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TX Comptroller of Public Accounts Hearing Decisions and Administrative Rule
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TEXAS WORKERS COMPENSATION COMMISSION
7551 METRO CENTER DR. STE 100
AUSTIN, TX 78744

17 of 18 DOCUMENTS

NAME: IN RE: * * *

NUMBER: HEARING NO. 41,357

COURT: COMPTROLLER OF PUBLIC ACCOUNTS OF THE STATE OF TEXAS

CITE: 2003 *Tex. Tax LEXIS 133*

DATE: July 23, 2003

PANEL: [*1]

TIMOTHY MASHBURN, Administrative Law Judge

COUNSEL: RICHARD CRAIG, General Counsel Division

ELIAS V. LORENZANA, JR., Administrative Hearing Section

* * *, Representing Petitioner

OPINIONBY: MASHBURN

TAXPAYER NO.: * * *

AUDIT OFFICE: * * *

AUDIT PERIOD: 1997 THROUGH 1999

FRANCHISE TAX/RDT

COMPTROLLER'S DECISION

On May 27, 2003, the Administrative Hearings Section moved to dismiss this proceeding with prejudice based on the Order Confirming Debtors' Amended Joint Plan of Reorganization entered by the United States Bankruptcy Court for the District of Delaware on March 19, 2003, in Case Nos. * * * through * * * (LK), attached hereto as Appendix "A", and incorporated herein as if set forth verbatim. The Administrative Law Judge concludes that the Motion should be granted. In accordance with the Order Confirming Debtors' Amended Joint Plan of Reorganization,

IT IS ORDERED (1) that the audit be amended and reduced to \$ 1,000,000.00, including tax, penalty and accrued interest ("Allowed Priority Tax Claim"); (2) that interest shall accrue commencing on November 1, 2002, on any unpaid portion of the Allowed Priority Tax Claim at a fixed rate equal to the prime rate listed in the *Wall Street Journal* [*2] as of March 19, 2003, and the rate of interest provided in TEX. TAX CODE ANN. § 111.060(b) (Vernon 2002) shall be inapplicable thereto; and (3) that payment of the Allowed Priority Tax Claim and accrued interest thereon shall be made on the dates and in the amounts determined by the Liquidating Trustee in accordance with the Liquidating Trust Agreement as provided in Section I of the said Order Confirming Debtors' Amended Joint Plan of Reorganization attached and incorporated herein, and the 10 percent penalty for failure to pay a deficiency determination within 20 days after finality as provided in TEX. TAX CODE ANN. § 111.0081(c) (Vernon 2002) shall be inapplicable. The Comptroller expressly reserves any and all rights and remedies that are available under the United States Bankruptcy Code and any other Federal or State law in the event of default by Petitioner under the provisions of the Order Confirming Debtors' Amended Joint Plan of Reorganization and the Amended Plan of Reorganization and Liquidating Trust Agreement approved thereby.

IT IS FURTHER ORDERED, that, subject to all of the foregoing, the Petition for Redetermination under review, and this hearing, be and the same [*3] are hereby **DISMISSED** in accordance with the Motion To Dismiss of the Administrative Hearings Section.

Signed July 23, 2003.

ORDER OF THE COMPTROLLER

The above decision of the Administrative Law Judge, resulting in Taxpayer's liability as set out in Attachment "A" which is incorporated by reference, is approved and adopted in all respects. This decision becomes final twenty-three (23) days from the date of this Order, and the total sum of the tax, penalty, and interest amounts is due and payable within twenty (20) days thereafter. If such sum is not paid within such time, an additional penalty of ten percent of the taxes due will accrue, and interest will continue to accrue.

If a rehearing is desired, a Motion for Rehearing must be filed with the Administrative Law Judge no later than twenty-three (23) days after the date of this Order, and must state the grounds upon which the motion is based.

RENDERED and ISSUED July 23, 2003.

CAROLE KEETON STRAYHORN, Comptroller of Public Accounts of the State of Texas

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