

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANK CEFALU

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s)) 1963, 1964
and 1965.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Rae Zimmerman , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 29th day of October , 19 71, she served the within
Notice of Decision (or Determination) by (certified) mail upon

Frank Cefalu (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Frank Cefalu
771 Bellmore Avenue
North Bellmore, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

29th day of October , 1971.

Linda Wilson

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
FRANK CEFALU

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a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1963, 1964 and
1965.

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OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Rae Zimmerman , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 29th day of October , 19 71, she served the within
Notice of Decision (or Determination) by (certified) mail upon

George A. Berkowitz (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: George A. Berkowitz
253 Broadway
New York, N.Y. 10007

and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

29th day of October , 1971.

Linda Wilson

Rae Zimmerman

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
FRANK CEFALU :
for a redetermination of a deficiency : DECISION
or for refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the years 1963, 1964 and 1965. :
:

Taxpayer having filed a petition pursuant to section 689 of the Tax Law for the redetermination of a deficiency of Personal Income Tax imposed by Article 22 of the Tax Law and a hearing having been held on May 8, 1970 by Nigel G. Wright, Hearing Officer, and the record having been duly examined and considered,

The State Tax Commission hereby

FINDS:

1. The issues in this case are whether the taxpayer was a responsible officer of Kingsboro Construction Company, Inc. and required to collect and pay over withholding taxes under section 685 (g) of the Tax Law and whether he willfully failed to pay over such taxes.
2. The deficiencies asserted are in the amounts of \$4,365.82 for 1963, \$10,424.40 for 1964 and \$1,498.90 for 1965 for a total of \$16,289.12. The sum of \$14,267.42 accrued on or before November 30, 1964, and \$2,021.70 accrued thereafter.
3. Mr. Cefalu was an officer of Kingsboro Construction Company, Inc. of 1392 Utica Avenue, Brooklyn, New York.
4. Mr. Cefalu was a 50% stockholder of Kingsboro Construction Company, Inc., and was vice-president and treasurer. The only other shareholder was a Mr. Anthony Franzese who was President.
5. Mr. Cefalu has adequately shown by contemporaneous letters and notices that he resigned as an officer on November 17,

1964. He offered to sell his shares at that time but could not find a buyer. The corporation is now out of business. Mr. Cefalu received no liquidating dividend.

6. The bookkeeping and payroll functions of the company were managed by Mr. Franzese. Mr. Cefalu would sign blank checks for use by Mr. Franzese.

7. Mr. Cefalu alleges that Mr. Franzese wasted corporate assets in other business ventures of his own and that he did not know of this prior to November 17, 1964. Such allegations have not been corroborated by other evidence.

Upon the foregoing findings and all the evidence in the case

The State Tax Commission hereby

DECIDES:

A. The taxpayer was a responsible officer required to collect and pay over withholding taxes and he willfully failed to pay over such taxes in the amount of \$14,267.42.

B. The petition is granted and the deficiency is recomputed to be \$14,267.42 together with such interest, if any, as may be due pursuant to the Tax Law.

DATED: Albany, New York
October 29, 1971

STATE TAX COMMISSION

Norman Gallman

COMMISSIONER

Bruce Masley

COMMISSIONER

Milton Kolmer

COMMISSIONER