

STATE OF ALABAMA

Complainant

v.

W. F. ANDERSON
d/b/a Anderson's Department Store
P. O. Box 587
Foley, Alabama

Respondent

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IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. _____

BILL OF COMPLAINT

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING
IN EQUITY:

Comes the State of Alabama, by its Attorney General, and shows unto the Court
as follows:

1. The respondent, W. F. Anderson d/b/a Anderson's Department Store, P. O. Box
587, Foley, Alabama, is a citizen and resident of Baldwin County, Alabama, and is
over the age of twenty-one years.

2. Respondent was engaged in the business of selling at retail tangible per-
sonal property within the County of Baldwin, State of Alabama, during the period
January 1, 1956 through July 31, 1958, and is at the present time engaged in the
business of selling at retail tangible personal property within the County of Baldwin,
State of Alabama.

3. Respondent operated a place of business known as Anderson's Department Store,
P. O. Box 587, Foley, Alabama, during the above-specified period and is presently
operating said place of business at said location. The respondent during the period
hereinabove specified was subject to the privilege or license tax imposed by the
Sales Tax Law (Title 51, Chapter 20, Article 10, Sections 752-786, inclusive, as
amended, Code of Alabama 1940) and did incur and create for and during said period
liability to complainant as and for sales tax in an amount equal to 3% of the gross
proceeds of the Sales of his business, as provided by the Sales Tax Law.

4. Complainant avers that respondent was, during the period specified herein
required to file with the State Department of Revenue on or before the 20th day of
each month, a sales tax return for the preceding month, together with payment of the
tax due. Complainant further avers that at the time of the filing of this bill, respon-
dent has not paid the sales tax due for the months of March, April, May, June and July,
1959, as required by said Sales Tax Law and that same is now due and unpaid. The
amount due for said months is \$538.82 plus interest as required by law.

5. Complainant avers that respondent has failed to file sales tax returns for the month of August, 1959. The exact amount due for said month is unknown to complainant but the amount of sales for said month is due, delinquent, and unpaid at the time of the filing of this bill.

6. Complainant avers that numerous and repeated efforts have been made by the State Department of Revenue and its agents to collect the delinquent sums owing to the State of Alabama by the said respondent, it is averred that the amount shown in Paragraph 4 hereinabove is still due and unpaid to the State of Alabama. It is further averred that the only remedy of complainant to prevent the continued and/or recurring violations by respondent of the Sales Tax Law is an injunction against respondent to restrain him from engaging or continuing in this State in the business of selling tangible personal property as aforesaid, until he has complied with all the provisions of the said Sales Tax Law, including the filing of sales tax returns within the time prescribed by law. The respondent, in failing to comply with the aforesaid Sales Tax Law has and is hindering, delaying and thwarting the efforts of the State of Alabama in the collection of revenue used to sustain and maintain State Government.

WHEREFORE, PREMISES CONSIDERED, Complainant prays that summons issue from this Court directed to the respondent, W. F. Anderson, d/b/a Anderson's Department Store, P. O. Box 587, Foley, Alabama, requiring him to plead, answer or demur to this bill within the time required by law.

Complainant further prays that this Court set and fix a date for a hearing upon this application for a temporary injunction and cause notice of the date to be given to the respondent.

Complainant further prays that this Court grant a temporary injunction under the provisions of Section 777, Title 51, Code of Alabama 1940, restraining and enjoining this respondent, his agents and employees from engaging or continuing within this State in the business of selling at retail tangible personal property or from engaging or continuing in any business which is covered by the provisions of the Alabama Sales Tax Act.

Complainant further prays that upon a final hearing of this cause, the Court make the temporary writ of injunction herein and herefor prayed permanent, and grant a perpetual injunction forever restraining the respondent, his agents, servants and employees from engaging or continuing within this State in the business of selling

at retail any tangible personal property or engaging or continuing in any business covered by the provisions of the Alabama Sales Tax Act until the respondent shall have complied with the provisions of said law and shall have paid to the complainant, State of Alabama, the sales tax due by him, plus penalty and interest as heretofore specified in this bill.

Complainant prays for such other, further, and different relief as the nature of this cause may require and to which the complainant may be entitled, and as in duty bound will ever pray, etc.

STATE OF ALABAMA

BY:

MacDonald Gallion
MACDONALD GALLION, as Attorney General
of Alabama

Guy Sparks
GUY SPARKS, Executive Assistant, Legal
Division, Department of Revenue of the
State of Alabama, and as Special Assistant
Attorney General of Alabama

James R. Payne
JAMES R. PAYNE, Assistant Counsel, Depart-
ment of Revenue of the State of Alabama,
and as Assistant Attorney General of Alabama

Counsel for Complainant

STATE OF ALABAMA §

MONTGOMERY COUNTY §

Before me, Carrie K. Singletary, a Notary Public in and for said State and County, personally appeared the undersigned, James R. Payne, who being by me first duly sworn, doth depose and says he is one of the attorneys of record for the complainant and an Assistant Attorney General of Alabama, and that he has read and understood the foregoing bill and to the best of his knowledge and belief, the facts alleged therein are true and correct.

James R. Payne
JAMES R. PAYNE, As Assistant Attorney
General of Alabama

SWORN to and subscribed before me
this the 27 day of October, 1959

Carrie K. Singletary
Notary Public, Montgomery County, Alabama

FILED
OCT 28 1959
ALICE J. DUCK, Register

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. 4747

..... TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Comanded to Summon W.F. ANDERSON, d/b/a ANDERSON'S DEPARTMENT STORE

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

W.F. ANDERSON, d/b/a ANDERSON'S DEPARTMENT STORE, Defendant

by STATE OF ALABAMA

....., Plaintiff

Witness my hand this 28th day of October 19 59.

Alice J. Duck, Clerk

No. 4747

Page _____

The State of Alabama
Baldwin County

CIRCUIT COURT

STATE OF ALABAMA

Plaintiffs

vs.

W.F. ANDERSON, d/b/a

ANDERSON'S DEPARTMENT STORE
Defendants

Summons and Complaint

Filed October 28, 1959

Alice J. Duck Clerk

FILED

OCT 28 1959

ALICE J. DUCK, Register

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

10/28 1959

_____, Sheriff

I have executed this summons

this 11/4 1959
by leaving a copy with

W.F. Anderson
Alice Anderson
Kept Store

Sheriff claims 72 miles at
Ten Cents per mile Total \$ 7.20
TAYLOR WILKINS, Sheriff

BY _____
DEPUTY SHERIFF

Taylor Wilkins Sheriff

Charles [unclear] Deputy Sheriff

[Signature]

4742

STATE OF ALABAMA	¶	
	¶	
Complainant	¶	IN THE CIRCUIT COURT
	¶	
v.	¶	OF
	¶	
W. F. ANDERSON	¶	BALDWIN COUNTY, ALABAMA
d/b/a ANDERSON'S DEPARTMENT STORE	¶	
P. O. BOX 587	¶	IN EQUITY NO. _____
FOLEY, ALABAMA	¶	
	¶	
Respondent	¶	
	¶	

AMENDMENT

Comes now complainant in the above-styled cause, by and through its attorneys, and amends its original bill of complaint heretofore filed by adding thereto at the end of Paragraph 5 the following paragraph:

5A. Complainant avers that respondent was engaged in the business of selling tangible personal property in the City of Foley, Alabama during the months of December, 1959, January, March and April, 1960 and is presently engaged in said business. It is further averred that by virtue of the aforesaid business engaged in by respondent that respondent is subject to the Alabama Sales Tax Act, said act being Act No. 100, Second Special Session 1959 Acts of Alabama, effective October 1, 1959; it is further averred that respondent has not filed sales tax returns for the months of December, 1959 and January, March and April, 1960 and that the sales tax due for said months is delinquent and unpaid at the present time.

AND NOW HAVING AMENDED its bill of complaint, complainant adopts by reference the prayer of the original bill as its prayer.

MacDonald Gallion
MACDONALD GALLION
As Attorney General of Alabama

Guy Sparks
GUY SPARKS, As Executive Assistant to the
Commissioner of Revenue of the State of
Alabama, and Special Assistant Attorney
General of Alabama

James R. Payne
JAMES R. PAYNE, As Assistant Counsel, Depart-
ment of Revenue of the State of Alabama, and
Assistant Attorney General of Alabama


COUNSEL FOR COMPLAINANT

Filed 6-10-60
Alicia French Book-32 162A
Deq

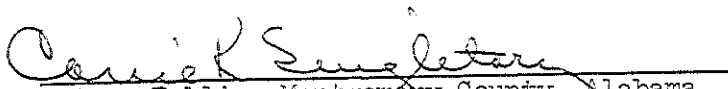
STATE OF ALABAMA {

MONTGOMERY COUNTY {

Before me, Carrie K. Singletary, a Notary Public in and for said State and County, personally appeared the undersigned, James R. Payne, who being by me first duly sworn, doth depose and says he is one of the attorneys of record for the complainant and an Assistant Attorney General of Alabama, and that he has read and understood the foregoing Amendment to the original bill of complaint and to the best of his knowledge and belief, the facts alleged therein are true and correct.


JAMES R. PAYNE, Assistant Attorney General
of Alabama

SWORN to and subscribed before me
this the 8 day of June, 1960.


Notary Public, Montgomery County, Alabama

F I A T

TO THE REGISTER OF THE CIRCUIT COURT:

The foregoing bill of complaint, as amended, being presented to the undersigned for fiat,

IT IS ACCORDINGLY ORDERED by the Court that the hearing upon said application for temporary injunction be set at 10 o'clock, 12 m., on the 10 day of August, 1960, and that this order be forthwith issued by the Register for immediate service upon the Respondent, with due return to be made as to the manner of execution of such service, such return to be endorsed upon the original of this order, in no event, less than three (3) days prior to 8/10, 1960.

DONE AND ORDERED this 1 day of August, 1960.

J. Hubert V. Steele
CIRCUIT JUDGE - IN EQUITY SITTING

* * * * *

TO ANY SHERIFF OF THE STATE OF ALABAMA:

Pursuant to the above order of the Court, you are hereby commanded to serve copy of the above order and fiat upon the respondent, and make due return thereof, notifying said respondent that the date of the hearing on said application for temporary injunction is set for 10:00 o'clock, 12 m., on the 10th day of Aug, 1960, and to summon him to appear, if he so desires, on the above-said date of hearing.

Reice J. French
REGISTER IN EQUITY

F I A T

TO THE REGISTER OF THE CIRCUIT COURT:

The foregoing bill being presented to the undersigned for
fiat,

IT IS ACCORDINGLY ORDERED by the Court that the hearing
upon said application for temporary injunction be set at 10 o'clock,
A m., on the 30 day of Nov, 1959, and that this
order be forthwith issued by the Register for immediate service upon
the Respondent, with due return to be made as to the manner of execu-
tion of such service, such return to be endorsed upon the original
of this order, in no event, less than three (3) days prior to Nov 30,
1959.

DONE AND ORDERED this 23 day of Nov, 1959.

Hubert M. Stoebe
CIRCUIT JUDGE - IN EQUITY SITTING

11/27/59 The foregoing contains entered 12/15/59
as it appears
Hubert M. Stoebe

4747 ✓

State of Nev.

vs

W. F. Anderson

Received 23 day of July 1950
and on 3rd day of Nov 1950
received a copy of the within just
W. F. Anderson
by service on _____

TAYLOR WILKINS, Sheriff
By Taylor Wilkins

July

Sheriff claims 72 miles at
Ten Cents per mile Total 7.20
TAYLOR WILKINS, Sheriff
BY _____
DEPUTY SHERIFF

W. F. Anderson
to be present
in court



STATE OF ALABAMA
DEPARTMENT OF REVENUE
LEGAL DIVISION
MONTGOMERY 2, ALABAMA

HARRY H. HADEN
Commissioner of Revenue

GUY SPARKS
Executive Assistant
Legal Division

October 27, 1959

HERBERT I. BURSON, JR.
WILLIAM H. BURTON
B. FRANK LOEB
JAMES R. PAYNE
H. GRADY TILLER
Assistant Counsel
T. LOMAX CRUM
Legal Research Aide
M. J. STEWART, JR.
Revenue Supervisor

Mrs. Alice J. Duck
Register in Equity
Baldwin County Court House
Bay Minette, Alabama

Re: State of Alabama, complainant, v. W. F. Anderson d/b/a
Anderson's Department Store, P. O. Box 587, Foley, Alabama,
respondent. In the Circuit Court of Baldwin County, Alabama,
in Equity No. _____

Dear Mrs. Duck:

Enclosed herewith is the original and one copy of the complainant's bill of complaint in the above-styled cause which contains an application for a temporary and permanent injunction against the above-identified respondent.

Please notify us of the date and time set by the Court for the hearing.

Very truly yours,

GUY SPARKS
Executive Assistant

BY: *James R. Payne*
JAMES R. PAYNE
Assistant Counsel

/msb
Enc. - 2

STATE OF ALABAMA,

Complainant,

v.

W. F. ANDERSON,
d/b/a ANDERSON'S DEPARTMENT STORE
Post Office Box 587
Foley, Alabama

Respondent

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY NO. _____

INTERLOCUTORY DECREE

This cause coming on to be heard is submitted for Interlocutory Decree at the hearing before the Court.

Upon consideration of said cause, the Court finds that the State of Alabama is entitled to the relief prayed in the proceedings filed in compliance with Title 51, Section 777, Code of Alabama, 1940, as superseded by Section 25, Act No. 100, Second Special Session, 1959, effective October 1, 1959, and that the respondent on this date is indebted to the State of Alabama for delinquent sales tax in the sum of Two Hundred Five Dollars and Thirty-seven Cents (\$205.37), with interest computed to September 1, 1960.

Further, it was agreed that an injunction order issue from this Court on this date, the enforcement of which injunction is held in abeyance contingent on the payment by the respondent of the delinquent sales tax on or before September 1, 1960; and the failure by the respondent to pay the aforesaid amount on or before September 1, 1950 will place this injunction in immediate force and effect without further action of this Court. The Court has taken cognizance of the aforesaid agreement and is of the opinion that the sales tax indebtedness should be extinguished in this manner to the best interest of the parties.

IT, THEREFORE, ORDERED, ADJUDGED AND DECREED that the temporary injunction prayed by the complainant in the Bill of Complaint be granted but the operation thereof is held in abeyance contingent upon the payment of Two Hundred Five Dollars and Thirty-seven Cents (\$205.37) on or before September 1, 1960; and further, that he shall maintain his sales tax account in current

order.

FURTHER, IT IS ORDERED, ADJUDGED AND DECREED that should the respondent fail to comply with this order, an order will issue from the office of the Register in Equity of Baldwin County, Alabama directed to the Sheriff of Baldwin County, Alabama forthwith prohibiting and enjoining the respondent, his agents, servants and employees, acting within the line and scope of their employment by the respondent, from engaging or continuing to engage in the business of selling tangible personal property at retail or engaging within any business in the State of Alabama which is covered by Act No. 100, Second Special Session, 1959, effective October 1, 1959, until further order of this Court.

FURTHER, IT IS ORDERED that costs are taxed against the respondent for which let executive issue.

DONE this the 25 day of August, 1960.

FILED
AUG 25 1960
ALICE J. DUCK, CLERK
REGISTER

Robert M. Steel
CIRCUIT JUDGE - IN EQUITY SITTING