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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALLEN OILL

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) 1964 and 1965

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

State of New York
County of Albany

Lynn Wilson, 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 21st day of February, 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon ALLEN OILL

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Allen Oill
300 East 71st Street
New York, New York 10021

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

21st day of February, 1973

Maitha Fumero

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALLEN OILL

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) 1964 and
1965

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OF NOTICE OF DECISION
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State of New York
County of Albany

Lynn Wilson , 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 21st day of February , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon JON H. HAMMER,
MCKENZIE, CABELL, MARTIN (representative of) the petitioner in the within
& GREENE
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Jon H. Hammer
McKenzie, Cabell, Martin & Greene
555 Madison Avenue
New York, New York 10022
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

21st day of February , 1973

Maitha Tunari

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 21, 1973

Mr. Allen Oill
300 East 71st Street
New York, New York 10021

Dear Mr. Oill:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ALLEN OILL	:	DECISION
for a Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Years	:	
1964 and 1965.	:	

Allen Oill filed a petition under section 689 of the Tax Law for the redetermination of deficiencies dated March 11, 1968 and March 25, 1968, in personal income tax under Article 22 of the Tax Law for the years 1964 and 1965.

A hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York City, on March 7, 1972, before Nigel G. Wright, Hearing Officer. Petitioner was represented by Jon H. Hammer, Esq. of McKenzie, Cabell, Martin & Greene. The Income Tax Bureau was represented by Saul Heckelman, Esq. appearing by Francis X. Boylan, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner was a responsible officer of two corporations who failed to withhold and pay over income taxes.

FINDINGS OF FACT

1. Mr. Oill lived on East 71st Street, New York City. After completing two years of high school he worked for his father in a tailor shop on West 72nd Street. After that he went to work as a

shipping clerk for Moe Steinberg Inc., a manufacturer of ladies' hats, located on West 39th Street, New York City, and owned and controlled substantially by Mr. Moe Steinberg. Later on Mr. Steinberg acquired Charlotte Hat Corporation of 42 West 39th Street and Mr. Oill acted as a runner between the two businesses. Around 1963 Mr. Oill became a minority stockholder in Charlotte Hat Corporation and was named treasurer. Around 1964 Charlotte Hat Corporation went into bankruptcy. The business, however, was continued without interruption by a new corporation, Phyllis Hat Corporation, also of 42 West 39th Street. This was owned completely by Moe Steinberg. Mr. Oill held no interest in Phyllis Hat Corporation nor was he an officer of Phyllis Hat Corporation. Phyllis Hat Corporation ceased business around December 1965 and entered into an assignment for the benefit of creditors in 1966.

2. The unimpeached testimony at the hearing of the auditor of the corporations, Seymour Schneidman, C.P.A., and of their attorney, Samuel Newfield, Esq., establishes that Mr. Oill was never consulted on any of the legal or financial affairs of the corporations even after they had started having financial difficulties. All testimony indicates that Mr. Steinberg kept complete control of all details of the business of each corporation.

3. Mr. Oill's duties, even after he became treasurer of Charlotte Hat Corporation, remained about the same as before. As treasurer he merely had the added duty of signing checks but did this only when Mr. Steinberg was out of town and then only when Mr. Steinberg would telephone him that a check had to go out.

4. The deficiency of March 11, 1968, is in the amount of \$841.80 as a penalty under section 685(g) of the Tax Law, arising because of withholding taxes in that amount due from Charlotte Hat Corporation for the period January 1, 1964 through February 29, 1964. The deficiency of March 25, 1968, is in the amount of \$3,150.43 as a penalty under section 685(g) of the Tax Law, arising because of withholding taxes in that amount due from Phylliss Hat Corporation for the period July 1, 1964 through December 20, 1965.


CONCLUSIONS OF LAW

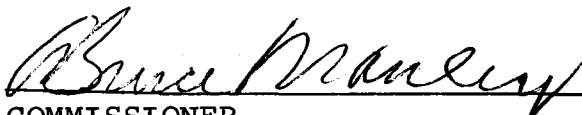
A. Petitioner was not a responsible officer and did not willfully fail to withhold income taxes.

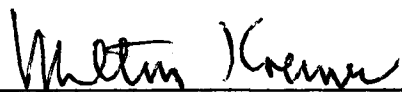
B. The petition is granted and the deficiencies are found erroneous in their entirety and are cancelled in full.

DATED: Albany, New York
February 21, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER