



North Carolina Department of Revenue

Michael F. Easley
Governor

E. Norris Tolson
Secretary

June 18, 2007

(name and address of attorney for Taxpayer)

Re: (name of Taxpayer)

Unauthorized Substance Tax Proposed Assessment
(AN [AN number]; Docket Number 2006-169)

Dear Mr. (name of attorney):

The above-referenced matter came on for administrative hearing by live hearing. Subsequent to the record of hearing closing on March 30, 2007, Assistant Secretary of Revenue Eugene J. Cella rendered a decision in the matter of Docket # 2006-169. The matter was ordered dismissed and the proposed assessment canceled.

The issues decided were as follows: (1) Did Taxpayer have actual or constructive possession of cocaine without proper tax stamps affixed, and (2) Is Taxpayer subject to the assessment of unauthorized substance excise tax? Both issues were answered in the negative.

Taxpayer came to hearing and offered live testimony. He denied possession and offered an alternative explanation. The preponderance of evidence contained in the hearing record indicated that another individual threw the bag of cocaine at Taxpayer and tried to run when he saw the police approaching. Further, this other individual took responsibility for the cocaine and money at the scene. This other individual later took responsibility by pleading guilty.

Taxpayer has maintained his innocence and was found not guilty in a jury trial. The Department of Revenue's evidence is a hearsay law enforcement investigation report and a supplemental law enforcement report. The supplemental report is likewise hearsay and may be triple hearsay or more.

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Neither actual nor constructive possession of a controlled substance was established from the record in the hearing of this matter. Accordingly, the proposed assessment referenced above was ordered canceled. This letter is official notification that such proposed assessment has been canceled. Please call me at (919) 733-6459 if you have any questions.

Sincerely,

George Valsame

George Valsame, Assistant Director
Unauthorized Substances Tax Division

cc: Eugene J. Cella, Assistant Secretary