

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ONLINE MERCHANTS GUILD	:	Civil No. 1:21-CV-00369
	:	
	:	(Judge Conner)
v.	:	(Magistrate Judge Schwab)
	:	
	:	
C. DANIEL HASSELL, <i>in his official</i>	:	
<i>capacity as Secretary of Revenue, Department</i>	:	
<i>of Revenue,</i>	:	
	:	
<i>Defendant</i>	:	Electronically filed document

STIPULATION

AND NOW, this 4th day of May, 2021, come the Parties in the above captioned action, by and through their undersigned counsel, to submit this Stipulation and in support thereof, aver as follows:

1. This matter was commenced on February 26, 2021, by the Online Merchants Guild (“the Guild”), with the filing of a Complaint for Declaratory and Injunctive Relief as docketed at *Online Merchants Guild v. Hassell*, No. 1:21-cv-00369(M.D.Pa.) [Doc. 1].
 - a. The Complaint alleges, *inter alia*, that certain members of the Guild have received letters from the Pennsylvania Department of Revenue indicating that those members may have a physical presence in the Commonwealth and may be subject to Pennsylvania’s income and sales tax laws.

- b. The Complaint further alleges that the letters direct the Guild's members receiving such letters to either complete the questionnaire enclosed within those letters within fifteen (15) days from the date of that letter or be faced with additional enforcement actions and the forfeiture of any penalty relief or limited lookback provisions provided by such voluntary compliance program.
2. On March 4 and 5, 2021, respectively, the Guild filed a Motion for Temporary Restraining Order and Preliminary Injunction and its brief in support thereof, wherein it sought to enjoin Defendant from requiring the members of the Guild who receive the letters to register with the Department of Revenue within the fifteen (15) day period described in such letters. [Docs. 9-10].
3. On March 18, 2021, the Parties filed a stipulation which provided that any Guild member who (a) received or later receives the letter from the Defendant described above, and (b) wished to participate in the Voluntary Compliance Program described in that letter and on the Department's website at <https://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/TaxObligOnlineRetailers/Pages/Voluntary-Compliance-Program-For-Retailers.aspx>, would be entitled to any benefits described in the letter or on the Department's website, so long as those Guild member(s) fulfilled the obligations described in such letter, on or before May 8, 2021. *See* [Doc. 22].

4. Following a hearing on the Guild's motion for preliminary injunction, the Court issued an Order referring the parties to Magistrate Judge Schwab for the purpose of evaluating whether an extension of the deadline established by the Parties March 18, 2021 stipulation, [Doc. 22], was warranted. *See* [Docs. 36-37].
5. Both Parties wish to afford the Court time to consider the Guild's request for preliminary injunctive relief, and any of the Pennsylvania Department of Revenue's defenses thereto, and, thus, in furtherance thereof, discussed mechanisms to accomplish the same.
6. In consideration of the foregoing, the Parties hereby agree and STIPULATE as follows:
 - a. The deadline established by the Parties' prior stipulation, [Doc. 22], shall be EXTENDED until June 8, 2021;
 - b. The Guild shall publish and maintain a true, correct, and unaltered copy of this stipulation at <https://onlinemerchantsguild.org/news/panotice/> with a lead paragraph which shall link to the full publication posted at the site above being posted to <https://www.onlinemerchantsguild.org/news> on or before May 8, 2021 during the entire pendency of this extended deadline;
 - c. The Guild shall draft and send a letter or email to each of its members advising about the availability of the Department's voluntary compliance program and the above-extended June 8, 2021 deadline to respond; the Guild shall also produce an exemplar copy of that letter or email to the

Department of Revenue. However, nothing in this stipulation, or the provision of an exemplar copy of the letter or email, shall constitute a waiver of any privilege or immunity from discovery with respect to communications between the Guild and its members regarding this matter or the stipulation.

7. Nothing within this stipulation shall be construed as an admission or waiver by the Guild, its members, or Secretary Hassell, or the Department of Revenue, regarding the jurisdiction of the Department to send the letter, the jurisdiction of this Court to address the allegations of the Guild's Complaint, or the merits of the Motion for Temporary Restraining Order and/or Preliminary Injunction.


WHEREFORE, the Parties respectfully request this Court enter an Order in accordance with the foregoing Stipulation and Proposed Case Management Schedule and have attached a Proposed Order hereto.

Respectfully submitted,

/S/ Aaron K. Block

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05/04/21 _____
Dated

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