

## BUREAU OF LAW

## MEMORANDUM

TO: **Commissioner Gallman**

FROM: **Martin Schapiro, Associate Attorney**

SUBJECT: **Commodore Cleaners**

In reply to your memorandum of February 4, 1970, please be advised that on Monday, February 2, 1970, Mr. John Bezjian, Jr. and his attorney, Mr. Eugene Steiner appeared and saw me at your request. They left satisfied since I forwarded my proposed determination in the Matter of Commodore Cleaners to Mr. Rook's office on that date in their presence. The determination is presently being reviewed by the Commission.

Although the taxpayer states that cases still open after 15 years, the records disclose that assessments were issued in October, 1960 after a lengthy and detailed audit examination involving many conferences and requests by the attorney for the taxpayer to submit memoranda and statements. Thereafter, applications for revision of the assessments were filed by the attorneys entailing further numerous pieces of correspondence back and forth, including opportunities to the attorney to submit memoranda of law and finally submitted by the attorney in 1962. Thereafter, upon denial of the application and demand for a hearing, hearings were held in the Corporation Tax Bureau in 1963. In 1965, after pieces of correspondence between the attorney for the taxpayer and the Corporation Tax Bureau, including opportunities for the attorney to submit further memoranda of law, the matter was transferred in 1965 to the Law Bureau for their review on the issue of fraud. I, as hearing officer, conducted the hearings with respect to the Income tax assessments stemming from the Corporation tax assessments. Numerous opportunities were granted to the attorneys to submit supporting affidavits and memoranda of law. The final supporting affidavit was submitted in 1969. The determination in the Corporation tax matter was issued yesterday.

The difficulty with the case was the exhaustive attempt by the Special Investigations Bureau to prove fraud. In my opinion, no fraud was proven. However, the evidence and the testimony is voluminous and the issue is very close. Because of the nature of the audit, the evidence and the testimony occasioned herein, the determination in the Corporation tax

matter cancelling the assessments was forwarded to the Commission this past Monday. The delays herein were not only the ordinary delays in a very complex case which involved processing by four Bureaus; namely, the Special Investigations Bureau, the Corporation Tax Bureau, the Income Tax Bureau and the Law Bureau but involved delays occasioned by the attorney for the taxpayer in numerous requests for adjournments, conferences, and opportunities to submit affidavits and legal memoranda.

It is to be noted that the assessments herein were not arbitrarily imposed, but that the proposed cancellation thereof as set forth in the proposed determination prepared by me and submitted Monday, is due to the fact that I believe that the State has failed in its burden of showing fraud.

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Associate Attorney

MS:nn  
February 4, 1970

STATE OF NEW YORK  
STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION'S  
OF  
COMODORE CLEANERS & DYERS INC.

For revision of franchise taxes under  
Article 9A of the Tax Law for the years  
1941 through 1956, exclusive of the years  
1947 through 1950.  
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The taxpayer, Comodore Cleaners & Dyers, Inc. having made application for revision of franchise taxes assessed under Article 9A of the Tax Law, and a hearing having been held in the office of the State Tax Commission, Corporation Tax Bureau, Albany, New York, on Wednesday, April 24, 1963 at 10:00 A.M. and the taxpayer and his attorney Eugene J. Steiner, Esq. having been present, the State Tax Commission hereby finds:

(1) That the assessments were issued against the taxpayer based primarily upon the ground that \$120,000 was received as corporate income and was fraudulently not reported.

(2) That the basis of such supposition was on the ground that a journal entry debited "accounts payable" and credited "surplus", without any explanation how the accounts payable were liquidated.

(3) That the taxpayer contends that this was done only for loan purposes, and that the liability was not actually reduced.

Based upon the foregoing the State Tax Commission hereby determines:

A. That the State Tax Commission has failed to establish that the taxpayer has committed a fraud.

B. Accordingly, all the foregoing assessments based upon fraud are hereby cancelled.

C. All the foregoing assessments based upon fraud are accordingly vacated and set aside.

Dated: Albany, New York this 6th day of  
February, 1970.

**STATE TAX COMMISSION**

/s/ Norman Gallman

**PRESIDENT**

/s/ A. Bruce Manley

**COMMISSIONER**

/s/ Milton Koerner

**COMMISSIONER**

**MEMORANDUM**

**TO :** Mr. Rook  
**FROM :** Commissioner Gallman  
**SUBJECT:**

Just prior to Christmas, I got a call from an Albany attorney, Eugene Steiner (434 1221) who said that the Tax Commission has had pending for some 12 years a case involving Commodore Cleaners and Dyers, Inc. of Troy. He said that the case had been handled by Martin Shapiro and that he understood Shapiro had reached a decision favorable to Commodore but that the Commission had never acted on it. He said it was his understanding that former Commissioner Murphy had the case on his desk for months without final action.

According to Steiner, Commodore desperately needs this decision now because of some planned reorganization of the business.

Will you please look into the situation and advise me of its status.

  
NORMAN GALLMAN  
Acting Commissioner

January 2, 1970

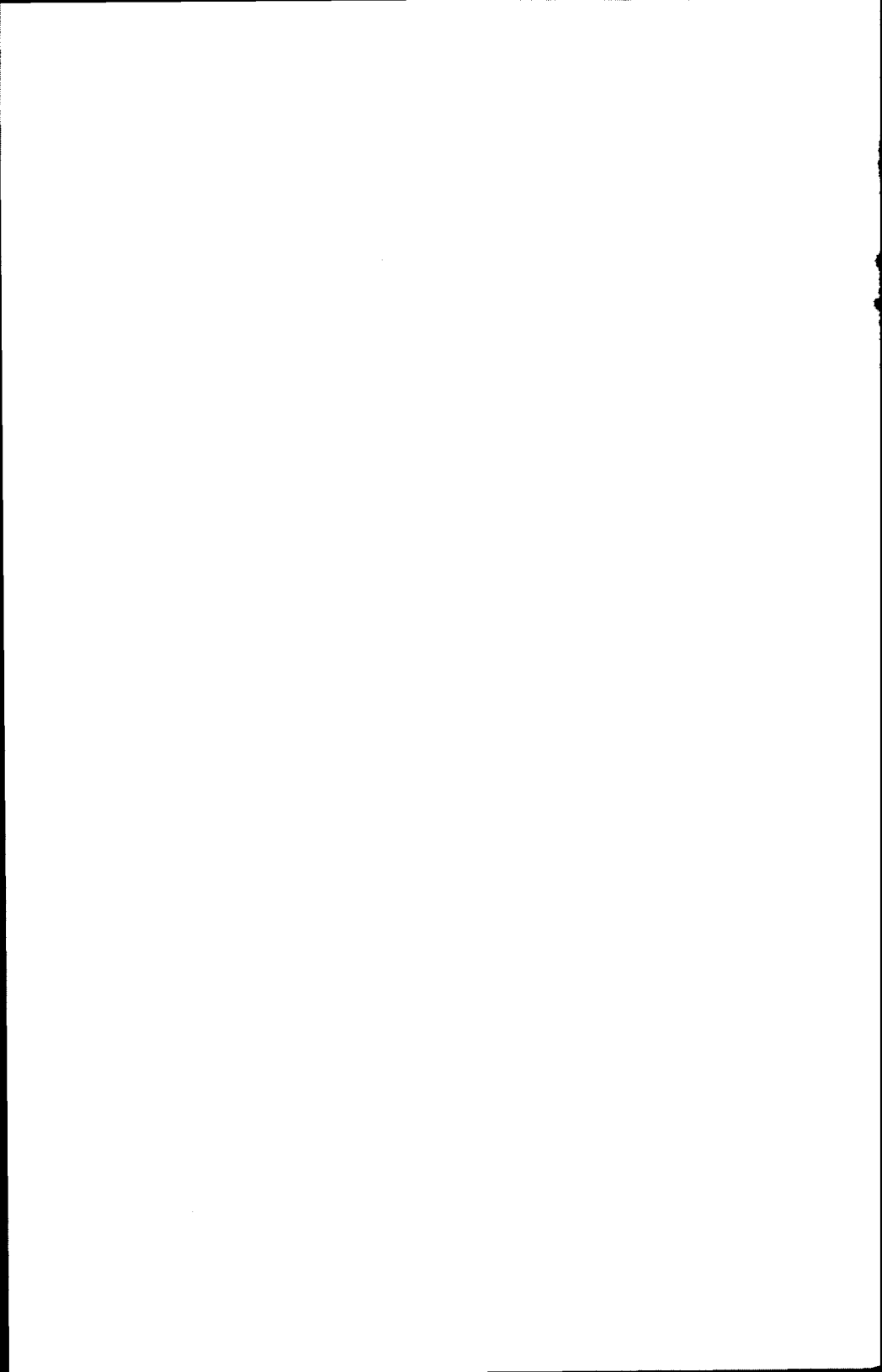
Mr. Rook

2/18/70

To.....

For your information,

From Norman Gallman  
Acting Commissioner





ROBERT R. DOUGLASS  
COUNSEL TO THE GOVERNOR

STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

February 16, 1970

Hon. Norman Gallman  
Acting Commissioner  
Department of Taxation  
and Finance  
Albany, New York 12226

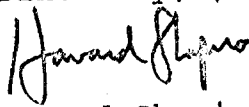
Re: John Bezjian --  
Commodore Cleaners

Dear Commissioner Gallman:

Your letters of February 4 and February 5, 1970  
in regard to the above noted matter have been of  
invaluable assistance to me and are deeply appreciated.

Thank you for your continued cooperation.

Best regards.

Sincerely,  
  
Howard Shapiro  
Assistant Counsel  
to the Governor