STATE OF NEW YORK

TAX APPEALS TRIBUNAL

In the Matter of the Petitions of **COUSINS SERVICE STATION, INC; AND THOMAS FORCA AND THOMAS AMARI, AS OFFICERS**	:	
for Revision of Determinations or for Refunds of Sales and Use Taxes under Articles 28 and 29 of the Tax Law for the Period March 1, 1979 through February 28, 1981.	:	
In the Matter of the Petition of **COUSINS SERVICE STATION, INC.**	:	
for Redetermination of a Deficiency or for Refund of Corporation Franchise Tax under Article 9-A of the Tax Law for the Years 1979 and 1980.	:	DECISION
In the Matter of the Petition of **THOMAS AMARI AND VIVIAN AMARI**	:	
for Redetermination of a Deficiency or for Refund of New York State Personal Income Tax under Article 22 of the Tax Law and New York City Personal Income Tax under Chapter 46, Title T of the Administrative Code of the City of New York for the Years 1979 and 1980.	:	
In the Matter of the Petition of **THOMAS FORCA AND ANITA FORCA**	:	
for Redetermination of a Deficiency or for Refund of New York State Personal Income Tax under Article 22 of the Tax Law and New York City Personal Income Tax under Chapter 46, Title T of the Administrative Code of the City of New York for the Years 1979 and 1980.	:	

Petitioners, Cousins Service Station, Inc. and Thomas Forca and Thomas Amari, as officers, Thomas Amari and Vivian Amari and Thomas Forca and Anita Forca, filed an exception to the determination of the Administrative Law Judge issued on September 11, 1987 (File Nos. 801070, 801071, 801072, 801073, 801084 and 801085). Petitioners appeared by Moe D. Karash, Esq. The Division of Taxation appeared by William F. Collins, Esq. (Lawrence A. Newman, Esq., of counsel).

Only the petitioners filed a brief on the exception. Oral argument, at the petitioners' request, was heard on February 16, 1988.

After reviewing the entire record in this matter, the Tax Appeals Tribunal renders the following decision.

ISSUES

I. Whether the deficiencies in corporation franchise tax under Article 9-A of the Tax Law and personal income tax under Article 22 of the Tax Law were proper.

II. Whether the sales tax assessment of Cousins Service Station, Inc. and Thomas Forca and Thomas Amari, as officers, should be held invalid as being arbitrary and capricious.

III. Whether the fraud penalty imposed by the Administrative Law Judge is supported in the record by clear and convincing evidence.

FINDINGS OF FACT

We find the facts as stated in the Administrative Law Judge's determination and such facts are incorporated herein by this reference except that we modify findings of fact "3" and "4(a)" of such determination as hereafter stated.

This case results from a multi-audit conducted by the Division of Taxation of petitioners for the following taxes and periods:

Petitioner	Tax	Period
Cousins Service Station, Inc.	Sales and Use	3/1/79-2/28/81
Cousins Service Station, Inc.	Corporation Franchise	1979,1980
Thomas Amari and VivianAmari	Personal Income	1979,1980
Thomas Forca and Anita Forca	Personal Income	1979,1980

During the periods at issue, petitioner, Cousins Service Station, Inc. ("the corporation"), operated a Gulf gasoline service station at 240 Atlantic Avenue, Brooklyn, New York. Petitioner, Thomas Amari, was president of the corporation and petitioner, Thomas Forca, was secretary. Mr. Amari and Mr. Forca each owned 50 percent of the outstanding shares of the corporation.

SALES TAX AUDIT

Finding of fact "3" of the Administrative Law Judge's determination is modified to read as follows:

"After calling for the production of the corporation's books and records, the auditor determined that the records were inadequate to determine petitioners' sales tax liability. No verifiable records were produced for the auditor indicating the corporation's individual retail sales. The auditor discovered that all purchase invoices were not available. The auditor further determined that credit card sales had not been included in reported gross sales and that there was no accounting for gasoline purchased by credit vouchers."

Finding of fact "4(a)" of the Administrative Law Judge's determination is modified to read as follows:

"The auditor received from Albany a report that purported to contain figures of the gallonage purchased by the corporation for the years in issue. More than one year had elapsed between the gallonage request and receipt of the report from Albany. The auditor was informed that the report had been lost. The report consisted of transcribed figures written in pencil onto paper bearing only the name of petitioners' corporation. The auditor acknowledged in the field audit report that the computations were confusing. After a meeting between the auditor and a supervisor in Albany, a second confirmation of the gallonage figures from Gulf Oil was requested. Gulf refused this request for a second verification. Relying exclusively upon the transcribed report, and after determining that the corporation's markup averaged 11.91 percent, the auditor calculated gasoline sales as follows:

Year	Purchases from Gulf	Markup at 11.91%	Total Sales
1979	$402,628.00	$ 47,953.00	$ 450,581.00
1980	690,655.00	82,257.00	772,912.00
1981	912,388.00	108,665.00	1,021,053.00"

Parts and accessories purchases were determined to be $716.00 per month, with a 200 percent markup.

The auditor estimated taxable income from parking at $9,000.00 per quarter.

Additional sales were calculated as follows:

1979

Gasoline sales (see “4[a]")	$450,581.00
Parts and accessories	25,776.00
Parking	36,000.00
Total audited taxable sales	$512,357.00
Less: Excise tax	(52,482.00)
Audited taxable sales	$459,875.00
Less: Taxable sales reported	(242,463.00)
Additional taxable sales per year	$217,412.00

Additional taxable sales per quarter	$ 54,353.00

1980

Gasoline sales (see "14[a]")	$772,912.00
Parts and accessories	25,776.00
Parking	36,000.00
Total audited taxable sales $834,688.00	
Less: Excise tax	(58,428.00)
Audited taxable sales	$776,260.00
Less: Taxable sales reported	(222,862.00)
Additional taxable sales per year	$553,398.00
Additional taxable sales per quarter	$138,350.00

A copy of the auditor's work papers in the record indicates a computation which taxed the $9,000.00 per quarter parking receipts at 6 percent and the balance of taxable sales at 8 percent. However, additional tax appears to have been computed by treating all additional taxable sales as taxable at 8 percent. The assessments (infra) appear to reflect no allowance for the lower rate for parking.

On March 20, 1984, the Division of Taxation issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due to the corporation in the amount of $67,036.00 in tax due, $33,518.00 as a fraud penalty and $32,793.08 in interest. On the same date, the Division of Taxation issued similar notices to Mr. Amari and Mr. Forca, as officers of the corporation.

THE INCOME TAX AUDITS

THOMAS AMARI AND VIVIAN AMARI

Records available with respect to Mr. and Mrs. Amari consisted of Federal income tax returns for 1979 and 1980, checking account records and cancelled checks. The auditor determined that such records were insufficient for proper determination of tax and utilized an

indirect audit by the cash availability method. The sources and applications for 1979 and 1980 were as follows:

Sources	1979	1980
Wages (net)	$13,326.00	$17,327.00
Checks to cash	1,049.00	680.00
Income from house	2,400.00	3,480.00
	$16,775.00	$21,487.00
Applications		
Deposits to checking account	$14,071.00	$14,107.00
Cost of living*[1]	11,640.00	11,640.00
	$25,711.00	$25,747.00
Excess Applications over Sources	$ 8,936.00	$ 4,260.00

On November 25, 1982, petitioners Thomas Amari and Vivian Amari executed a consent which extended the period of limitation on assessment for the year 1979 to April 15, 1984.

On November 23, 1983, the Division of Taxation issued a Statement of Audit Changes to petitioners, Thomas Amari and Vivian Amari, increasing income by $8,936.00 for 1979 and $4,260.00 for 1980, on the basis that said amounts were constructive dividends from the corporation.

---

*Cost of living calculated as follows:

Food, $125.00 per week x 52 weeks	$ 6,500.00
Pocket money, $70.00 per week x 52 weeks	3,640.00
Clothing	750.00
Car expense, vacations., etc.	750.00
Total	$11,640.00

On March 26, 1984, the Division of Taxation issued a Notice of Deficiency to petitioners Thomas Amari and Vivian Amari for $1,812.00 in additional New York State and New York City income tax and $91.00 in penalty, plus interest, for the years 1979 and 1980.

THOMAS FORCA AND ANITA FORCA

Records available with respect to Mr. and Mrs. Forca were 1979 and 1980 Federal income tax returns, personal checking account records and a savings account record. The auditor found that the records were insufficient for proper determination of tax and utilized an indirect audit by the cash availability method. The sources and applications for 1979 and 1980 were as follows:

Sources	1979	1980
Wages (net)	$13,326.00	$17,327.00
Applications		
Deposits to checking account	$750.00	$ 1,167.00
Mortgage and tax by cash	4,500.00	4,500.00
Con Edison	1,000.00	1,000.00
Brooklyn Union Gas	800.00	800.00
New York Telephone	480.00	480.00
Contributions by cash	500.00	400.00
	$ 8,030.00	$ 8,347.00
Cost of living*[2]	$13,640.00	$14,640.00
	$21,670.00	$22,987.00

[2]*Cost of living calculated as follows:

Food, $125.00 per week x 52 week	$ 6,500.00
Pocket money, $70.00 per week x 52 week	3,640.00
Vacations, etc.	1,500.00
Car, clothing, etc	2,000.00
Total	$ 13,640.00 for 1979
	Increased to $14,640.00 for 1980

Excess Applications over Sources	$ 8,344.00	$ 5,660.00

On November 27, 1982, petitioners Thomas Forca and Anita Forca executed a consent extending the period of limitation on assessment of personal income tax for the year 1979 to April 15, 1984.

On November 23, 1983, the Division of Taxation issued a Statement of audit Changes to petitioners Thomas Forca and Anita Forca showing additional constructive dividends from the corporation of $8,344.00 for 1979 and $5,660.00 for 1980.

On March 26, 1984, the Division of Taxation issued a Notice of Deficiency to petitioners Thomas Forca and Anita Forca for 1979 and 1980 for $1,953.00 in New York State and New York City personal income tax and $98.00 in penalty, plus interest.

The Corporation Franchise Tax Audit

Although bank deposits and other records of the corporation were analyzed, the auditor utilized the constructive dividends determined to have been made to the two officer/shareholders and treated same as additional income to the corporation:

	1979	1980
Thomas Amari	$ 8,936.00	$4,260.00
Thomas Forca	8,344.00	5,660.00
Additional Income	$17,280.00	$9,920.00

On November 23, 1983, the Division of Taxation issued a Statement of Franchise Tax Audit Changes to the corporation showing $17,280.00 in additional income for 1979 and $9,920.00 in additional income for 1980, and claiming $1,140.00 in additional tax for 1979, with $57.00 in penalty and $298.00 in tax for 1980, with $15.00 in penalty.

On February 21, 1984, the Division of Taxation issued statements of audit adjustment and notices of deficiency to the corporation as follows:

(a) For the year ending December 31, 1979, $1,140.00 in tax, $552.00 in interest, additional charge of $57.00, for a total of $1,749.00.

(b) For the year ending December 31, 1980, $298.00 in tax, $118.00 in interest, additional charge of $15.00, for a total of $431.00.

Business Operations

The corporation's business consisted of selling gasoline and oil, making repairs and parking cars. It had eight gasoline pumps, two service bays and an alignment machine. It was also a New York State inspection station.

Petitioners' accountant prepared the corporation's sales tax returns based on check stubs. He was not given gasoline delivery tickets or daily sheets. He was unaware that credit card slips were given to the gasoline truck drivers and credited against the cost of the gasoline being delivered.

Apart from the testimony of petitioners' accountant and copies of two of said accountant's worksheets, petitioners offered no evidence in support of their position. Petitioners were offered additional time to subpoena the records of Gulf Oil Corporation if they disagreed with the reports offered by the Division of Taxation, but elected not to do so.

Petitioners assert that the statute of limitations for all periods ending prior to August 31, 1980 had expired as to sales tax, as such tax was not assessed until March 20, 1984 and no

consent extending the period of limitation on assessment had been signed. The Division contends that since fraud was involved, no statute of limitation applies.

OPINION

We affirm the determination of the Administrative Law Judge as to the deficiencies for personal income tax and corporate franchise tax. The use of the indirect method, "cash availability" analysis, to determine deficiencies in petitioners' personal income and corporation franchise tax is proper under the circumstances present here. (See, Giuliano v. NYS Tax Commn., 135 AD2d 893 [3d Dept 1987].) The burden of proof is upon the petitioners to demonstrate by clear and convincing evidence that the method used to arrive at the assessments or the assessments themselves are erroneous (Matter of Scarpulla v. NYS Tax Commn., 120 AD2d 842 [3d Dept 1986]). The individual petitioners, through their complete failure to present any proof as to the incorrectness of the notices of deficiency, have surrendered to the presumption of correctness and the deficiencies must be sustained. (Matter of Tavolacci v. NYS Tax Commn., 77 AD2d 759 [3d Dept 1980].)

The remainder of this decision will address the issues surrounding the corporate sales tax assessment and the imposition of the fraud penalty.

THE SALES TAX ASSESSMENT

The petitioners bear the burden of proving that the assessment is clearly erroneous. (Matter of Surface Line Operators Fraternal Organization v. Tully, 85 AD2d 858 [3d Dept. 1981]; 20 NYCRR 3000.10[d][4].) Petitioners assert that the Division erroneously relied upon third-party confirmation of gasoline purchases when the corporate books and records accurately reflected taxable sales for the years in issue. Alternatively, the petitioners argue that the methodology

employed by the Division was patently arbitrary and capricious when the Division failed to substantiate the cornerstone of the assessment which is the third-party confirmation figures from Gulf. We disagree with the petitioners and sustain the assessment.

The petitioners are liable for the tax imposed, collected or required to be collected under Article 28 of the Tax Law (Tax Law §§1131[1]; 1133[a]). Tax Law Section 1135 specifically mandates "every person required to collect tax shall keep records of every sale . . . . and all amounts paid, charged or due thereon and of the tax payable thereon, in such form as the tax commission may by regulation require" as bear on determining liability. (Matter of Grant Co. v. Joseph, 2 NY2d 196, 204 [1957].) We hold that petitioners failed to maintain adequate books and records to determine its liability for taxes imposed by Article 28 of the Tax Law.

There is no evidence in the record that the petitioners ever maintained and made available to the auditor records of every sale. No cash register tapes, daily pump readings, sales journal or any other evidence of actual daily sales was produced by the petitioners. The records made available to the auditor were primarily the accountant's worksheets reconciling deposits per bank statements with cash disbursements. According to the accountant's own testimony, the accuracy of the records was dependent upon the accuracy of the sales information supplied to him by the petitioners. Such sales information was exclusively deposits per bank statements. This is not a record of every sale as required by Tax Law section 1135. The fact that the accountant omitted credit card sales from gross receipts on petitioners' quarterly sales tax returns reveals the inadequacy of petitioners' records for determining sales tax liability.

Since it was impossible to determine petitioners' tax liability solely from its records, resort to outside indices, such as petitioners' purchases from Gulf, was proper. (Matter of Urban

Liquors, Inc. v. State Tax Commn., 90 AD2d 576 [3d Dept. 1982].) It was the auditor's duty to select a method of audit reasonably calculated to reflect the taxes due (Matter of Grant Co., v. Joseph, supra), and petitioners have the burden of demonstrating by clear and convincing evidence that the method of audit or amount of the tax assessed was erroneous (Matter of Surface Line Operators Fraternal Organization v. Tully, supra). We sustain the assessment since the petitioners have failed to produce any evidence which clearly demonstrates that the assessment was wrong.

The petitioners maintain that the assessment was arbitrary and capricious because the Division used unsubstantiated third party confirmation figures from Gulf. It is undisputed that the auditor did not directly receive from Gulf the confirmation of petitioners' gasoline purchases. Rather, the auditor received the confirmation from Albany in the form of gallonage figures transcribed in pencil onto paper bearing only petitioners' name. Petitioners argue that under these circumstances no affirmative offer of proof was necessary to meet its evidentiary burden. We disagree.

The petitioners bear the burden of proof; the Division of Taxation is not responsible for demonstrating the propriety of its tax assessment, including the basis of its audit (Blodnick v. NYS Tax Commn. , 124 AD2d 437 [3d Dept 1986]). The impact of this burden on taxpayers has been reinforced by attributing a presumption of correctness to tax assessments (Welsh v. Helvering, 290 US 112 [1933]; Tavolacci v. NYS Tax Commn., supra, at 760). in order to rebut and thereby destroy this presumption, the petitioners, and not the Division, were required to introduce evidence with regard to the accuracy of the figures contained in the confirmation report.

No evidence has been presented which would require a holding that the Division's determinations were erroneous. Petitioners' reliance on Helvering v. Taylor (293 U.S. 507 [1935]) is misplaced. In Taylor, the Supreme Court held that a taxpayer cannot be required to establish the correct amount of tax due as a condition to overcoming the presumption of correctness of a deficiency. However, Taylor does not stand for the proposition that the taxpayer need not offer proof to overcome the presumption of correctness if such proof would establish the correct amount of tax. In fact, the Court in Taylor noted that "frequently, if not quite generally, evidence adequate to overthrow the [assessment] is also sufficient to show the correct amount, if any, that is due. " (Helvering v. Taylor, supra, at 515.) Thus, it was incumbent upon the petitioners to come forth with evidence to refute the figures the Division maintained were petitioners' gasoline purchases during the years in issue. (Commr. v. Smith, 285 F2d 91 [5th Cir 1960].)

There being no countervailing evidence, the Division's determinations prevail and the notices of determination must be sustained.

THE FRAUD ISSUE

The notices of determination and demand for sales and use taxes due for the quarters ending in 1979 and 1980 are barred in their entirety by the statute of limitations unless fraud is established (Tax Law section 1147[b]). For the quarter ending February 28, 1981, the Notice of Determination and Demand must be revised to eliminate fraud penalties if the fraud finding is not supported.

In determining the correctness of fraud penalties, there is no presumption of correctness attached to the Notice of Determination and Demand issued by the Division. The burden rests

with the Division to prove by clear and convincing evidence that the petitioner, with willful intent, was in violation of the tax laws. (Matter of Cardinal Motors, Inc, State Tax Commission, July 8, 1983.)

For a taxpayer to be subject to a civil fraud penalty, willful intent is a critical element; the individual or the corporation, acting through its officers, must have acted deliberately, knowingly, and with the specific intent to violate the Tax Law. Fraud need not be established by direct evidence, but can be shown by surveying the taxpayer's entire course of conduct and drawing reasonable inferences therefrom. (See, Korecky v. Commr., 781 F2d 1566 [1lth Cir 19861; Briggs v. Commr., 440 F2d 5[6th Cir 1971].)

The Administrative Law Judge sustained the fraud penalty on two grounds: the continuous and substantial underreporting of taxable sales on quarterly sales and use tax returns, and the concealment of credit card sales. These findings, if warranted, could constitute a sufficient basis for a finding of fraud. (See, Merritt v. Commr., 301 F2d 484 [5th Cir 1962].) We find that the evidence introduced by the Division with regard to both the underreporting and the credit card sales falls short of clear and convincing and is inadequate to support a civil fraud penalty.

Consistent and substantial understatement of income is by itself strong evidence of fraud. (See, Merritt v. Commr., supra.) The question presented here is whether the Division has demonstrated by clear and convincing evidence that the petitioners consistently and substantially underreported on their sales tax returns the amount of tax due. The Division must show that the calculations giving rise to the assessment do not depend for their validity on a presumption of correctness attached to the notice of determination. (See, George v. Commr., 338 F2d 221 [lst Cir 1964]; Goldberg v. Commr., 239 F2d 316 [5th Cir 1956]). Thus, the Division must

affirmatively prove the underreporting and it cannot rely on the notice of determination itself to prove the underreporting. To permit the Division to satisfy its burden of proving fraud by relying on an assessment that was sustained only because the petitioners had failed to overcome it, would be to allow the Division to raise itself up by its own bootstraps. (See, George V. Commr., supra). The only proof submitted by the Division at the hearing corroborating the deficiency assessment was the sales tax field audit report and the auditor's testimony and as such it must be carefully scrutinized.

After a careful review of the field audit report and the auditor's testimony, we find that the Division has not submitted evidence which clearly demonstrates that the petitioners underreported taxes due. The audit's shortcoming is the uncertainty surrounding the confirmation report, containing figures purported to be petitioners' purchases of motor fuel from Gulf for the years in issue. These confirmation figures are the primary basis of the overall calculation of petitioners' sales tax liability.

At the hearing. the auditor characterized the genesis of the confirmation report in the vaguest of terms as attributed to an audit program. What was originally referred to as a computer printout turned out to be figures transcribed from a document of uncertain origin. The auditor could not identify the Division employee who transcribed the information. The auditor testified that she was not aware of the actual request for information made to Gulf and presumed that the report she received was of petitioners' purchases during the audit period. Without some evidence of the specific request made to Gulf and Gulf's response to that request, or testimony regarding the practice of obtaining third-party verification from suppliers, the Division has failed

to prove by convincing evidence that the information was obtained from Gulf and indicated petitioners' purchases from Gulf.

In addition to its unknown origin, the credibility of the confirmation report is further impaired by the Division's own evaluation of the report. Statements contained in the audit report reveal that the auditor found the figures "confusing" and was disinclined towards incorporating the figures in the audit. It is clear from the audit report that the auditor was unfamiliar with the form of the confirmation report. The auditor noted that receipt of the confirmation report was delayed by more than one year. She was informed the report may have been lost. After a meeting between the auditor and a supervisor in Albany, a second confirmation from Gulf was requested but never received.

The Division has failed to demonstrate that the confirmation figures do not depend for their validity on a presumption of correctness. Therefore, the record does not support a finding that the petitioners continuously and substantially underreported the amount of sales tax due. It was incumbent upon the Division, as part of meeting its burden of proof on the fraud penalties, to come forward with evidence to corroborate the confirmation figures used by the auditor as being the figures actually received from Gulf in response to a request for petitioners' purchases.

Further, the record does not support a conclusion that petitioners fraudulently concealed their credit card sales. The Division has failed to adduce any evidence to show that the credit card sales were excluded by the petitioners with fraudulent intent and the burden of proof on the issue of fraud cannot be satisfied by mere disbelief in the testimony of petitioners' witness. The concealment of credit sales could come from willful purpose or an evil intent, as it could have come from carelessness, or negligence, or inadvertence on petitioners' part.

Furthermore, there is no proof of other common indicia of fraud. The Division failed to prove that petitioners were knowledgeable with respect to sales tax computation and the strict records requirement of the Tax Law; that sales tax returns were not filed for any quarter of the audit period; that the petitioners were uncooperative with the auditor or that they deliberately tried to mislead the auditor or conceal their credit card sales from review.

We are mindful that this decision involves the apparently anomalous situation whereby the Notice of Determination stands because the petitioners failed to meet their burden of overcoming it and yet the same notice does not, by itself, establish a key element of fraud, which is the continuous and substantial underreporting of income. This stems from the difference between the evidentiary burden which the law imposes in connection with the adjudication of a deficiency claim and that imposed in proving that a taxpayer's understatement of his tax liability has been fraudulent. Adjudicatory bodies have consistently found that in tax cases involving both a deficiency adjudication and a fraud penalty, the government often prevails on the deficiency question but, the same evidence considered, fails on its fraud claim. (See, Olinger v. Commr., 234 F2d 823 [5th Cir 1956]; George v. Commr.,supra; Valetti v. Commr., 260 F2d 185 [3d Cir 1958]; Matter of Don Pat Service, Inc, State Tax Commn, March 11, 1986.)

Since we find that the record does not support the Administrative Law Judge's finding of fraud, the fraud penalty is cancelled and as a result the notices of determination and demand issued for the period March 1, 1979 through November 30, 1980 are barred in their entirety by the statute of limitations.

Accordingly, it is ORDERED, ADJUDGED and DECREED that:

1. The exceptions of petitioners, Cousins Service Station, Inc. and Thomas Forca and Thomas Amari, as officers, are granted to the extent that findings of fact "3" and "4(a)" of the Administrative Law Judge's determination are modified as stated above and conclusions of law "C" and "D" are reversed, with the result that the notices of determination and demand issued for the period March 1, 1979 through November 30, 1980 and the fraud penalty for the period December 1, 1980 through February 28, 1981 are cancelled and that, except as so granted, the exceptions of the petitioners are in all other respects denied;

2. The determination of the Administrative Law Judge dated September 11, 1987 is modified to the extent set forth in paragraph "1" above and except as so modified is in all other respects affirmed; and

3. The petitions of Cousins Service Station, Inc. and Thomas Forca, Anita Forca, Thomas Amari and Anita Amari are granted to the extent provided in paragraphs "1" and "2" above and in conclusion of law "I" of the Administrative Law Judge's determination and, except as so granted, the petitions are in all other respects denied.

Dated: Albany, New York
AUG 11, 1988

John P. Dugan
President

Francis R. Koenig
Commissioner