

POOR
QUALITY
THE FOLLOWING
DOCUMENT (S)
ARE
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

BUREAU OF LAW

MEMORANDUM

Shafer, Herbert and
Marjorie

TO: Deputy Commissioner Igoe

FROM: E. H. Best, Counsel

SUBJECT: Herbert and Marjorie Shafer
114 Gardenwood Lane
Buffalo, New York

Warrant Nos. BU-501546
BU-504477
WTBU-600222
U-778775

RECEIVED
NEW YORK STATE
INCOME TAX BUREAU

DEC 29 1966

OFFICE OF THE
DIRECTOR

RECEIVED
NEW YORK STATE
INCOME TAX BUREAU

JAN 3 1967

INCOME TAX AUDIT SUPERVISOR

This office has received an offer to pay \$3,800.00 in full satisfaction of the tax warrants outstanding against the above-named taxpayers. From the information available in this office, it would appear that the amount offered would be sufficient to pay the withholding warrant with interest in full, the balance of the basic tax due on the other three warrants and have a small amount to be applied to interest on the other warrants. It is requested that the balance of \$3,006.37 in interest due be waived. The amount of interest to be waived requires action by the State Tax Commission under the provisions of Bulletin E-43.

Enclosed is a memorandum to the State Tax Commission from this office recommending approval. Would you please note your recommendation and forward all papers to the Commission for action.

OK. 1/4/67
JGR:pad
Enc.
December 29, 1966

E. H. Best
Counsel

Director

Approved
1-5-67
OK
1-5-67

BUREAU OF LAW

MEMORANDUM

TO: Commissioners Murphy and Macduff

FROM: E. H. Best, Counsel

SUBJECT: Herbert and Marjorie Shafer
114 Gardenwood Lane
Buffalo, New York

Warrant Nos. BU-501546
BU-504477
WTBU-600222
U-778775

RECEIVED
NEW YORK
INCOME TAX

JAN 3 1967

INCOME

This office has received an offer to pay \$3,800.00 in full satisfaction of the tax warrants outstanding against the above-named taxpayers. From the information available in this office, it would appear that the amount offered would be sufficient to pay the withholding warrant with interest in full, the balance of the basic tax due on the other three warrants and have a small amount to be applied to interest on the other warrants. It is requested that the balance of \$3,006.37 in interest due be waived. The amount of interest to be waived requires action by the State Tax Commission under the provisions of Bulletin E-43.

It appears that the taxpayers are owners, as tenants by the entirety, of real property located at 114 Gardenwood Lane, Tonawanda, New York but that they have no other assets. Mr. and Mrs. Shafer are separated and Mrs. Shafer is anxious to sell the real property in order that her equity in the property can be applied as a down payment on the purchase price of another piece of property in her own name where she and the children of the marriage can live. Mr. Shafer has lost his license to practice law in New York and as far as can be determined from conversations with Mr. Hall, Associate Tax Collector, in the Buffalo District Office, and the attorneys involved, he has no income and few prospects.

A purchaser was found for the property for a purchase price of \$24,200.00 and a contract of sale executed. However, following the signing of the contract of sale, Mr. Shafer refused to complete the transaction unless all his tax liabilities could be satisfied from the proceeds of the sale. There is a Federal tax lien in the amount of \$3,605.00 in addition to the New York tax of \$6,639.37.

The property is presently encumbered by a first and a second mortgage on which there is a balance due of approximately \$14,000.00. The mortgages were recorded in the Erie County Clerk's Office prior to the time the Federal and State tax liens were perfected. The purchase price will not be sufficient to provide for payment of the mortgages, tax liens and brokerage fees of \$1,452.00 and provide Mrs. Shafer with enough for a down payment on other property. In addition to the above it would appear that there would be attorneys' fees to be paid from the sale price in view of the pending litigation to compel specific performance by Mr. Shafer. The attorney for the purchaser has informed this office that the holder of the second mortgage is willing to forego payment of part of his claim in order that Mrs. Shafer may have the down payment on a different house.

An action has been stated for specific performance of the contract hereinbefore mentioned. Should the matter be litigated, it is possible that in addition to other relief which may be granted, there could be an award of damages which would result in the State of New York receiving nothing from the proceeds of the sale. Mr. Hall has recommended acceptance of this offer and since it appears from his memorandum that Mr. Shafer has already announced his intention of leaving the State, it is the opinion of this office that the best interests of the State would be served by accepting the offer.

Forwarded herewith are the income tax returns of Mr. and Mrs. Shafer for the years for which taxes are due, the Legal Enforcement Unit file and the memorandum of Mr. Hall for review in connection with this proposal. If the Commission concurs with the recommendation, please note approval and return to this office for further processing.

/s/ E. H. BEST
F.K.
Counsel

JGR:pad
Enc.

December 29, 1966