

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Harold E. Paddock :
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 Year 1962. :

AFFIDAVIT OF MAILING

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 14th day of March, 1980, he served the within notice of Decision by certified mail upon Harold E. Paddock, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

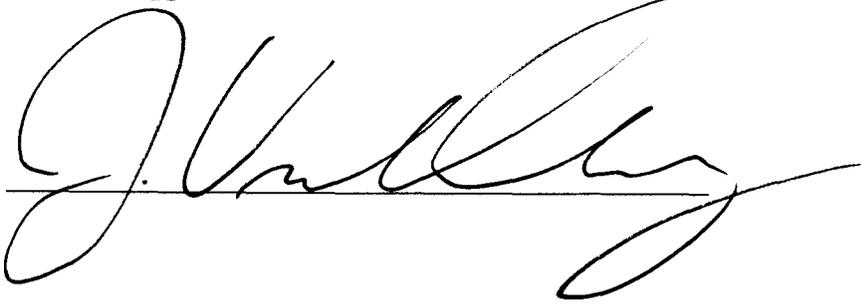
Harold E. Paddock
573 Bay Rd.
Webster, NY 14580

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
14th day of March, 1980.

Joanne Knapp



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Harold E. Paddock :
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 Year 1962. :

AFFIDAVIT OF MAILING

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 14th day of March, 1980, he served the within notice of Decision by certified mail upon Max Stoner 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. Max Stoner
Woods, Oviatt, Gilman, Sturman & Clark
44 Exchange St.
Rochester, NY 14614

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
14th day of March, 1980.

Joanne Knapp

J. Vredenburg

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

March 14, 1980

Harold E. Paddock
573 Bay Rd.
Webster, NY 14580

Dear Mr. Paddock:

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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Max Stoner
Woods, Oviatt, Gilman, Sturman & Clark
44 Exchange St.
Rochester, NY 14614
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petitions :
of :
HAROLD E. PADDOCK : DECISION
for Redetermination of Deficiencies or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1962. :

Petitioner, Harold E. Paddock, 573 Bay Road, Webster, New York 14580, filed petitions for redetermination of deficiencies or for refund of personal income tax under Article 22 of the Tax Law for the year 1962 (File No. 01759).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, One Marine Midland Plaza, Rochester, New York, on February 14, 1978 at 2:45 P.M. Petitioner appeared by Max Stoner, Esq. The Audit Division appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioner was subject to a penalty equal to unpaid New York State withholding taxes due from eight corporations for the quarter ending June 30, 1962.

FINDINGS OF FACT

1. On July 20, 1965, the Income Tax Bureau issued notice and demands for tax due under jeopardy assessments pursuant to section 694(a) of the Tax Law against petitioner, Harold E. Paddock in the amount of penalties imposed under section 685(g) of the Tax Law, for petitioner's willful failure to pay over tax withheld for 1962 for the following corporations:

Lence Poughkeepsie Lanes, Inc.	\$ 83.80
Route 100 Lanes, Inc.	124.21
Manhattan Lanes, Inc.	260.09
Lence Croton Starlight Corp.	127.94
Lence Ridgewood Lanes, Inc.	393.40
Loyal Inn Bowling Center, Inc.	261.78
Peekskill Family Center, Inc.	108.49
Woodhaven Lanes, Inc.	414.58

Accordingly, on August 9, 1965, the Income Tax Bureau issued notices of deficiency against petitioner, Harold E. Paddock, for said amounts.

2. Petitioner, Harold E. Paddock, was a financial analyst. He was introduced as a consultant by an officer of the Bank of New York to the Lence Lanes, Inc., the parent company of those mentioned in Findings of Fact "1" above. He was made an executive vice-president of Lence Lanes, Inc. and was authorized to sign its checks up to \$1,000.00 in the absence of the president of the company, who was constantly traveling. He never signed any income tax checks or withholding checks, and never determined to whom the checks would be made out. He did sign one sales tax check and fifteen to twenty expense checks.

3. Because of the nature of the bowling business, petitioner's duty was to determine what would be required to make the corporations viable on a year-round basis. His association with the company was from May 25, 1962 to August 9, 1962. During that time, he was instrumental in getting an additional loan of \$150,000.00 from the Bank of New York, to whom Lence Lanes, Inc. was already indebted for \$250,000.00. Petitioner's duties were analytical in nature, and not operational.

CONCLUSIONS OF LAW

A. That petitioner, Harold E. Paddock, was not a person who willfully failed to collect, truthfully account for and pay over New York State withholding taxes due from any of the following companies:

Lence Poughkeepsie Lanes, Inc.
Route 100 Lanes, Inc.
Manhattan Lanes, Inc.
Lence Croton Starlight Corp.
Lence Ridgewood Lanes, Inc.
Loyal Inn Bowling Center, Inc.
Peekskill Family Center, Inc.
Woodhaven Lanes, Inc.

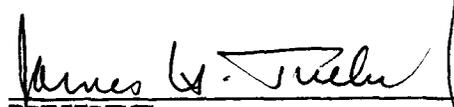
Thus, he is not liable to a penalty under section 685(g) of the Tax Law.

B. That the petitions of Harold E. Paddock are granted, the jeopardy assessments are abated and the notices of deficiency issued August 9, 1965 are cancelled.

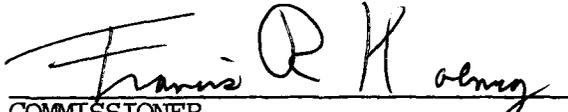
DATED: Albany, New York

MAR 14 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER