

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FREDERICK P. KELLY

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the ~~year 1973~~ Period ~~(xx)~~ :
July 1, 1973 to December 31, 1973.

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 26th day of April , 1977, ~~he~~ served the within
Notice of Decision by (certified) mail upon Frederick P. Kelly

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

Mr. Frederick P. Kelly
77 Suffolk Street
Freeport, New York 11520

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

26th day of April , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

April 26, 1977

TELEPHONE: (518) **457-1723**

Mr. Frederick P. Kelly
77 Suffolk Street
Freeport, New York 11520

Dear Mr. Kelly:

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 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,

Frank J. Puccia
Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
FREDERICK P. KELLY	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Period July 1, 1973 to December 31, 1973.	:	

Petitioner, Frederick P. Kelly, residing at 77 Suffolk Street, Freeport, New York 11520, has filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the period July 1, 1973 to December 31, 1973 (File No. 11-1550512).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on August 25, 1976 at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (William Fox, Esq. of counsel).

ISSUE

Was petitioner, Frederick P. Kelly, liable for unpaid New York State withholding taxes due from Superb Lighting Co., Inc. for the period July 1, 1973 to December 31, 1973?

FINDINGS OF FACT & CONCLUSIONS OF LAW

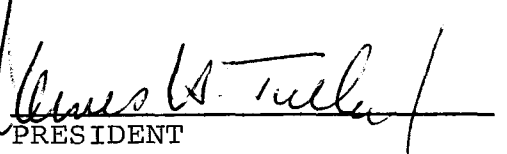
1. Petitioner, Frederick P. Kelly, conceded that he was the corporate officer of Superb Lighting Co., Inc., who was responsible for the collection and payment of personal income taxes withheld from employees. He asserted, however, that he was financially unable to pay the deficiency.

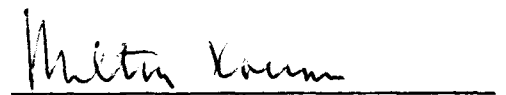
2. That petitioner, Frederick P. Kelly, was liable for unpaid New York State withholding taxes due from Superb Lighting Co., Inc. for the period July 1, 1973 to December 31, 1973 in accordance with the meaning and intent of sections 685(n) and 685(g) of the Tax Law.

3. That the petition of Frederick P. Kelly is denied and the Notice of Deficiency in the amount of \$1,020.10 issued May 19, 1975, is sustained.

DATED: Albany, New York
April 26, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER