

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

PHOTO MICROGRAPHICS INC.

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of  
EMANUEL KOPELL

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

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) 1965

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State of New York  
County of Albany

Martha Funaro , 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 9th day of May , 19 74, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Emanuel Kopell

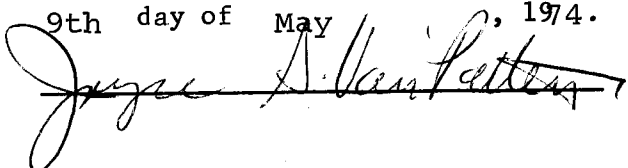

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. Emanuel Kopell  
2500 Johnson Avenue  
Bronx, New York

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

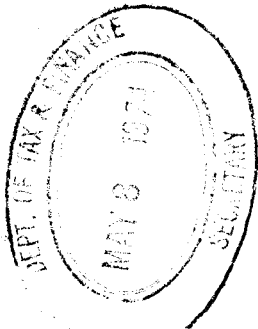
9th day of May , 1974.

AD 32 (6-73) 250M

STATE OF NEW YORK  
Department of Taxation and Finance

STATE CAMPUS  
ALBANY, N. Y. 12227



- ☐ Moved. Left no address
  - ☐ No such number
  - ☐ Moved, not forwardable
  - ☒ Addressee unknown
- NEW YORK, N. Y. 10021

Mr. Emanuel Kopell  
333 East 86th Street  
New York, New York

**CERTIFIED**  
No. 204169  
**MAIL**

*Ken W*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

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EMANUEL KOPELL

For a Redetermination of a Deficiency or  
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State of New York  
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she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 1st day of May , 19 74, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Emanuel Kopell

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. Emanuel Kopell  
333 East 66th Street  
New York, 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

1st day of May , 1974.

*James S. Van Patten*

*Martha Funaro*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
EMANUEL KOPELL

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
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State of New York  
County of Albany

Martha Funaro , 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 1st day of May , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Morris Pinsley,

Esq. (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Morris Pinsley, Esq.

200 West 57th Street  
New York, New York 10019

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

1st day of May , 1974.

James A. VanPatten

Martha Funaro



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

~~MARIO A. PROCACCINO~~  
MARIO A. PROCACCINO, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York

**May 1, 1974**

**Mr. Emanuel Kopell**  
**333 East 66th Street**  
**New York, New York**

**Dear Mr. Kopell:**

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

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In the Matter of the Petition	:	
	:	
of	:	
	:	
EMANUEL KOPELL	:	DECISION
	:	
for a Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Year	:	
1965.	:	

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Emanuel Kopell, filed a petition under section 689 of the Tax Law for the redetermination of deficiency issued under date of November 25, 1968, in personal income taxes under Article 22 of the Tax Law for the year 1965.

A hearing was held on March 7, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The petitioner was represented by Morris Pinsley, Esq. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq., of Counsel. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner is a responsible officer of a corporation who willfully failed to pay over withholding taxes.

FINDINGS OF FACT

1. Petitioner resides in Riverdale, New York City. Petitioner was the owner and operator of a clothing store, "Lynn's" Store, on

14th Street, New York City. He worked full time at the store.

2. One of petitioner's friends, a Mr. Lessinger, introduced him to August Firino, who had been in an automobile business, which had been assigned for the benefit of creditors. This business was Downtown Auto Sales & Service, Inc., of 74 Avenue of the Americas near Canal Street. Around April of 1964, the three reached an agreement and petitioner and Lessinger each purchased for \$10,000 one-third of the stock of the corporation hoping to give Tirino a new start and, of course, make profits. Mr. Lessinger was named president and petitioner was named secretary-treasurer. Petitioner was empowered to sign checks on the corporate bank account and would do so when requested by Mr. Tirino. This business was operated as a service station and later got into car leasing. They employed mechanics.

3. The corporation showed a profit during its first month, but thereafter showed losses. By April of 1965, petitioner had been warned by the corporation's accountant that there could be embezzlement of corporate funds. In any event, petitioner wanted its sell out. He took no action to resign his office. He attempted to sell his stock to Tirino, but the negotiations fell through.

At about this time, petitioner signed a withholding statement at the request of the accountant and assumed the amounts shown thereon would be paid. However, these are part of the sums which have not been paid. Also, about this time, the corporation apparently changed its bank account and petitioner no longer could sign checks. The corporation failed. The creditors took all of



the assets. The petitioner received nothing for his investment.

4. The deficiency is in the amount of \$338.60 being a penalty under section 685(g) of the Tax Law for failure as a responsible officer of Downtown Auto Sales & Service Center, Inc. to withhold taxes in that amount during the period April 1, 1965 through September 30, 1965.

CONCLUSIONS OF LAW

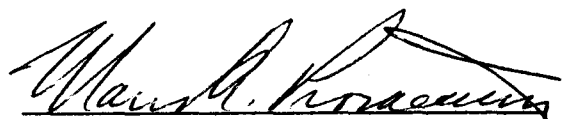
Petitioner has not sustained the burden of proof that he should be free of this penalty tax. The responsibilities of a corporate officer are serious and mere inaction on the part of such officer or the passive delegation of responsibilities to other officers will not relieve him of his own responsibility. The fact that in this case, the petitioner did not even protect his own investment is no reason to excuse him from responsibility for withholding trust funds.

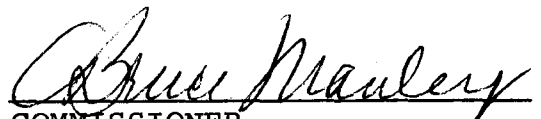
DECISION


The petition is denied and the deficiency is affirmed together with such interest, if any, as may be due under the Tax Law.

DATED: Albany, New York  
May 1, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER