

**ALABAMA TAX TRIBUNAL**

PLUMBER'S PUB, §  
Taxpayer, § DOCKET NO. COUNTY 16-108-CE  
v. §  
ETOWAH COUNTY & CITY OF GADSDEN. §

**FINAL ORDER DENYING TAXPAYER'S MOTION TO SET ASIDE  
JUDGMENT OF COURT UNDER RULE 60(b)(4)**

On May 30, 2017, the Alabama Tax Tribunal entered a Final Order in this appeal, affirming the final assessments because the Taxpayer did not respond to the Tax Tribunal's April 10, 2017, Preliminary Order. The Taxpayer has filed a "Motion to Set Aside Judgment of Court Under Rule 60(b)(4) of ACP." (The motion begins by stating "Comes Now the Defendant..." and later refers to this motion as the "Defendant's Motion..." Nevertheless, it appears to be a request for relief by the Taxpayer.) The Taxpayer's motion must be denied.

First, there is no provision in the statutes addressing the operation of the Tax Tribunal that allows a party to an appeal to request relief from an order nearly four years after the entry of that order. See Ala. Code §§ 40-2B-1, et seq. And the Taxpayer has cited no such authority. Instead, the Taxpayer cites only to Rule 60(b)(4), Ala. Rules of Civil Procedure. However, Rule 81(b), Ala. Rules of Civil Procedure, states that those rules do not apply to proceedings in which the controversy is adjudicated by an administrative agency, such as here.

Therefore, the Taxpayer's motion must be and is denied. The Final Order entered

by the Tax Tribunal on May 30, 2017, in which the final assessments were affirmed, remains in effect.

It is so ordered.

Entered March 11, 2021.

*/s/ Jeff Patterson*

JEFF PATTERSON

Chief Judge

Alabama Tax Tribunal

jp:cm

cc: Jonathan V. Gerth, Esq.  
David W. Trottier  
Luther Abel, Esq.