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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

FILED

STATE OF OHIO, DEPARTMENT OF JOB & FAMILY SERVICES

Plaintiff

Case No: CV-15-847467

2016 SEP 30 P 2:47

Judge: CASSANDRA COLLIER-WILLIAMS

CLERK OF COURTS
CUYAHOGA COUNTY

MERCHANT SERVICES HARDESTY ENTERPRISES, INC.

Defendant

JOURNAL ENTRY

96 DISP.OTHER - FINAL

OPINION AND ORDER AWARDING JUDGMENT IN FAVOR OF PLAINTIFF IS SIGNED AND ORDERED RECORDED.
ORDER ATTACHED. OSJ. FINAL.

IT IS SO ORDERED.

COURT COST ASSESSED TO THE DEFENDANT(S).

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

OSJ
Judge Signature

Date

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

**STATE OF OHIO, DEPARTMENT
OF JOB & FAMILY SERVICES,**

Plaintiff,

v.

**MERCHANT SERVICES
HARDESTY ENTERPRISES, INC.,**

Defendant.

) Case No. CV-15-847467

) JUDGE CASSANDRA COLLIER-WILLIAMS

) **OPINION AND ORDER**

JUDGE C. COLLIER-WILLIAMS:

This cause came on for consideration upon Plaintiff, State of Ohio, Department of Job and Family Services', (hereinafter, "Plaintiff"), Complaint and the relevant briefs filed in this matter. Plaintiff brings this action for collection of unemployment contribution taxes pursuant to R.C. §4141.27. The Court, having undertaken an independent review of the record, awards Plaintiff its requested relief.

PROCEDURAL HISTORY

This case was filed on June 24, 2015, by Plaintiff, State of Ohio, Department of Job and Family Services alleging that Defendant Merchant Services Hardesty Enterprises, Inc. (hereinafter "Defendant") was determined to be an employer, as defined in R.C. §4141.01, and failed to pay employer contributions, forfeitures and interest in violation of ORC § 4141.23. The parties have fully briefed this matter pursuant to the case schedule set on February 22, 2016.

Plaintiff alleges The Department of Job and Family Services notified Defendant of its liability determination on or about May 19, 2015 (Complaint ¶5). Defendant failed to timely appeal this determination. Plaintiff attached its Certificate of Delinquency to the Complaint as

Exhibit B and attached its correspondence to Defendant to its Brief in this matter. This correspondence was sent to Defendant at the address provided by the Defendant to the Plaintiff and used in previous administrative filings. This was also the address where Defendant was successfully served the Complaint at issue. Defendant failed to timely appeal the determination within the 10-day period in violation of O.R.C. §4141.27. The Director complied with §4141.27 by certifying the finding relative to Defendant to the Attorney General. The Attorney General then instituted this civil action against Defendant in the name of the State for the collection of the contribution and interest. Pursuant to §4141.27, "it is sufficient for the plaintiff to set forth a copy of such finding as certified by the director to the attorney general and to state that there is due to plaintiff on account of such finding a specified sum which plaintiff claims with interest." Plaintiff in this case did attach the certified copy to the Complaint. Defendant notably provided no evidence in this matter, attaching no exhibits or affidavits to its brief, simply using its brief to assert it never received the Final Determination and to dispute Plaintiff's financial calculations.

LAW AND ANALYSIS

This Court has jurisdiction over this claim pursuant to O.R.C. §4141.27. Plaintiff is an agency of the State of Ohio and has the authority to administer, enforce and implement O.R.C. Chapter 4141, which regulates unemployment compensation in the State of Ohio. Defendant was determined to be an employer, as defined in R.C. §4141.01, and failed to pay employer contributions, forfeitures and interest in violation of ORC § 4141.23. Defendant failed to timely appeal the Determination which became final pursuant to O.R.C. §4141.26. The Director certified the amount of unemployment tax, forfeiture, and interest owed by Defendant to the Ohio Attorney General for collections pursuant to O.R.C. §4141.27 and O.R.C. 131.02. The

Certificate of Delinquency is prima facie evidence of the amount owed by Defendant and this Certificate was provided to the court in this matter. Defendant owes the Department of Job and Family Services \$15,661.96 in unpaid contributions, \$183.57 in unpaid forfeitures, and \$19,897.98 in unpaid interest as of May 19, 2015. Interest continues to accrue at the rate of 14% annum compounded monthly on the aggregate balance of unpaid contributions, forfeitures and interest pursuant to O.R.C. §4141.23

CONCLUSION AND ORDER

Plaintiff, State of Ohio, Department of Job and Family Service's demand for judgment against Defendant Merchant Services Hardesty Enterprises, Inc. is granted. Judgment is hereby rendered in favor of Plaintiff and against Defendant in the amount of \$35,743.51 plus interest at the applicable statutory rate of 14% from 05/19/2015, plus costs of this action. Final.

IT IS SO ORDERED.

9-30-2016
DATE

Cassandra Collier-Williams
JUDGE CASSANDRA COLLIER-WILLIAMS