



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE:

QUEBECOR WORLD (USA) INC, et al

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Case No. 08-10152 (JMP)

Chapter 11

VIRGINIA DEPARTMENT OF TAXATION'S RESPONSE
TO 38TH OMNIBUS OBJECTION TO CLAIM

COMES NOW the Commonwealth of Virginia, Department of Taxation, by counsel, and files this Response to the 38th Omnibus Objection to its Claims and in support thereof states as follows:

1. The Department filed three claims to which the debtors object in this matter.
2. The Virginia Department of Taxation Claim (denominated #8330) constitutes a claim for estimated corporate income tax as the debtor did not file a return or make remittance for these periods. This filed claim is deemed allowed under 11 USC §502.
3. The Virginia Department of Taxation Claim (denominated #8331) constitutes a claim for estimated corporate income tax as the debtor did not file a return or make remittance for these periods. This filed claim is deemed allowed under 11 USC §502.
4. The Virginia Department of Taxation Claim (denominated #8332) constitutes a claim for estimated sales and use taxes for an expected audit. This filed claim is deemed allowed under 11 USC §502.
5. According to the records of the Virginia Department of Taxation, the missing returns have still not been filed. The debtor has clearly failed to meet its burden of proof to overcome the presumption of correctness provided by 11 U.S.C. §502 and Code of Virginia §58.1-205.
6. The U.S. Supreme Court, in *Raleigh v. Illinois Dept. of Revenue (In re Stoecker)*, 530 U.S. 15, 120 S. Ct. 1951, 147 L.Ed. 2d 13 (2000) analyzed the burden of proof for a state tax claim in a bankruptcy case saying:

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Tax law is no candidate for exception from this general rule, for the very fact that the burden of proof has often been placed on the taxpayer indicated how critical the burden rule is, and reflects several compelling rationales: the vital interest of the government in acquiring its lifeblood revenue; the taxpayer's readier access to the relevant information; and the incentives to self-report and to keep adequate records in case of dispute. These are powerful justifications not to be lightly disregarded. *Id.* at 21. [internal citations omitted].

7. Furthermore, the claim was filed as an estimate due to the debtor's failure to file required tax return.
8. The Virginia Department of Taxation is ready to accept and process these returns and to determine the actual amount of the debtor's tax liability.

WHEREFORE, the Commonwealth of Virginia, Department of Taxation, requests that the Court overrule the Debtor's objection to its claim, as well as award any other relief to which it is entitled.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TAXATION

BY: /s/ Jeffrey A. Scharf
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Response to Objection to Claim was sent this 3rd day of December 2010 to the Debtor's counsel & Joint Claims Oversight Committee.

/s/ Jeffrey Scharf