

STATE OF INDIANA,)
COUNTY OF GREENE)
) IN THE GREENE CIRCUIT COURT
) CAUSE NO.: 28C01-1012-MI-_____
))
INDIANA DEPARTMENT OF)
STATE REVENUE,)
) Plaintiff,)
) v.)
))
IN THE MATTER OF)
DARLENE J. CLARK and)
DARLENE J. CLARK d/b/a)
LOVE MY PETS and)
LOVE MY PETS)
) Defendants.)

AFFIDAVIT OF LARRY HARSHMAN

In Support of the Indiana Department of State Revenue's (the "Department") Motion for Temporary Restraining Order (the "Motion"), I, Larry Harshman, on my personal knowledge and belief, allege and state as follows:

1. I am the Supervisor of Special Investigations Unit for the Indiana Department of State Revenue. I am responsible for the direction and control of the Special Investigations Unit of the Department, located at 100 N. Senate Ave., Indiana Government Center North, Mail Stop 104, Indianapolis, Indiana 46204-2253. Among other duties, the Department has the primary responsibility for administering, collecting, investigating and enforcing all listed taxes. *See* Ind. Code § 6-8.1-3-1(a).
2. Among other duties, the Department has the primary responsibility for administering, collecting, and enforcing all listed taxes. *See* Ind. Code § 6-8.1-3-1(a).
3. The Department, pursuant to statutory authority, is trying to collect on the jeopardy tax warrants listed above in this Petition.
4. Specifically, the Department is trying to collect unremitted Indiana gross retail tax ("sales tax") from the Defendants. The sales tax is a listed tax. *See* I.C. § 6-8.1-3-1.
5. Sales taxes are trust taxes. They are paid by the consumer, in addition to the purchase price of the item acquired, and collected by the Defendants as an agent for the State of Indiana. *See* Ind. Code § 6-2.5-2.1.
6. The Defendants Darlene J. Clark and Darlene J. Clark d/b/a Love My Pets and Love My Pets reside at 10203 E. Dobson Road, Bloomfield, Indiana 47424.



- a. The Defendants are Indiana residents who have conducted the business of selling puppies and dogs to Indiana citizens at locations throughout the state.
- b. The Defendants have breed and sold puppies and dogs in Indiana while failing to collect Indiana sales tax as required by law. *See generally* Ind. Code § 6-2.5-6-1 *et seq.* (providing sales tax collection and remittance procedures).
- c. The Defendants also own and operate a business called Love My Pets located at the residence at 10203 E. Dobson Road, Bloomfield, Indiana 47424.

7. The Defendants have made taxable retail sales in Indiana of puppies and dogs. The Department has not been able to collect sales tax from the Defendants, because the Defendants operate a strictly cash-and-carry basis and provide no written receipts to their customers showing sales tax due, as required by law, nor do the Defendants collect sales tax on the sales to customers as required by law. *See* Ind. Code § 6-2.5-2-1.

- a. The Defendants have not filed sales tax returns with the Department nor has the Defendants remitted sales tax to the Department as required by law. *See* Ind. Code § 6-2.5-6-1.
- b. The Defendants are not registered with the Department to do business as a retail merchant in the State of Indiana as required by law. *See* Ind. Code § 6-2.5-8-1.
- c. The Defendants' acts and omissions have made it prejudicially difficult for the Department to track the Defendants' business activities for the purpose of assessing and collecting sales tax.
- d. Thus, by reason of the Defendants' wrongful actions, the State of Indiana has suffered and will continue to suffer a substantial and irreparable injury inasmuch as its ability to collect the sales tax owed by the Defendants has been and will continue to be jeopardized.

8. The Department may show irreparable injury if the Defendants have violated Indiana law. *L.E. Services v. State Lottery Commission*, 646 N.E.2d 334, 349 (Ind. Ct. App. 1995); *Common Council of City of Peru v. Peru Daily*, 440 N.E.2d 726, 733 (Ind. Ct. App. 1982). The Defendants have violated Indiana law inasmuch as they, inter alia, have done the business in Indiana of selling puppies and dogs at retail without advertising, collecting, or remitting sales tax on the sale, and without having registered as a retail merchant, and without having filed sales tax returns.

9. The Department believes upon good cause that to assist the Department's tax collection efforts it is necessary that the Defendants and the Defendants' agents, successors and assigns and all persons natural or corporate acting in concert or in participation with the Defendants, be restrained in any

