

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

William & Isadora Rowe :

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 1960-1966, 1968 & 1969. :

State of New York
County of Albany

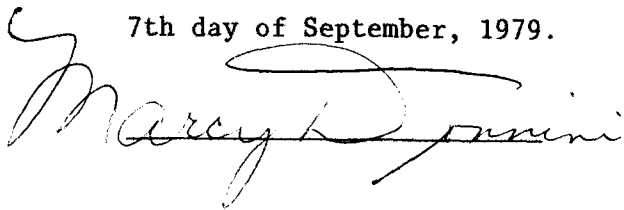
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of September, 1979, he served the within notice of Decision by certified mail upon William & Isadora Rowe, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

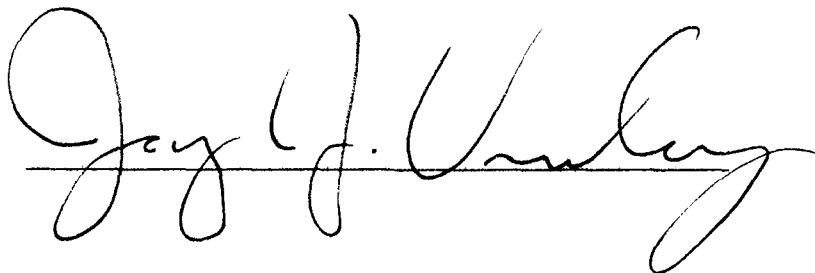
William & Isadora Rowe
1 Fenimore Rd.
New Rochelle, NY 10804

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
7th day of September, 1979.


Marcy D. Spinn


Jay Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

William Rowe :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Unincorporated Business Tax :

under Article 23 of the Tax Law

for the Years 1960-1966, 1968 & 1969. :

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 7th day of September, 1979, he served the within notice of Decision by certified mail upon William Rowe, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

William Rowe

1 Fenimore Rd.

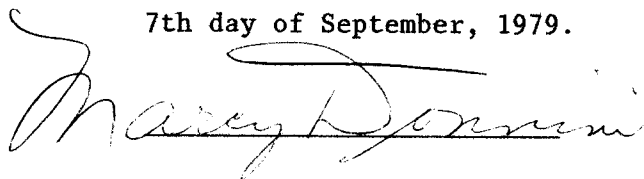
New Rochelle, NY 10804

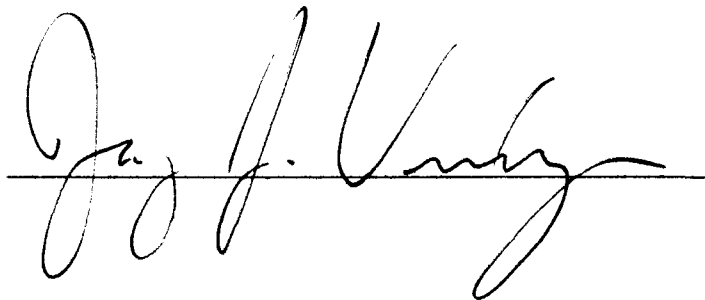
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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

7th day of September, 1979.





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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 7, 1979

William Rowe
1 Fenimore Rd.
New Rochelle, NY 10804

Dear Mr. Rowe:

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) 722 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,



cc: Petitioner's Representative
Douglas H. Forde
408 Garnsey Rd.
Fairport, NY 14450
Taxing Bureau's Representative

STATE TAX COMMISSION

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 April 18, 1978 and continued on April 20, 1978. Petitioner William Rowe appeared with Douglas H. Fordes, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (Bruce Zalaman, Esq., of counsel).

Whether the two notices of deficiency issued by the Income Tax Bureau properly reflected petitioner's taxable income during the years 1960 through 1966 and 1968 and 1969.

FINDINGS OF FACT

1. Petitioners, William Rowe and Isadora Rowe, did not file New York State income tax resident returns for the years 1960 through 1966 and for 1969. A New York State income tax resident return was filed for 1967 on June 17, 1968. A New York State income tax resident return was filed for 1968 on November 2, 1970.

2. Petitioner William Rowe did not file New York State unincorporated business tax returns for the years 1960 through 1967 and for 1969. An unincorporated business tax return was filed for 1968 on November 2, 1970, wherein unincorporated business tax was paid in the amount of \$798.21.

3. On May 19, 1975, the Income Tax Bureau issued two notices of deficiency asserting personal income and unincorporated business taxes for the years 1960 through 1966 and for 1969. The first Notice asserted personal income tax, penalties and interest of \$26,290.40. The second Notice asserted unincorporated business tax, penalties and interest of \$11,743.71. The penalties were asserted in accordance with sections 685(a), 685(a)(1) and 685(a)(2) of the Tax Law.

4. Due to the lack of available business records, the Income Tax Bureau analyzed petitioners' bank deposits and issued notices of deficiency based on net business income which was estimated in accordance with established audit procedures.

5. Petitioner William Rowe was a self-employed "Publicist" in the field of public relations, doing business under the name and style of "Louis and Rowe Enterprises" for the years at issue.

6. Petitioner contended that he never realized a net profit during the years at issue, except as reported for 1968.

7. Although petitioner submitted a number of checks and a journal book as evidence, the information contained therein was incomplete and could not be used to establish a net profit or loss for the years at issue. The journal book contained individual receipts which were not labeled. Petitioner William Rowe explained that said receipts were for loans, deposits from tourist plans, etc., and did not represent earned income.

CONCLUSIONS OF LAW

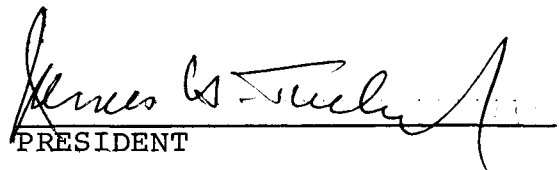
A. That petitioners, William Rowe and Isadora Rowe, failed to sustain the burden of proof imposed by section 689(e) of the Tax Law, in establishing that the notices of deficiency were incorrect.

B. That the petition of William Rowe and Isadora Rowe is denied and the notices of deficiency issued May 19, 1975 are sustained, together with such additional interest as may be lawfully owing.

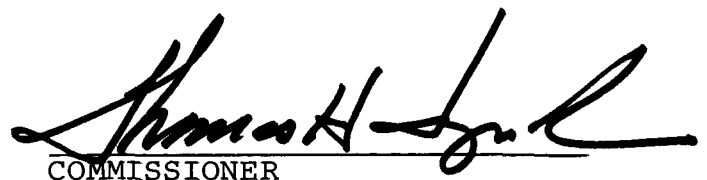
DATED: Albany, New York

SEP 7 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER