

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GASPAR J. SALVO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(ss)~~ 22 of the :
Tax Law for the Year ~~(s) or Period(s)~~ 1965 :

State of New York
County of Albany

Carmen M. Mottolese, 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 4th day of August, 1976, she served the within Notice of Decision by (certified) mail upon Solomon Rothfeld, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Solomon Rothfeld, Esq.
c/o Rothfeld & Rothfeld
485 Fifth Avenue
New York, New York 10017
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative of the) 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

4th day of August, 1976

Carmen M. Mottolese

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
GASPAR J. SALVO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(a)~~ 22 of the :
Tax Law for the Year ~~(a) or Period(s)~~ 1965:

State of New York
County of

Carmen M. Mottolese, 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 4th day of August, 1976, she served the within
Notice of Decision by (certified) mail upon Gaspar J. Salvo

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Gaspar J. Salvo
69 Leslie Avenue
Staten Island, New York 10305

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative~~
~~of the)~~ 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

4th day of August, 1976

Carmen M. Mottolese

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N.Y. 12227

August 4, 1976

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-3850**

Mr. Gaspar J. Salvo
69 Leslie Avenue
Staten Island, New York 10305

Dear Mr. Salvo:

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

Please take further notice that pursuant to
Section(3) 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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

| | | |
|--------------------------------------|---|----------|
| In the Matter of the Petition | : | |
| | : | |
| of | : | |
| | : | |
| GASPAR J. SALVO | : | DECISION |
| | : | |
| for Redetermination of a Deficiency | : | |
| or for Refund of Personal Income Tax | : | |
| under Article 22 of the Tax Law for | : | |
| the Year 1965. | : | |

Gaspar J. Salvo, 69 Leslie Avenue, Staten Island, New York 10305, filed a petition under section 689 of the Tax Law for the redetermination of a deficiency in personal income tax under Article 22 of the Tax Law for the year 1965.

Said deficiency was asserted by notice issued December 16, 1968, under File No. 13-1995058 and is in the amount of \$5,395.54.

A hearing was duly held on April 9, 1975, 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 represented by Solomon Rothfeld, Esq. of Rothfeld & Rothfeld. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by James Scott, Esq.

The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner was an officer of a certain corporation and responsible for paying over its withholding taxes.

FINDINGS OF FACT

1. Perfection Press, Inc., did business at 180 Varick Street, New York City. Its business was lithography and it was operated by a Mr. Sol Roskin. It owes withholding taxes in the amount of \$5,395.54 for the period January 1, 1965 through December 31, 1965.

2. Petitioner owned and operated his own business, identified as Rainbow Lithographers, which was a few blocks from the premises of Perfection Press.

3. Petitioner had been a childhood friend of Mr. Roskin, the operator of Perfection Press. When some new printing presses owned by Perfection began to produce defective work, petitioner helped Mr. Roskin attempt to identify the source of the problem. Petitioner was on the premises of Perfection quite often over a period of months.

4. On October 3, 1963, petitioner, together with Eugene Cornacchia, signed an agreement with Perfection Press as represented by Sol Roskin. This agreement was denominated a "stockholders agreement" but the stockholders are not otherwise identified. Mr. Roskin was named President, Mr. Salvo, Vice-President and Mr. Cornacchia, Secretary-Treasurer. Each

is also named as a director. Mr. Roskin and Mr. Cornacchia were to receive salaries. Mr. Cornacchia was to make an investment in the firm. The disbursement of funds required the joint signatures of Mr. Roskin and Mr. Cornacchia. An accountant was to be employed by the company.

5. On March 4, 1965, the same three persons signed an agreement cancelling the "stockholders agreement" and providing for the return to Mr. Cornacchia of his investment and otherwise settling accounts between Mr. Cornacchia and the company.

6. Petitioner was never, in fact, an officer or employee of Perfection Press.

7. Petitioner never had any knowledge or connection with the books, records, bank accounts, disbursements, tax returns or tax payments of Perfection Press.

8. The withholding tax returns filed by Perfection Press bear the name of Mr. Cornacchia. They did not bear the name of petitioner.

CONCLUSIONS OF LAW

Petitioner is not liable for the withholding taxes of Perfection Press. Such liability under Tax Law, section 685(g) does not apply to a person who has no responsibility for the finances, payroll or taxes of the corporation.

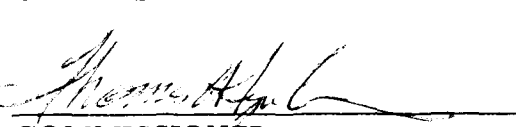
The deficiency is erroneous in its entirety and is cancelled.

DATED: Albany, New York
August 4, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER