



North Carolina Department of Revenue

Michael F. Easley
Governor

E. Norris Tolson
Secretary

May 10, 2007

(Attorney for Taxpayer)
(Address of Attorney)

Re: (name of Taxpayer)

Unauthorized Substance Tax Proposed Assessment
(AN [AN number]; Docket Number 2006-239)

Dear (Name of Attorney):

The above-referenced matter came on for administrative hearing by written communication at your request. Subsequent to the record of hearing closing on February 1, 2007, Assistant Secretary of Revenue Eugene J. Cella rendered a decision in the matter of Docket # 2006-239. 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.

The preponderance of evidence contained in the hearing record indicated that Taxpayer was a passenger in an automobile that was not her vehicle and that the driver of that vehicle dealt directly with a confidential informant in regards to the controlled substance at issue. No evidence was contained in the hearing record that Taxpayer handled the controlled substance at issue. Taxpayer further denied knowledge of a drug transaction. Taxpayer indicated only that she was requested to hold money by the vehicle driver. The hearing record contained a statement from the driver wherein he admitted full responsibility for the controlled substance in question. The police report admitted into the hearing record made scant reference to Taxpayer and merely indicated that she was a passenger. Nothing in the police report indicated that Taxpayer was involved in the planning or implementation of the drug transaction that gave rise to this proposed assessment.

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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