

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA**

In re	-----X	
	:	Chapter 11
	:	
OCA, INC., <i>et al.</i> ,	:	
(Jointly Administered)	:	Case No. 06-10179 (JAB)
	:	
Debtors.	:	
	:	
	:	
	:	
	-----X	

**RESPONSE BY THE TENNESSEE DEPARTMENT OF REVENUE  
TO DEBTORS' OBJECTION TO TAX CLAIMS**

COMES NOW the Office of the Tennessee Attorney General, through undersigned counsel, on behalf of the Tennessee Department of Revenue (TDOR), to respond to the Debtors' Objection to Claims.

IN SUPPORT THEREOF, it will be shown as follows:

1. The TDOR filed a pre-petition proof of claim in the total amount of \$989,212.64, claim number 336. Of the total amount, \$923,624.80 is a priority portion based on interest accrued and estimated principal tax because of delinquent tax returns, and \$65,587.84 of the total is a general unsecured portion due to penalties accrued because of the delinquent returns. A copy of this claim is on file with this honorable Court.
2. The Debtors object to the claim on the grounds that either the claim has been paid by the Debtors and/or are not due and owing.
3. A properly filed proof of claim constitutes prima facie evidence of the validity and amount of the claim. FED. R. BANKR. P. 3001(f). The burden then shifts to the objecting party to go forward with additional evidence to rebut the presumption in favor of the creditor by a

preponderance of the evidence. The Trust has failed to produce any evidence to rebut the TDOR's prima facie case.

4. The above-mentioned claim arises from sales/use tax liability and is based upon estimated assessments. When a taxpayer fails to file returns, the Commissioner of Revenue is authorized to generate an estimated assessment for the tax liability. T.C.A. §§ 67-1-1438, 67-4-716; see also 11 U.S.C. § 502(c). Except upon filing a true and accurate return, the taxpayer is estopped from disputing the accuracy of the commissioner's assessment. T.C.A. § 67-4-716(b). If the debtor is no longer in business in Tennessee, the debtor has an obligation to file final returns and mark the "final return" box on the tax document.

**WHEREFORE**, the TDOR requests an Order of this Court:

1. Overruling Debtors' objection to claim numbers 336.
2. Granting such other relief as the Court deems appropriate to protect the interests of the Tennessee Department of Revenue.

Dated this 16th day of October, 2006.

Respectfully submitted,  
MICHAEL E. MOORE  
Acting Attorney General & Reporter

By: /s/ William F. McCormick  
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## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Response filed by the Tennessee Attorney General's Office was duly served via fax and by depositing same in the United States, first class mail, with proper postage affixed, addressed to the persons listed below on this the 16th day of October, 2006.

/s/ William F. McCormick  
William F. McCormick

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