13, 25, 26, 31.

40. Jane Doe did not participate in or approve the company's decisions regarding the prioritization of the payment of creditors. 7/25 TR, pp. 108, 140; 7/26 TR, p. 31.
41. Prior to January 2008, Jane Doe exercised no decision-making authority regarding ABC Business's operations or financial matters. 7/26 TR, pp. 219, 220.
42. On or about January 4, 2008, Jane Doe attended a meeting with Scott Bruner of the Department and other officers of ABC Business. 7/25 TR, pp. 60-65, 78. During this meeting, Jane Doe was made aware of the State's investigation regarding ABC Business's unpaid payroll taxes. 7/25 TR, pp. 68, 73; 7/26 TR, pp. 178-180. After this meeting, she took custody of the company's checkbooks (7/25 TR, pp. 139, 140; 7/26 TR, pp. 183, 184, 197, 198) and took over the function of writing company checks and paying the company's bills (Henry Doe Dep. pp. 59, 60).
43. During and after January 2008, Jane Doe assumed responsibility for authorizing check payments and for approving which bills would be paid. 7/26 TR, pp.148-150. Subsequent to her assumption of responsibilities, ABC Business check payments were made to creditors other than the Department while the company's taxes due to the state remained delinquent. Jane Doe Dep. p. 40.
44. Jane Doe resigned as an officer of ABC Business in August 2008. 7/26 TR, p. 202; Taxpayer Ex. 14.

Conclusions of Law:

In the instant case, the Department seeks to impose personal liability for unpaid trust taxes upon John Doe ("John Doe"), Jack Doe ("Jack Doe"), Henry Doe ("Henry Doe") and Jane Doe ("Jane Doe") pursuant to section 1002(d) of the Illinois Income Tax Act ("IITA") for failure to pay payroll tax withholding taxes ("payroll taxes") as required by 35 ILCS 5/705 and 35

ILCS 5/712 for the period 4/Q/06 through 1/Q/08. Section 1002(d) of the IITA provides as follows:

Willful failure to collect and pay over tax. Any person required to collect, truthfully account for, and pay over the tax imposed by this Act who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, shall, in addition to other penalties provided by law, be liable for the penalty imposed by Section 3-7 of the Uniform Penalty and Interest Act.
35 **ILCS 5/1002(d)**

Section 3-7(a) of the Uniform Penalty and Interest Act (“UPIA”) provides, in pertinent part:

Any officer or employee of any taxpayer subject to the provisions of a tax Act administered by the Department who has the control, supervision or responsibility of filing returns and making payment of the amount of any trust tax imposed in accordance with that Act and who willfully fails to file the return or make the payment to the Department or willfully attempts in any other manner to evade or defeat the tax shall be personally liable for a penalty equal to the total amount of tax unpaid by the taxpayer including interest and penalties thereon.
35 **ILCS 737/3-7(a)**

The statute does not define who has the responsibility for filing returns and making payments, or what constitutes willful failure to pay. However, in applying the penalty tax, the Illinois courts look to federal cases involving section 6672 of the Internal Revenue Code (“IRC”) which contains language similar to the aforementioned Illinois statutes. Branson v. Department of Revenue, 168 Ill. 2d 247 (1985); Department of Revenue v. Joseph Bublick & Sons, 68 Ill. 2d 568 (1977). The key to liability under IRC section 6672 is control of finances within the employer corporation including the power to control the allocation of funds to other creditors in preference to the company’s payroll tax obligations. Haffa v. U.S., 516 F. 2d 931 (7th Cir. 1975). The issue of willfulness is concerned with the state of the responsible person’s mind. Sawyer v. U.S., 831 F. 2d 755 (7th Cir. 1987). “Willful failure to pay taxes has generally been defined as

involving intentional, knowing and voluntary acts or, alternatively, reckless disregard for obvious or known risks.” Branson, *supra* at 255.

During the evidentiary hearing in this case, the Department has introduced 1002D penalty assessments (“1002D penalties”) assessing tax pursuant to section 1002(d) of the IITA, 35 ILCS 5/1002(d). When the Department introduced these 1002D penalties into evidence under the certificate of the Department’s Director of Revenue, it presented *prima facie* proof of all of the elements necessary for a determination that John Doe, Jack Doe, Henry Doe and Jane Doe were personally liable for the unpaid withholding taxes due and owing from ABC Business Company, a company where each of these individuals served as officers during the tax period in controversy. Branson, *supra* at 260.

The Department’s *prima facie* case is a rebuttable presumption. *Id.* at 262. After the Department introduces its *prima facie* case, the burden shifts to the taxpayer to establish that one or more of the elements required for the imposition of the penalty are lacking. Branson, *supra* at 261-62. A taxpayer cannot overcome the Department’s *prima facie* case by merely denying the accuracy of the Department’s assessment, or by merely denying conscious awareness that the tax was due from the corporation. Branson, *supra* at 267. Instead, the taxpayer must present evidence that is consistent, probable, and closely identified with its books and records. PPG Industries, Inc. v. Department of Revenue, 328 Ill. App. 3d 16 (1st Dist. 2002); Balla v. Department of Revenue, 96 Ill. App. 3d 293 (1st Dist. 1981).

John Doe

As noted above, section 3-7(a) of the UPIA sets forth two tests for determining whether a person has personal liability for unpaid payroll taxes incurred by a corporation. First, the person must be responsible for accounting for and paying the tax due. Second, the individual must

willfully fail to file or pay the tax shown to be due on the payroll tax returns. In determining whether an individual is a responsible person, the courts have indicated that the focus should be on whether the person has significant control over the business affairs of a corporation and whether he or she participates in decisions regarding the payment of creditors and the disbursement of funds. Monday v. United States, 421 F. 2d 1210 (7th Cir. 1970). Liability attaches to those with the power and responsibility within the corporate structure for seeing that the taxes are remitted to the federal government. *Id.* The key to liability is control of finances within the corporation including the power to control the allocation of funds to other creditors in preference to the company's payroll tax obligations. Haffa, *supra*.

Being a corporate officer does not, *per se*, impose the duty to collect, account for and pay over withheld payroll taxes. Monday, *supra*. However, an officer may have that duty even though he does not have a treasury function. *Id.* He has the duty if he has general control over the corporation's business affairs and participates in decisions concerning the payment of creditors. *Id.*

The courts have found that the following facts are relevant in determining whether a person is responsible: (1) identity of the officers, directors, and shareholders of the corporation; (2) duties of the officer as outlined by the corporate by-laws; (3) ability of the individual to sign checks of the corporation; (4) identity of the individuals who were in control of the financial affairs of the corporation; and (5) identity of the individuals who hired and fired employees. Schwinger v. United States, 652 F. Supp. 464, 467 (E.D.N.Y. 1987) (citing Silberberg v. United States, 524 F. Supp. 744, 747 (E.D.N.Y. 1981)). Day to day control of the operations of a company is not necessary for finding liability. *Id.*

John Doe does not contest the Department's finding that he was a responsible officer of ABC Business during the tax period at issue. 7/27 TR, p. 45 ("I maintain that I'm responsible ...[.]"). Instead, his principal defense to this action is that he did not act willfully as the responsible officer in failing to file the necessary returns or pay the taxes due by the corporation because he did not know that these taxes had not been paid. For purposes of this record, I specifically conclude that John Doe was a responsible corporate officer based in part upon the following facts:

1. He had the authority to direct the payment of payroll taxes. Jack Doe Dep. 6/11/10 pp. 32, 42, 43; Jack Doe Dep. 10/21/10 pp. 82, 129.
2. He had ultimate authority to hire and fire employees. Jack Doe Dep. 10/21/10 pp. 27, 28.
3. He had, and exercised, the authority to prioritize the order of payment of the company's expenses. 7/25 TR, p. 140; Henry Doe Dep. p. 22; Jack Doe Dep. 6/11/10 pp. 32, 42, 43; Jack Doe Dep. 10/21/10 pp. 82, 129.
4. He was a signatory on ABC Business's bank accounts. Jack Doe Dep. 6/11/10 pp. 14, 15.
5. He directed all of ABC Business's officers and employees in the performance of their duties. Jack Doe Dep. 6/11/10 pp. 9, 10.

Evidence contained in the record regarding John Doe's status as president of ABC Business is ambiguous and contradictory. Specifically, it contains the following testimony by Steve Bruner, an employee of the Department, concerning a meeting he held with the officers of ABC Business in 2008:

Q. Did you identify the individuals that you met with at that time? ...

A. Yes. ...

Q. ...Did you identify Jane Doe as the president of ABC Business?

A. She represented herself as the president.

7/25 TR, pp. 67, 68.

However, during the administrative hearing, Jack Doe, the company's chief information officer, testified regarding the contents of a letter he wrote to the Department in connection with ABC Business's failure to pay payroll taxes (Taxpayer Ex. 3) as follows:

Q. ... Now, directing your attention to the second paragraph, you indicate in your letter that Jane Doe held 100 percent of the entity, but John Doe was president. ... Why was Jane Doe owning 100 percent but John Doe running the company? ...

A. To avoid any potential garnishments and places for some of the creditors from ABC Business's bankruptcy to attach to any more of ... John Doe's assets.

Q. Was there any doubt in your mind that John Doe was running the company in every respect?

A. No doubt at all.

7/25 TR, p. 163.

Moreover, during the hearing, Jane Doe testified as follows:

Q. Would it be fair to say that as of shortly after the formation of ABC Business, you were aware that you were the 100 percent shareholder of that company?

A. Probably a couple months maybe after it was formed. ...

Q. And you were aware that you were designated as the president of that company?

A. No.

Q. When did you become aware of your designation as president?

A. I think I read it on a document, but there was some that showed me as president, some that showed John Doe, some that showed Jack Doe. I mean, there was, you know, various ones that showed different people.

7/26 TR, p. 190.

While none of the testimony concerning John Doe's status as president of ABC Business is corroborated by the company minutes, annual reports or other similar documentary evidence, and no such evidence supports the claim that Jane Doe, rather than he, was president, upon a careful review of the record (at 7/25 TR, pp. 163, 164; Henry Doe Dep. p. 22), I conclude that John Doe rather than Jane Doe exercised ultimate authority over the company's affairs in a manner that is consistent with the status of president.

Unfortunately, ABC Business's by-laws are not in evidence, and the record does not show what duties and responsibilities were vested in the office of president by them. However, the president of a corporation is usually charged with overall responsibility for the management of the corporation (Krantz v. Oak Park Trust & Savings Bank, 16 Ill. App. 3d 331 (1st Dist. 1958); Brown v. Fire Insurance Co. of Chicago, 274 Ill. App. 414 (1934)) and the evidence contained in the record completely supports a finding that this was the case with ABC Business. 7/25 TR, pp. 163, 164; Henry Doe Dep. p. 22. In sum, based upon the evidence indicated above, and for the reasons enumerated herein, I conclude that John Doe was a responsible officer of ABC Business during the tax period at issue.

John Doe seeks to avoid liability by claiming that he cannot be held liable as a responsible officer because he relied upon Henry Doe, ABC Business's Chief Financial Officer, and Jack Doe, the company's chief information officer to pay them. 7/27 TR, pp. 39-47. Federal case law construing section 6672 of the IRC clearly establishes that a responsible officer cannot escape liability through such a "delegation" defense. United States v. Charlton, 2 F. 3d 237, 240 (7th Cir. 1993) (delegating responsibility over taxes or dispersals to another officer or employee is not a defense to responsibility under section 6672). Consequently, John Doe's claim does not negate a finding that he was a responsible officer in the instant case.

Having established John Doe's position within ABC Business as a responsible officer, the only remaining question to be determined is whether he acted willfully in failing to file returns or pay taxes due from the corporation during the period in controversy. As previously noted, the issue of willfulness is concerned with the responsible person's state of mind. Sawyer, *supra*. "Willful failure to pay taxes has generally been defined as involving intentional, knowing and voluntary acts or, alternatively, reckless disregard for obvious or known risks." Branson, *supra* at 255.

Because John Doe was a responsible person, he bears liability if he "willfully" failed to collect, truthfully account for, or pay over withholding taxes. A responsible person is deemed to have acted "willfully" if he "either knew the taxes were not being turned over to the government and nonetheless opted to pay other creditors, or recklessly disregarded a known risk that the taxes were not being paid over." United States v. Kim, 111 F. 3d 1351, 1357 (7th Cir. 1997). If a responsible person has knowledge of a trust fund tax delinquency and pays other creditors after gaining such knowledge, his actions are considered willful. Thomas v. United States, 41 F. 3d 1109, 1114 (7th Cir. 1994).

A responsible person can also be held liable if he: “(1) clearly ought to have known that; (2) there was a grave risk that withholding taxes were not being paid; and (3) he was in a position to find out for certain very easily.” Wright v. United States, 809 F. 2d 425, 427 (7th Cir. 1987). Liability also attaches if a responsible person acted with recklessness in failing to pay payroll taxes. *Id.* at 428. Such recklessness is proven by showing that a responsible person failed to “correct mismanagement after being notified that the withholding taxes have not been duly remitted.” Running v. United States, 7 F. 3d 1293, 1299 (7th Cir. 1993).

The record shows that John Doe knew that the company was in poor financial condition from its inception. 7/26 TR, pp. 66, 67. In spite of this known fact, John Doe agreed to pay large salaries to numerous officers and employees of the company, and continued to make salary payments to them throughout the company’s existence. 7/25 TR, pp. 82, 134, 170.

Furthermore, on multiple occasions, John Doe was presented with evidence that ABC Business was not paying its state and federal payroll taxes. 7/25 TR, pp. 103-108; 7/26 TR, pp. 71, 72; Jack Doe Dep. 10/21/10 pp. 43, 90-92; Jack Doe Dep. 6/11/10 pp. 22-24. In spite of this clear knowledge of the company’s tax delinquencies and his awareness of its poor financial condition, John Doe made no effort to pay past due payroll taxes. 7/25 TR, pp. 179, 180. Instead, he allowed disbursements for ABC Business’s operating expenses and personally decided that the company would make a \$50,000 loan to Any Gym, a business he owned along with his wife, which was never repaid. 7/25 TR, p. 140; Henry Doe Dep. p. 22; Jack Doe Dep. 6/11/10 pp. 22, 32, 42, 43; Jack Doe Dep. 10/21/10 pp. 33 - 35, 62, 63, 82, 91, 92, 129. The law classifies such conduct as the willful failure to pay taxes, and does not allow this type of prioritization. Kim, *supra* at 1357.

The foregoing conduct constitutes the type of reckless behavior with regard to the oversight of the corporation's tax compliance responsibilities deemed to constitute willfulness under federal and Illinois law. Consequently, for all of the reasons enumerated herein, I find that John Doe, a responsible officer of ABC Business, willfully failed to remit the payroll taxes due as averred in the Department's 1002D penalty.

Jack Doe

As noted above, in order to be liable as a responsible officer for unpaid payroll taxes, a person must be responsible for accounting for and paying the taxes due, and must willfully fail to file or pay the payroll taxes due reported or properly reportable on the company's payroll tax returns. The record is replete with evidence of Jack Doe's status as a responsible party. Specifically, I conclude that he was a responsible officer based upon the following facts:

1. He was the company's chief information officer, was in charge of the company's accounting systems and was responsible for the company's payroll tax compliance. 7/25 TR, pp. 64, 74, 81; 7/26 p. 137; Jack Doe Dep. 10/21/10 pp. 15, 67-69; Jack Doe Dep. 6/11/10 p. 6; Henry Doe Dep. pp. 18-20.
2. He had check writing authority and was a signatory on the company's bank accounts. Jack Doe Dep. 6/11/10 p. 14; Jack Doe Dep. 10/21/10 pp. 28, 29. He also was the custodian of the company's checkbooks for most of the company's existence. Henry Doe Dep. p. 20.
3. He, along with John Doe and Henry Doe, was in charge of the company's financial affairs. 7/26 TR, p. 31.

I find these facts sufficient to conclude that Jack Doe met the criteria outlined in the pertinent case law for being classified as a responsible officer. Schwinger, *supra*; Silberberg, *supra*.

Jack Doe's principal contention is that he was not acting as a responsible officer in failing to file the necessary returns or pay the taxes due by the corporation, claiming that John Doe, ABC Business's president, was the person with actual control over the payment of ABC Business's payroll taxes, and that he alone was the one acting in a responsible capacity. 7/25 TR, pp. 21, 22; 7/27 pp. 62, 63.

The record shows that Jack Doe was well aware of the company's poor financial condition. 7/25 TR, pp. 67, 68; Jack Doe Dep. 10/21/10 pp. 21, 61, 62. Furthermore, he knew from the inception of the company that it was collecting payroll taxes but not remitting the collected taxes to the state in violation of Illinois law. Jack Doe Dep. 10/21/10 p. 20. The record further shows that Jack Doe had check writing authority. 7/25 TR, p. 186; Jack Doe Dep. 6/11/10 pp. 14, 51; Jack Doe Dep. 10/21/10 pp. 28, 29. Indeed, by his own admission, Jack Doe had the authority to write checks without the prior approval of John Doe or anyone else. 7/25 TR, pp. 185-188; Jack Doe Dep. 6/11/10 pp. 67, 68.

Jack Doe contends that, while he had the unfettered authority to comply with the law, he was instructed not to exercise this authority by John Doe, and feared that he would be reprimanded by John Doe if he violated his instructions. 7/25 TR, pp. 140, 164-169; Jack Doe Dep. 6/11/10 pp. 41-43. I find Jack Doe's claim that he was instructed not to pay withholding taxes by John Doe to be credible and reject testimony to the contrary given by Hank Smith, a former ABC Business officer. 7/26 TR, pp. 15-18. However, for the following reasons, Jack Doe's claim does not preclude a finding that he was a responsible officer.

First of all, the courts have repeatedly held that the statute according personal liability for willful failure to pay taxes does not confine liability to the single most responsible person. Howard v. U.S., 82-2 USTC P ¶9567 (ND Tex. 1982), aff'd 711 F. 2d 729 (5th Cir. 1983); Roth

v. United States, 779 F. 2d 1567, 1571 (4th Circuit 1986) (“There is no dispute ... that more than one person may be a ‘responsible person’ for an employer.”). Liability attaches to all persons within the corporate structure having the power and responsibility for seeing that the payroll taxes are remitted to the government. Howard, *supra*.

Moreover, the fact that John Doe might have fired Jack Doe had he disobeyed John Doe’s instructions does not absolve Jack Doe of responsibility. Howard v. U.S., 711 F. 2d 729, 734 (5th Cir. 1983) (“The fact that Jennings [Howard’s superior] might have fired Howard had he disobeyed Jennings’s instructions and paid the taxes does not make Howard any less responsible for their payment....[‘responsible person’ need not have the final word on payment of taxes]” (citing Brown v. United States, 464 F. 2d 590, 591 n. 1 [5th Cir. 1972])). Accordingly, the fact that John Doe, the company’s president, may have been more responsible than Jack Doe in no way impinges on the fact that Jack Doe himself had a fiduciary responsibility and duty to the State as a responsible officer. Therefore, even though Jack Doe has clearly shown that it was the practice to obtain authorization from the company’s president before deciding how to meet the company’s tax obligations, such proof is not a dispositive defense to liability.

Jack Doe, by his own admission, had the authority to write checks paying the company’s tax liabilities without obtaining the prior approval of John Doe or anyone else. 7/25 TR, pp. 185-188; Jack Doe Dep. 6/11/10 pp. 67, 68. As pointed out in Howard, *supra*, in determining whether a taxpayer can be held to have a fiduciary duty to pay over taxes collected for the state as a responsible officer “the question is not whether” a person “exercised the power he possessed, but rather what power he possessed.” Howard, 82 USTC P ¶9567, *supra* at 2. In the instant case, it is clear that Jack Doe possessed the ability to sign checks paying the company’s Illinois payroll taxes. This authority is clear indicia of his status as a responsible person in the instant case.

As previously noted, the courts have held that a person acts willfully in failing to pay delinquent taxes if he prefers other creditors to the state. Heartland, *supra*. The record in this case indicates that Jack Doe routinely authorized checks to pay corporate bills during the period in controversy. Jack Doe Dep. 6/11/10 p. 32. In authorizing the payment of other creditors while the company's payroll taxes remained delinquent, Jack Doe made a voluntary, conscious and intentional decision to prefer ABC Business's creditors over the State during the period at issue in this case. His actions in doing so constituted a willful failure to pay Illinois withholding taxes in violation of UPIA section 3-7. Joseph Bublick & Sons, Inc., *supra* at 577 ("a voluntary, conscious and intentional failure satisfies the requirements of 'willfully fail,' as those words are used in [UPIA section 3-7].").

Henry Doe

As previously noted, by Illinois statute, personal liability will be imposed upon a person who: (1) is responsible for filing corporate tax returns and/or making the tax payments; and (2) "willfully" fails to file returns or make tax payments. UPIA section 3-7. Henry Doe contends that he was not responsible for filing returns and making payments because his responsibility was assumed and exercised by John Doe, ABC Business's president. 7/27 TR, pp. 50-58. He also contends that he was not responsible because John Doe made all decisions regarding the filing of returns and the payment of taxes. *Id.*

In determining whether an individual is a responsible person, the courts have indicated that the focus should be on whether the person has significant control over the business affairs of a corporation and whether he or she participates in decisions regarding the payment of creditors and the disbursement of funds. Monday, *supra*. Liability attaches to those with the power and

responsibility within the corporate structure for seeing that the taxes are remitted to the government. *Id.*

Based upon the evidence of record, I conclude that Henry Doe was a responsible party under the statute. By his own admission, Henry Doe was the Chief Financial Officer of ABC Business. 7/26 TR, p. 57; Henry Doe Dep. pp. 11, 18. ABC Business's by-laws are not in evidence, and the record does not show what responsibilities were vested in the office of "chief financial officer" by them. However, Henry Doe's testimony contained in the record shows that he, along with John Doe and Jack Doe, was in charge of the financial management of ABC Business. 7/26 TR, p. 31. His financial management duties included advising management of the company's cash position and current obligations (Jack Doe Dep. 6/11/10 pp. 31-34), and participating in decisions regarding which creditors would be paid (7/26 TR, pp. 25, 33, 74, 75).

Henry Doe also testified that he had check writing authority. 7/26 TR, pp. 79-84, 132, 148; Henry Doe Dep. pp. 18-20. The ability to sign corporate checks is a significant factor in determining whether a person is a responsible party because it generally comes with the ability to choose which creditors are paid. Gold v. United States, 506 F. Supp. 473 (E.D. N.Y. 1981), *aff'd*, 671 F. 2d 492 (2d Cir. 1981).

Throughout his testimony, Henry Doe attempted to underplay his position and responsibilities at ABC Business. Henry Doe was also the CFO of other companies owned by John Doe and was the CFO of Any Gym, a company owned by John Doe and Jane Doe, John Doe's wife. 7/26 TR, p. 188. Henry Doe testified that he spent 90% of his time managing the affairs of these other companies rather than ABC Business. Henry Doe Dep. p. 15.

Henry Doe's testimony as to his lack of responsibility at ABC Business is self-serving and not credible. First of all, the statute does not require that a responsible officer spend a

majority of his time managing the affairs of a corporation in order to be liable as a responsible officer. Moreover, the record shows that Henry Doe was active in the management of ABC Business and attended and participated in management meetings during which decisions regarding the payment of ABC Business's creditors were made. 7/26 TR, pp. 25, 74, 75.

Henry Doe's principal contention is that he was not a responsible party because John Doe, the president of ABC Business, exercised ultimate authority over all aspects of the corporation's operations and had the final word regarding whether or not the company's taxes would be paid. 7/27 TR, pp. 50-58. However, as noted previously, the statute does not confine liability to only one person in the corporation or to the person who is most responsible. Howard, *supra*; Roth, *supra*. Accordingly, a finding that John Doe was a responsible person does not negate a determination that Henry Doe also held an identical status. Moreover, as pointed out by the Department's counsel, the record contains no documentary evidence showing that Henry Doe's authority over the corporation's financial affairs was limited by the corporation's by-laws, or by any employment or other agreement he entered into with the company. 7/26 TR, pp. 145, 146.

Most damaging to Henry Doe's claim that he was not a responsible officer is the evidence contained in the record that Henry Doe shared responsibility with Jack Doe for the company's tax compliance function including the filing of payroll tax returns. 7/25 TR, p. 114; Henry Doe Dep. pp. 27, 30, 32, 33. Consequently, his status easily fits within the four corners of UPIA section 3-7 in that the record shows that he had "control, supervision and responsibility of filing returns and making payment of the amount of ...trust tax imposed."

The second element which must be met in order to impose personal liability is the willful failure to pay taxes. The Department presents a *prima facie* case of willfulness with the

introduction of the 1002D penalty issued to Henry Doe into evidence. Branson, *supra*. The burden then shifts to the responsible party to rebut the presumption of willfulness.

As previously noted, willfulness as used in the statute may indicate a reckless disregard for obvious or known risks. Monday, *supra*. Willfulness includes “failure to investigate or correct mismanagement after having notice that withholding taxes have not been remitted to the Government.” Peterson v. United States, 758 F. Supp. 1209 (N.D. Ill. 1990). As also noted previously, a person acts willfully in failing to pay delinquent taxes if he prefers other creditors to the State. Department of Revenue v. Heartland Investments, 106 Ill. 2d 19 (1985).

Henry Doe’s conduct was willful under each of the above. The record indicates that Henry Doe was well aware of the corporation’s weak financial condition that commenced when the company began and continued throughout its existence. 7/26 TR, pp. 66, 67; Henry Doe Dep. p. 28. As the company’s chief financial officer, he was singularly aware of the company’s deteriorating cash flow position throughout its existence. *Id.* As a consequence, he was aware from the company’s inception of the obvious risk that the company would fail to comply with its payroll tax obligations unless he took steps to see to it that the company’s payroll taxes were paid. He, nevertheless, failed to see that such compliance was undertaken. Such reckless disregard for obvious and known risks is clear indicia of willfulness. Monday, *supra*.

The record indicates that Henry Doe was well aware that the company was not paying its payroll taxes and participated in at least 15 to 20 management meetings during the period at issue when the company’s non-payment of payroll taxes was discussed. 7/25 TR, pp. 103-108; 7/26 TR, pp. 71, 72. Despite his knowledge of the company’s tax delinquencies, he continuously signed checks paying corporate expenses other than the company’s payroll taxes during the tax period in controversy. Taxpayer Ex. 5.

During testimony, Henry Doe admitted that he prepared and signed checks for non-tax disbursements during the period covered by the 1002D penalty issued to him by the Department, when the State was not being paid its payroll tax. 7/26 TR, pp. 79-84, 132. In preferring other creditors over the State in this manner, Henry Doe willfully failed to pay these taxes. Heartland, *supra*. In sum, for the reasons enumerated above, I find that Henry Doe failed to rebut the Department's *prima facie* case that he was a responsible officer and that he willfully failed to pay taxes due and owing to the State. I therefore find that the levy of sanctions enumerated under section 3-7(a) of the UPIA in accordance with the 1002D penalty issued to Henry Doe was lawful and proper.

Jane Doe

The Department contends that Jane Doe was a responsible officer of ABC Business throughout the existence of the company and, therefore, is liable for unpaid payroll taxes for the entire tax period in controversy. Department Ex. 2. As previously noted, for guidance in determining whether an officer or employee is responsible under section 3-7 of the UPIA, the Illinois Supreme Court has referred to cases interpreting section 6672 of the Internal Revenue Code. See Branson, *supra* at 254-56; Heartland, *supra* at 29-30. These cases state that the critical factor in determining responsibility is whether the person had significant control over the corporation's finances. Monday, *supra*; Purdy Co. of Illinois v. United States, 814 F. 2d 1183, 1188 (7th Cir. 1987). Responsibility is generally found in high corporate officials who have control over the corporation's business affairs and who participate in decisions concerning the payment of creditors and the disbursal of funds. Monday, *supra* at 1214-15.

The Department's claim that Jane Doe was a responsible officer is based, in part, upon its contention that she was the president of ABC Business from its inception and throughout its

existence. However, for the reasons previously indicated in my discussion of John Doe's 1002D penalty liability, I find that John Doe rather than Jane Doe was the company's president.

While I find that the record in this case does not establish that Jane Doe was ABC Business's president, there is ample evidence in the record to establish that she was an officer of ABC Business during the entire tax period in controversy. Jane Doe Dep. p. 18. Moreover, by her own admission, Jane Doe was the corporation's sole shareholder. 7/26 TR, pp. 187, 190.

The fact that Jane Doe was an officer of the company in and of itself is insufficient to support a finding that she was a responsible officer. Monday, *supra* at 1214. Rather, this determination rests primarily upon the existence of evidence showing that she exercised control over the corporation's affairs and participated in the company's management. Purdy, *supra*.

The evidence contained in the record clearly shows that, prior to January 2008, Jane Doe had no active role in the corporation whatsoever. 7/25 TR, pp. 108, 140; 7/26 TR, pp. 13, 25, 26, 31, 190, 211, 219, 220; Jane Doe Dep. pp. 15, 22, 23; Henry Doe Dep. p. 24 ("She owned it, but she really didn't have anything to do with the operation."); Jack Doe Dep. 10/21/10 p. 44 ("[T]o my knowledge, she wasn't day-to-day involved in ABC Business's operations."). During this period, she was not responsible for the payment and filing of payroll tax returns, and she did not participate in any of the company's decisions concerning the payment of company bills and obligations. *Id.* All of the former officers of ABC Business that testified including Jack Doe, Henry Doe and Hank Smith, stated that she never attended any meetings at which the corporation's financial affairs were discussed and was never involved in any of the company's decisions concerning which creditors to pay. 7/25 TR, pp. 108, 109, 139, 140; 7/26 TR, pp. 13, 25, 26, 31, 71, 72. Moreover, she testified that she was not aware of ABC Business's tax delinquencies until January 2008 (7/26 TR, p. 180) and there is no evidence in the record that,

prior to January 2008, she had any knowledge of the corporation's financial condition or its failure to pay its taxes. Accordingly, I find no basis for concluding that she had any knowledge that the corporation's payroll taxes were not being paid prior to January 2008.

Documentary evidence contained in the record supports a finding that Jane Doe had no involvement with ABC Business other than as a passive investor and nominal officer prior to January 2008. Specifically, Jane Doe's signature does not appear on any of the company's checks issued prior to January 2008. Taxpayer Ex. 5. Accordingly, I find her testimony that she was not involved in the company prior to January 2008 both credible and supported by the documentary evidence submitted in this case.

In January 2008, Jane Doe, for the first time, received actual notice that ABC Business's federal and state payroll taxes were delinquent. Jane Doe Dep. pp. 30, 31, 71, 72; 7/26 TR, pp. 180, 197. The record plainly shows that, after January 2008, Jane Doe became involved in the operation and management of ABC Business and that she, in effect, attempted to oversee the company's financial affairs after that date and assumed responsibility for paying the corporation's bills. 7/26 TR, pp. 148, 149, 183, 184, 197-199; Henry Doe Dep. pp. 59, 60; Jack Doe Dep. 10/21/10 pp. 45, 46, 123. Clear evidence of this fact is her unilateral decision to take custody of the company's checkbooks. 7/26 TR, pp. 197, 198. The evidence is overwhelming that, during this period, she was the person that was primarily responsible for writing checks to pay the corporation's bills. *Id.* As previously noted, the ability to sign corporate checks is a significant factor in determining whether a person is a responsible party because it generally comes with the ability to choose which creditors are paid. *Gold, supra.* As a consequence of her actions after learning of the company's tax delinquencies in 2008, Jane Doe placed herself in a position of responsibility in which she knew or should have known whether tax returns were

being filed and taxes were being paid. Monday, supra; Mazo v. United States, 591 F. 2d 1151 (5th Cir. 1979) (responsibility is a matter of status, duty and authority, not necessarily knowledge).

During the period beginning in early January 2008, Jane Doe instructed the officers of ABC Business to pay at least some of the company's delinquent Illinois payroll taxes. Jack Doe Dep. 10/21/10 pp. 123-126. However, no tax payments were ever made pursuant to her instructions. *Id.* These taxes were a legitimate legal obligation of the company, and Jane Doe, having assumed responsibility for the corporation's finances, knew or should have known that these obligations were not being satisfied. Moreover, by virtue of her control of the corporation's checkbooks, she had the authority to see to it that these tax obligations were met. Based upon the foregoing I find that, commencing in January 2008, Jane Doe became a responsible officer of ABC Business and continued in this capacity until she resigned from the corporation in August, 2008. 7/26 TR, p. 202; Taxpayer Ex. 14.

The second element that must be met in order to impose personal liability is the willful failure to pay taxes due. The Department presents a *prima facie* case for willfulness with the introduction of the 1002D penalty issued Jane Doe into evidence. Branson, supra. The burden thus shifted to her to rebut the presumption of willfulness. *Id.*

Jane Doe was clearly in a position to direct that taxes be paid, or to use the corporation's checkbooks to pay them herself, after she assumed control of the company's checkbooks and began to oversee its financial affairs in January 2008. Yet, after admittedly learning of ABC Business's Illinois withholding tax delinquency, she failed to make sure that ABC Business paid what she knew was the company's payroll tax obligations. Instead, she signed or authorized checks to pay ABC Business's employees and creditors other than the Department when she

knew or should have known that the company was not paying its payroll tax liabilities. Jane Doe Dep. p. 40. In preferring other creditors over the state in this manner, Jane Doe willfully failed to pay ABC Business's unpaid payroll taxes that became due after she took control of the company's financial affairs in early January 2008. Heartland, *supra*. In sum, for the reasons enumerated above, I find that Jane Doe has failed to rebut the Department's *prima facie* case that she was a responsible officer of ABC Business during the period commencing January 2008, and that, by preferring other creditors to the Department during that period, she willfully failed to pay taxes that became due and owing during and after January 2008.

Conclusion

WHEREFORE, for the reasons stated above, it is my recommendation that the Department's 1002D penalties issued John Doe, Jack Doe and Henry Doe be finalized as issued, and that the 1002D penalty issued Jane Doe be modified to include only the first quarter of 2008, and, as so modified, be finalized.

Ted Sherrod
Administrative Law Judge

Date: January 12, 2012