

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MICHAEL J. COVIELLO

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article ~~(x)~~ 22 of the  
Tax Law for the Year ~~(s)~~ 1966.

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

State of New York  
County of Albany

JANET MACK

, 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 20th day of May, 1975, she served the within

Notice of Decision ~~(or Determination)~~ by (certified) mail upon MICHAEL J. COVIELLO

~~(representation of)~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

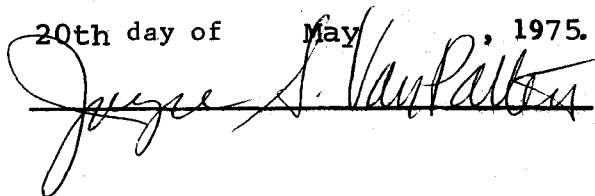
wrapper addressed as follows: Mr. Michael J. Coviello  
101-44 116th Street  
Richmond Hill, New York 11419

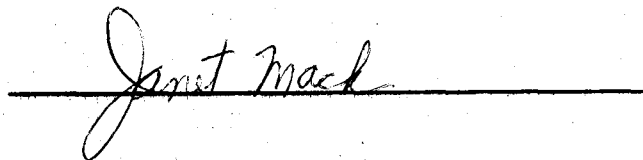
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Post Office Department within the State of New York.

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

Sworn to before me this

20th day of May, 1975.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

~~James H. Tully, Jr.~~  
~~President~~

A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

DATED: Albany, New York  
May 20, 1975

Mr. Michael J. Coviello  
101-44 116th Street  
Richmond Hill, New York 11419

Dear Mr. Coviello:

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

Please take further notice that pursuant to  
Section (8) **690** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
from 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 relative  
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

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~  
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
	:	
of	:	
	:	
MICHAEL J. COVIELLO	:	DECISION
	:	
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1966.	:	

---

Michael J. Coviello filed a petition for the redetermination of a deficiency in personal income tax under Article 22 of the Tax Law for the year 1966.

Said deficiency was asserted by a Notice of Deficiency dated October 26, 1971, and is in the amount of \$1,440.80.

A hearing was duly held on October 23, 1974, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioner was not represented. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Alexander Weiss, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether the petitioner willfully failed to pay over withheld taxes as a responsible officer of a corporation which later went bankrupt.

FINDINGS OF FACT

1. National Hospital Supply Co., Inc. located at 38 Park Row, New York City, was a contract supplier of hospital and office furniture, equipment and supplies in the New York City area. It had commenced business about 1954, and was controlled by Mr. Charles Licht and Mr. Sam Bernstein.

Mr. Bernstein left the business around 1965.

2. Mr. Coviello had joined National Hospital in 1954. His duties were to supervise a staff of about eight salesmen and to handle house accounts. He had a small share interest in the corporation and was issued more shares in 1964, when the corporation issued shares to the public. In 1962, he was named Secretary and in 1964, was made Vice-President and a director. Other directors at this time were Mr. Licht and Mr. Irwin Germaise, an attorney. Mr. Coviello resigned his offices in November 1966.

3. National Hospital Supply Co., Inc. has failed to pay the amount of \$1,440.00 in withholding taxes due for the period May 1, 1966 through September 17, 1966. On September 7, 1966, the firm entered into a Chapter XI proceeding under the Bankruptcy Act.

4. Mr. Coviello was empowered to sign checks under a rule of the Board of Directors that two signatures were necessary on any corporate check. He did, in fact, sign salary checks during the period under review.

5. In June or July of 1966, Mr. Coviello first became aware of the firm's financial trouble through the refusal of suppliers to deliver goods which Mr. Coviello needed to fulfill contracts.

6. Mr. Coviello does not deny his own liability for the unpaid withholding taxes. He does claim that Mr. Licht, the Chairman of the Board of National Hospital, should be held primarily liable for the taxes.

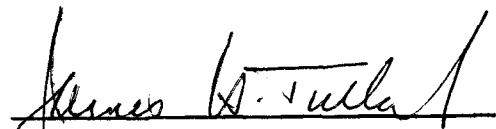
CONCLUSIONS OF LAW


The petitioner is a responsible officer and is liable for the withholding taxes here in dispute.

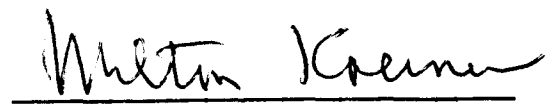
The deficiency in issue is correct and is found to be due.

DATED: ALBANY, NEW YORK  
May 20, 1975

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER