

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of

Lawrence Kornbluth :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income Tax :
under Article 22 of the Tax Law
for the Years 1969, 1970. :

State of New York
County of Albany

Jay Vredenburg, 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 17th day of August, 1979, he served the within notice of Decision by certified mail upon Lawrence Kornbluth, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Lawrence Kornbluth
11 Hastings Rd.

North Massapagua, NY 11765

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
17th day of August, 1979.

Victoria Gary

Jay Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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Personal Income Tax :

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for the Years 1969, 1970. :

State of New York

County of Albany

Jay Vredenburg, 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 17th day of August, 1979, he served the within notice of Decision by certified mail upon Michael P. Mossberg the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Michael P. Mossberg
551 Fifth Ave., Suite 7909
New York, NY 10001

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
17th day of August, 1979.

Victoria Gray

Jay Vredenburg



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

STATE TAX COMMISSION

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

August 17, 1979

Lawrence Kornbluth
11 Hastings Rd.
North Massapqua, NY 11765

Dear Mr. Kornbluth:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 690 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

A handwritten signature in cursive script, appearing to read 'John J. Sollecito', written in dark ink.

cc: Petitioner's Representative
Michael P. Mossberg
551 Fifth Ave., Suite 7909
New York, NY 10001
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LAWRENCE KORNBLUTH	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1969 and 1970.	:	
	:	

Petitioner, Lawrence Kornbluth, 11 Hastings Road, North Massapequa, New York 11765, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970 (File No. 13959).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 10, 1978 at 9:15 A.M. Petitioner appeared by Michael P. Mossberg, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether petitioner was a person required to collect, truthfully account for and pay over New York State withholding taxes of U.S. Retro-graphics, Inc. for the periods August 1, 1969 through December 31, 1969 and January 1, 1970 through June 30, 1970.

FINDINGS OF FACT

1. U.S. Retrographics, Inc. failed to pay over to the Income Tax Bureau personal income taxes withheld from their employees during the periods August 1, 1969 through December 31, 1969 and January 1, 1970 through June 30, 1970.

2. On October 30, 1972, the Income Tax Bureau issued a Notice of Deficiency to petitioner, in accordance with section 685(g) of the Tax Law, asserting a penalty against him as a person who willfully failed to collect and pay over personal income taxes withheld by U.S. Retrographics, Inc.

3. Petitioner, Lawrence Kornbluth, was the president of U.S. Retrographics, Inc. and as such, signed corporate checks and various tax returns that were filed during the period August 1, 1969 through June 30, 1970.

4. Petitioner contended that his sole function as president of U.S. Retrographics, Inc. was selling. He contended that he was not involved in the financial operations of the corporation, and that he was not under the direction and control of anyone in said corporation.

5. When petitioner signed the withholding tax returns for the periods at issue, he was aware that monies were due and that they were not being remitted.

6. Petitioner stated that he resigned from U.S. Retrographics, Inc. in July of 1970.

CONCLUSIONS OF LAW

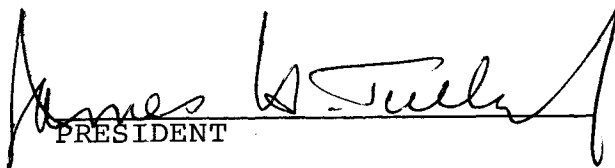
A. That petitioner, Lawrence Kornbluth, was a person required to collect, truthfully account for, and pay over New York State withholding taxes due from U.S. Retrographics, Inc. in the sum of \$1,571.03, and that he willfully failed to do so, within the meaning of subdivisions (g) and (n) of section 685 of the Tax Law. Accordingly, petitioner is subject to a penalty equal to said sum under subsection (g) of section 685 of the Tax Law.

B. That the petition of Lawrence Kornbluth is denied and the Notice of Deficiency issued October 30, 1972 is sustained, together with such additional interest as may be lawfully owing.

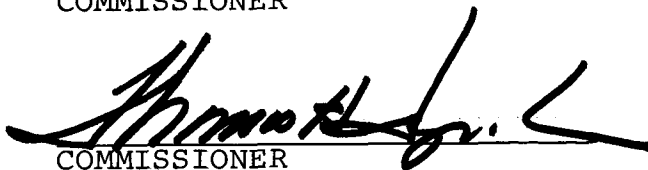
DATED: Albany, New York

AUG 17 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER