

PROBABLE CAUSE AFFIDAVIT

STATE OF FLORIDA
COUNTY OF PALM BEACH

DEPARTMENT OF REVENUE
CASE NUMBER: 3000007906

Defendant: Matthew Allen Lacharite
Sex: Male
Race: Caucasian
Date of Birth: January 12th, 1959
Height: 5'7"
Weight: Unknown
Eyes: Unknown
Hair: Unknown
Driver License: FL L263-541-59-012-0

Address: 2388 Edgewater Drive
Palm Beach Gardens, FL 33410

Offense (1): Tax Evasion (Sales Tax)
Section 212.12(2)(e), Fla. Stat. (2005)
Felony of the 3rd Degree, 32 Counts
Dates: June 2015 through January 2018

Refusal to File Tax Return and Pay the Taxes Due (Sales Tax)
Section 212.14(3), Fla. Stat.
Misdemeanor of the 1st Degree, 5 Count
Dates: September 2017 through January 2018

Business Name: Commercial Service Company of South Florida Inc.

Business Address: 6555 Garden Road, Suite 12, Riviera Beach, FL 33404

Victim: State of Florida

Before me this day personally appeared Kathy Orzechowska, who, being first duly sworn, deposes and says that the above-named defendant committed the offense charged and the facts and circumstances showing probable cause to believe same are as follows:

I, Kathy Orzechowska, am an Investigator with the Florida Department of Revenue. I have conducted an investigation of Commercial Service Company of South Florida Inc., a business involved in commercial sales, repair and installation of restaurant equipment, a taxable business activity under Florida Statutes. The business is located in Palm Beach County, Florida.

Images of Matthew Allen Lacharite's Florida Driver's License and Signature Array were requested and obtained from the Florida Department of Highway Safety and Motor

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PALM BEACH COUNTY, FL
CLERK OF CIRCUIT COURT
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Vehicles with the purpose of comparing the photos, signatures, and addresses on the driver's license and signature data with the records obtained through the course of the investigation.

As a designated custodian of records of the Department of Revenue with regard to Department of Revenue criminal cases, I'm providing a certified copy of Commercial Service Company of South Florida Inc.'s Florida Business Tax Application filed in conventional paper format from the Department of Revenue's database. The application identifies Matthew Lacharite as the treasurer of the business with forty-nine (49%) percent ownership and control of the business.

The application reveals that on September 11, 2014, the open business registered with the Department of Revenue as a corporation involved in commercial repair of restaurant equipment. The business's opening date is listed as July 24, 2014. The open business is required to file sales and use tax returns on monthly basis with the Florida Department of Revenue.

Further, the applicant declaration and signature line bear the signature of Matthew Lacharite as secretary and treasurer, who also acknowledged thereon he understands that it is a criminal offense to, among other things: not timely file a tax return or report; not remit a collected tax, surcharge or fee; and make a worthless check, draft, debit card payment, or electronic funds transfer payment to the Department.

I obtained and reviewed the certified records produced by the Florida Department of State and found that, on May 2, 2011, the business registered with the Secretary of State as a corporation under the name Commercial Service Company of South Florida Inc. These records show Matthew A Lacharite, as treasurer and director of the corporation. The corporation status is active.

Furthermore, electronically filed Annual Reports for 2012 through 2017 list Matthew A Lacharite as treasurer and director of the corporation. The Annual Reports for 2014 through 2017 were electronically signed with the name Matthew Lacharite.

As the designated custodian of records the Department of Revenue with regard to Department of Revenue criminal cases, I am providing a certified printout of the Florida Department of Revenue's System for Unified Taxation (SUNTAX)'s Contract Object e-Services screen which shows:

- August 21, 2017 as the e-filing agreement date and the payment method as ACH Debit Web
- Matthew A Lacharite as the filing and payment contact person
- First National Bank and Trust Company of the Treasure Coast as the primary bank, account number [REDACTED]
- The Web User ID and Password is assigned to Matthew A Lacharite

My review of the Florida Department of Revenue records shows that Sales and Use Tax Returns were filed in conventional paper format, on behalf of Commercial Service

Company of South Florida Inc. for periods May 2015 through June 2017 and filed electronically for period July 2017. Twenty (20) Sales and Use Tax Returns covering the periods October 2015 through March 2017 and May 2017 through June 2017 and the payment instruments for the periods May 2015 through June 2017 were signed with a signature that appears to be that of Matthew Allen Lacharite, when compared with his driver's license. The electronically filed Sales and Use Tax Return and remittance for the period July 2017, show Matthew Lacharite as the contact person.

Further, my review of the Florida Department of Revenue records revealed that the sales and use tax returns, to include all returns cited above, for all periods included in the investigation, show that no exempt sales were claimed by the business.

The filing of these returns demonstrates that Matthew Allen Lacharite was aware of his legal responsibility to collect, report, and remit sales tax collected by Commercial Service Company of South Florida Inc.

As the designated custodian of records of the Department of Revenue with regards to Department of Revenue criminal cases, I obtained certified copies of Florida Department of Revenues Sales and Use Tax Returns filed on behalf of the business for the periods May 2015 through July 2017.

Further review of the System for Unified Taxation reveals that after the Department of Revenue issued delinquency notices to the business, Matthew Allen Lacharite did not file sales and use tax returns on behalf of the business for the periods August 2017 through December 2017.

In addition to not filing the return, as required by law, Department of Revenue records reveal that Matthew Allen Lacharite did not pay the tax due for the periods August 2017 through December 2017.

As the designated custodian of records of the Department of Revenue with regard to Department of Revenue criminal cases, I am providing a certified statement indicating that "after a diligent search of Department's records, I do not find where Commercial Service Company of South Florida Inc., BP [REDACTED] has filed Sales and Use Tax returns to the Department of Revenue for the periods August 2017 through December 2017."

As the designated custodian of records of the Department of Revenue with regard to Department of Revenue criminal cases, I am providing a certified statement indicating that "after a diligent search of Department's records, I do not find where Commercial Service Company of South Florida Inc., BF [REDACTED] has remitted Sales and Use Tax payments to the Department of Revenue for the periods of August 2017 through December 2017.

I conducted a review of the Department's System for Unified Taxation, which indicates that Department of Revenue specialists made numerous contacts with Matthew Allen Lacharite, in an effort to resolve the company's sales tax delinquencies and secure Matthew Allen Lacharite's voluntary compliance with sales tax reporting and remittance requirements. These contacts were memorialized in comments made by the revenue

specialists and entered into the Department's System for Unified Taxation. These comments demonstrate that Matthew Allen Lacharite was aware of the sales tax liability associated with the operation of his business.

In addition to the Department of Revenue specialists' documented comments, I obtained an affidavit from Department of Revenue Administrator familiar with the business. The affidavit indicates that the Revenue Administrator conducted a review of comments entered by her and various revenue specialists into the System of Unified Taxation, and that the review shows Matthew Allen Lacharite was familiar with sales tax reporting and remittance requirements associated with the operations of the business. This review also revealed that revenue specialists, on numerous occasions, advised Matthew Allen Lacharite of the sales tax liabilities of the business. The review also shows that Matthew Allen Lacharite was notified several times of Florida Statute 212.15, which states, in part, that taxes imposed by this chapter become state funds at the moment of collection and any person who fails to remit taxes collected may be guilty of theft of state funds.

Furthermore, the System for Unified Taxation shows that tax warrants were filed with the clerk of the court, Palm Beach County County, Florida.

I requested the voluntarily production of Commercial Service Company of South Florida Inc.'s business records from Matthew Allen Lacharite, as custodian of records, for the investigation period July 2014 through December 2017; however, no response nor records were received from Matthew Allen Lacharite.

It was established during the course of this investigation that Commercial Service Company of South Florida Inc. used accounts at Regions Bank, Seacoast National Bank and SunTrust Bank., to remit sales tax payments to the Department of Revenue. The bank accounts are titled Commercial Service Company of South Florida Inc.

Pursuant to this investigation, I requested certified bank records of Commercial Service Company of South Florida Inc from the three banks. In response, I received signature cards and bank statements from Regions Bank, Seacoast National Bank and SunTrust Bank, for the periods May 2015 through December 2017. The signature cards provided list Matthew A Lacharite as signatory of the accounts and as treasurer of the corporation.

Moreover, copies of canceled checks provided by Regions Bank, Seacoast National Bank and SunTrust Bank reveal that Matthew Allen Lacharite exercised his authority as a signatory.

Further review of the subpoenaed bank records, to include deposit items with images of deposited items, revealed information on business customers. From these images, I contacted business' customers 5101 Corporation, Sequella Café Boca, Terrie A Ellis, The Bridges HOA Inc and Flagship International LLC, who made payments to Commercial Service Company of South Florida Inc. from their respective business bank accounts. I then requested and obtained from 5101 Corporation, Sequella Café Boca, Terrie

A Ellis, The Bridges HOA Inc and Flagship International LLC, copies of Commercial Service Company of South Florida Inc.'s invoices.

I reviewed the Commercial Service Company of South Florida Inc.'s invoices received from the aforementioned business customers. These invoices show Florida Sales Tax listed as a separate line item on all invoices provided. The invoices show the business charged and collected Sales Tax during its normal course of business.

Considering that no business records were provided by the business' custodian of records for the investigation period May 2015 through December 2017, business' bank account statements were used to identify unreported or additional taxable sales.

I reviewed, scheduled and summed all bank deposits by month as shown on bank statements for the periods May 2015 through December 2017 for all accounts provided. I excluded all non-income deposits and credits, unidentified deposits, and deposits that did not appear to be generated from regular business sales. This net bank deposit analysis reveals a minimum of **\$1,555,615.62** was deposited in the accounts maintained by the subject business.

To determine the amount of Sales Tax Collected, for the monthly periods of May 2015 through December 2017, I did the following:

I divided the Net Bank Deposits (including sales tax) amount for each period by 1.06, resulting in taxable income revenue of **\$1,467,561.91**. I then subtracted this amount from the Net Bank Deposits including sales tax, leaving a minimum sales tax collected amount of **\$88,053.71** for the periods included in this investigation. I then subtracted the amount of tax paid of **\$35,871.63** resulting in a minimum sales tax collected and not remitted amount of **\$52,182.08**.

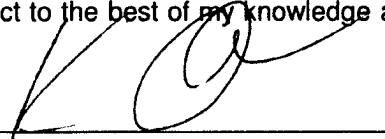
In this manner, I concluded that, Matthew Allen Lacharite, while acting in his capacity as an agent of the state, and as president and registered agent of Commercial Service Company of South Florida Inc., evaded paying a minimum of **\$52,182.08** in sales tax during the periods May 2015 through December 2017.

The above analysis and computations reveal that the total amount of sales tax collected and not remitted to the Department of Revenue by Commercial Service Company of South Florida Inc. during May 2015 through December 2017 is **\$52,182.08**.

Letters requesting an interview were sent via certified and regular mail to Matthew Allen Lacharite. These letters were mailed to the most recent residential address of Matthew Allen Lacharite as shown on his driver's license. The United States Postal Service tracking shows that the certified mail was unclaimed as of July 20, 2018. The regular mail was never returned; however, no response was received from Matthew Allen Lacharite.

I also attempted to call Matthew Allen Lacharite on the business phone and I left a voice message requesting a call back; however, I never received a response to schedule the interview.

Under penalties of perjury, I declare that I have read the foregoing probable cause affidavit and that the facts stated in it are true and correct to the best of my knowledge and belief.

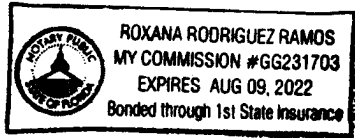


Kathy Orzechowska

Sworn to (or affirmed) and subscribed before me this 30th day of July 2018 by Kathy Orzechowska.

Personally, known _____
Produced Identification _____
Type of Identification Produced _____

Notary Public, State of Florida and/or Deputy Clerk of the Court



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