STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of	:
Automatic Data Processing, Inc.	:
(Successor to ADP Brokerage Services, Inc.)	AFFIDAVIT OF MAILING
	:
for Redetermination of a Deficiency or Revision of a Determination or Refund of Sales & Use Tax under Article 28 & 29 of the Tax Law for the Period 9/1/76-8/31/79.	:
	:

State of New York :

ss.:

County of Albany :

David Parchuck, being duly sworn, deposes and says that he is an employee of the State Tax Commission, that he is over 18 years of age, and that on the 8th day of May, 1985, he served the within notice of Decision by certified mail upon Automatic Data Processing, Inc. (Successor to ADP Brokerage Services, Inc.), the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Automatic Data Processing, Inc.
(Successor to ADP Brokerage Services, Inc.)
ATTN: Arthur F. Weinbach, V.P.
42 Broadway
New York, NY 10004

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
8th day of May, 1985.

David Parchuck

Authorized to administer oaths
pursuant to Tax Law section 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :	
of	
Automatic Data Processing, Inc. :	
(Successor to ADP Brokerage Services, Inc.)	AFFIDAVIT OF MAILING
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for Redetermination of a Deficiency or Revision	
of a Determination or Refund of Sales & Use Tax :	
under Article 28 & 29 of the Tax Law for the	
Period 9/1/76-8/31/79. :	

State of New York :
                      ss.:
County of Albany :

David Parchuck, being duly sworn, deposes and says that he is an employee of the State Tax Commission, that he is over 18 years of age, and that on the 8th day of May, 1985, he served the within notice of Decision by certified mail upon Arnold B. Panzer, the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Arnold B. Panzer
Roberts & Holland
30 Rockefeller Plaza
New York, NY 10112

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
8th day of May, 1985.

David Parchuck

_____
Authorized to administer oaths
pursuant to Tax Law section 174

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

May 8, 1985

Automatic Data Processing, Inc.
(Successor to ADP Brokerage Services, Inc.)
ATTN: Arthur F. Weinbach, V.P.
42 Broadway
New York, NY 10004

Gentlemen:

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) 1138 of the Tax Law, a proceeding in court to review an
adverse decision by the State Tax Commission may be instituted only under
Article 78 of the Civil Practice Law 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
> Law Bureau – Litigation Unit
> Building #9, State Campus
> Albany, New York 12227
> Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
     Arnold B. Panzer
     Roberts & Holland
     30 Rockefeller Plaza
     New York, NY 10112
     Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

of

AUTOMATIC DATA PROCESSING, INC.   DECISION
(Successor to ADP Brokerage Services, Inc.)   :

for Revision of a Determination or for Refund   :
of Sales and Use Taxes under Articles 28 and 29
of the Tax Law for the Period September 1, 1976 :
through August 31, 1979.

Petitioner, Automatic Data Processing, Inc. (successor to ADP Brokerage

Services, Inc.), 42 Broadway, New York, New York 10004, filed a petition for

revision of a determination or for refund of sales and use taxes under Articles

28 and 29 of the Tax Law for the period September 1, 1976 through August 31,

1979 (File No. 35832).

A formal hearing was commenced before Doris E. Steinhardt, Hearing Officer,

at the offices of the State Tax Commission, Two World Trade Center, New York,

New York, on March 8, 1984 at 9:30 A.M. and continued to conclusion on March 9,

1984 at 9:15 A.M., with all briefs to be submitted by August 31, 1984. Petitioner

appeared by Roberts & Holland, Esqs. (Arnold B. Panzer, Esq., of counsel). The

Audit Division appeared by John P. Dugan, Esq. (James Della Porta, Esq., of

counsel).

On June 13, 1984, the parties entered into a Stipulation wherein they

agreed to certain relevant factual matters, as well as to the nontaxability of

certain charges.

ISSUE

Whether the Audit Division properly treated as subject to tax under

Articles 28 and 29 of the Tax Law certain computer-assisted services rendered

by Automatic Data Processing of N.Y., Inc. to brokerage houses and other members of the securities industry.

FINDINGS OF FACT[1]

PRELIMINARY FINDINGS

1. On June 19, 1981, the Audit Division issued to Automatic Data Processing of N.Y., Inc. a Notice of Determination and Demand for Payment of Sales and Use Taxes Due, assessing sales and use taxes under Articles 28 and 29 of the Tax Law for the period September 1, 1976 through August 31, 1979 in the amount of $2,027,858.47, plus interest.

On February 20, 1981, a vice president of Automatic Data Processing of N.Y., Inc. had executed on its behalf a consent extending the period of limitations for assessment of taxes under Articles 28 and 29 for the period under consideration to June 20, 1981.

Petitioner, Automatic Data Processing, Inc., a corporation whose principal offices are located at One ADP Boulevard, Roseland, New Jersey, is the successor by merger of the corporation to which the Notice was issued. Petitioner's predecessor (hereafter referred to as "ADP") changed its name from Automatic Data Processing of N.Y., Inc. to ADP Brokerage Services, Inc. on November 3, 1980, and was subsequently merged into Automatic Data Processing, Inc. on February 1, 1983.

2. The assessment at issue arose from an examination conducted of the books and records of ADP, most especially the sales invoices for the month May, 1979. In order to facilitate the completion of the examination, ADP consented

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1   With the exception of the preliminary findings, the findings of fact are
    based upon the stipulation entered into by the parties and upon proposed
    findings submitted by petitioner with its written arguments.

to sampling via the test month, which it believed to be representative of the entire audit period.

The Audit Division determined that a number of computer-assisted services rendered by ADP to brokerage houses and other members of the securities industry were subject to tax. The results of the test-period audit were extrapolated to the entire audit period, producing additional taxable sales of $24,282,110.00 and sales tax due thereon of $1,717,175.26.

The Audit Division also calculated additional use tax due, as follows:

CATEGORY OF PURCHASES	PERIOD ANALYZED	USE TAX ASSESSED
recurring purchases	3/79-5/79	$ 16,759.03
recurring purchases, intercompany	FYE 7/1/78	2,238.21
paper products	9/1/76-8/31/79	86,799.99
fixtures and equipment	9/1/76-8/31/79	204,885.98
		$310,683.21

Petitioner apparently does not contest the assessment of use tax.

DATA NETWORK SERVICE

Basic Service

3. During the taxable period, ADP offered a data processing service to stock brokerage houses known as the Data Network Service or "DNS". DNS performs various tasks to assist brokers in the execution and processing of orders to buy and sell securities. By means of automation, DNS enables brokers to process more transactions with fewer errors than manual processing would permit.

4. The tasks performed by DNS include accepting orders entered into the DNS computer system to buy and sell securities, verifying that the orders are complete and correct in form, routing the orders to different securities exchanges, receiving notices of executed transactions from the exchanges,

matching those notices against open orders, informing the client[2] of order
executions, and compiling information for clients regarding their trading
activity.

5. The DNS order processing cycle begins with the entry of an order
through a computer terminal at the client's office. The information entered
includes the symbol of the security to be bought or sold, the quantity of
shares to be traded, a number identifying the client's customer, and other
information of importance to execution of the order.

6. The order is then carried from the computer terminal to a DNS computer
site, over lines leased by the client from the telephone company or other
communications firm. DNS does not carry any signals, nor does it lease or
otherwise provide any communications lines to its clients. All information
received by and transmitted from the DNS computer is carried over communications
lines leased by its clients from communications companies such as American
Telephone & Telegraph or Western Union.

7. Upon receipt of an incoming order, the DNS computer first verifies
that the order is correct in form, and that all information necessary to
execute the order has been supplied. The computer then checks to see that the
order falls within certain pre-determined parameters specified by the client,
e.g., that it does not exceed a certain quantity of shares, or that the customer
placing an order to sell a security in fact owns the security to be sold.

8. After verification, the DNS computers calculate where the order should
be sent for execution, based on each client's pre-selected table of preferences

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2   The term "client" is used to refer to ADP's customer, and the term
     "customer" to a customer of ADP's client.

in regard to the routing of orders. These preferences may vary depending on the security in question and the size of the order. This feature speeds the order-entry process by relieving the order clerk of the task of determining and specifying the appropriate forum for the execution of each order.

9. After the destination has been determined, the order is reformatted to comply with the particular requirements of the exchange on which the order will be executed. In the reformatting process, client-related information such as account numbers and commissions is deleted from the order while any additional information required by the exchange (e.g., the post number on which the security is traded in the case of the New York Stock Exchange) is appended to the order. As a consequence of this, orders transmitted to exchanges for execution by DNS differ significantly in form and content from the order received by DNS. DNS reformatting speeds the order-entry process by enabling the client's operators to enter orders in a single format regardless of where the orders will be executed.

10. After processing, the reformatted order is transmitted by DNS to the appropriate destination for execution. This destination may be the computer of a particular stock exchange, in the case of orders small enough to be executed automatically, or the client's terminal on the floor of a particular stock exchange, in the case of larger orders. In either case, the order is transmitted over communications lines leased by the client from communications firms such as American Telephone & Telegraph or Western Union.

11. Following the execution of an order, a notice of execution is transmitted to the DNS computer. The notice of execution may be transmitted either by an employee of the client from a remote terminal or, in the case of orders executed by a computer, by the computer effecting the execution. Upon receipt of the

notice of execution, the DNS computer first verifies that the notice of execution contains all necessary information pertinent to the execution.

12. If the notice of execution passes the verification process, DNS compares it with open orders which are carried in computer memory, based on the type of security, the quantity of shares bought or sold, the number identifying the branch which originated the order, and other information, until a match is achieved. If DNS cannot match the notice of execution against an order, or if the resulting match is less than perfect, DNS rejects the notice of execution, or passes it on to the client's supervisory station, depending on the client's preferences in this regard as specified in advance.

13. When a match between an open order and a notice of execution is found, DNS informs the client of the completed trade. Orders which are not executed during the trading day are stored on the DNS computer files until they are executed, expire or are cancelled by the client.

14. DNS generates reports for each client summarizing the client's trading activity during the day, and passes client information compiled by DNS to other divisions of ADP which use the information to supply other services to the client. The information provided in these reports to a particular client is based on transactions performed and data supplied by that client. The information contained in a report to one client is not incorporated in reports furnished to other clients.

15. DNS is not subject to regulation by either the Federal Communications Commission or the New York State Public Service Commission.

16. Charges for the basic DNS service are reflected on its invoices to customers under the heading "Trade Charges" and/or "Processing Charges". Trade charges vary in proportion to the number of transactions processed through DNS

over the month. Processing charges are imposed in proportion to the number of DNS "ports" used by the customer. (A port is a point of access into a computer system.) During the taxable period, a DNS client might be billed on the basis of a trade charge, a processing charge, or a combination of the two, depending on the client's preference.

17. DNS imposes separately stated rental charges on the few clients which lease terminals from ADP, and sales tax is collected on such rental charges. Most clients, however, purchase or lease terminals directly from vendors of computer hardware.

Optional Data Network Services

18. During the taxable period, the following special features, reports and services were made available to DNS clients at additional charges.

Special Features.

19. <u>Institutional System</u>. This feature assists a trader of large blocks of shares in keeping track of the many purchase or sale transactions which may correspond to the trader's sale or purchase of a single large block of shares. This feature forms part of the order matching facility provided by DNS.

20. <u>Automatic Routing System</u>. This feature allows the client to specify, before any processing of its trades, the stock exchange at which trades in any particular stock should be performed. Thereafter, the DNS computers automatically direct any order for the purchase or sale of securities which is entered by an employee of the client, to the appropriate exchange as specified in advance by the client's instructions. While for most clients this feature was included in the basic service charge for DNS, for a few clients the charge for this feature was itemized separately.

21. <u>Routing by Symbol</u>. This feature allows the client to override its Automatic Routing System instructions if it decides that, during any particular day or interval of time, trades in specified securities can be better executed on a different exchange.

22. <u>Floor Report Only Input</u>. This feature allows clients to enter executions of trades into DNS when no corresponding order has been stored in the DNS files. Such executions are then verified by the DNS computers, and included in reports furnished to the client at the end of the day.

23. <u>"Clearing Input to AMEX," "Clearing Input to SIAC," "Clearing Input to CBOE Option" and "AMEX Option Extraction" Charges</u>. The clearing house of each stock or options exchange typically requires each member broker to submit a report at the end of each trading day of all transactions executed by the broker over the exchange. The report must be made on magnetic tape and the information must be specially sequenced as each clearing house specifies. As a special feature, DNS extracts the information required for these reports from the client's ADP computer files, sequences the information in the format required by the clearing house, places the information on magnetic tape, and submits the information to the clearing house. The above charges for this feature relate to reports of clients as to trading in stock or options on the American Stock Exchange (AMEX), Chicago Board Options Exchange (CBOE), and the New York and American Stock Exchanges (through their clearinghouse, SIAC).

> <u>Special Reports</u>.

24. <u>The Ex-Dividend Transmission Report</u>. This report identifies the client's outstanding orders to buy or sell stock which need to be revised to take account of the fact that a dividend was declared on the stock in question. The purpose of the report is not to inform the client of recent dividend

announcements, since that information is readily available to the client from other sources, but rather to identify which of his pending customer orders has been affected by the declaration of a dividend. ADP obtains its knowledge of the existence of the dividend declaration from several sources: from the client, from The New York Times or The Wall Street Journal, and from news services. The information from all these sources is compared by ADP for consistency.

25. Z Log and Open Order Reports; The D Match Report; Monthly and Daily Open Order Confirmations; "Customer Confirmation" and "Confirmation Transmission" Charges. The Audit Division in its brief conceded the nontaxability of these services.

Special Charges.

26. DOT/ODD LOT Access Charge. This charge was imposed for providing access to order execution computer systems associated with the New York and American Stock Exchanges, for those clients which paid a base fee which did not include this service.

27. PACE Routing Charge and One Time Programming Charge for PACE. The charge on invoice D3241 for "PACE Routing" was imposed for the use of the Routing by Symbol feature to route trades in certain securities to PACE, the computer-assisted order execution system associated with the Philadelphia Stock Exchange.

28. One Time Charge for Trailer Rejecting Back to Originator. This charge was imposed for programming performed by ADP staff to cause the DNS computers to reject any order from a branch of the client which was not complete in every respect. This is a more rigorous form of verification processing than that

which was desired by most DNS clients, and therefore an additional charge was imposed for providing it.

29. CMTA Program One Time Charge. This charge was imposed for programming to permit the client, which was not a full member of the exchange or of the clearing entity dealing in options, to submit its trades in options through another broker which was a full member of the exchange.

30. P&S Tape Handling Charge. This charge is imposed when a client desires that purchase and sales data regarding its own transactions be retrieved from ADP computer memory, reformatted, and written onto magnetic tape, which is then made available to the client in the evening. The client uses the information on the tape to prepare its own accounting-type reports (as opposed to employing ADP to prepare, from the purchase and sale information stored by DNS, accounting reports of the type generated by ADP's Brokerage Processing Service [described infra]).

31. Rental Charge re Execution Services. The charges under the Execution Services heading on invoice D3245 pertain to equipment leased by ADP to a brokerage firm, which cleared its trades through the firm listed at the top of the invoice. The invoice indicates that ADP collected sales tax on these rental charges, in accordance with the sales taxes in effect at the various locations where the equipment was used.

32. None of the services described in paragraphs 19 through 31 and rendered during the taxable period involved the carriage of signals by DNS or other divisions of ADP. All information received by and sent from the DNS computer system was carried over communication lines leased by clients of ADP from communications companies such as American Telephone & Telegraph and Western Union. ADP did not provide any such lines to its clients.

33. The information provided by DNS to its clients concerned orders made and transactions performed on behalf of the customers of the clients. The information contained in reports to one client was personal and confidential to that client, and was never incorporated in reports furnished to other clients.

34. ADP's charges for the Data Network Service basic and optional services for the May, 1979 test period which were treated by the Audit Division on audit as subject to tax were in the amounts set forth in Appendix A.

PORTFOLIO SERVICES

35. During the taxable period, the Portfolio Services Division of ADP offered three principal product lines to brokerage houses and money managers: Portfolio Status Reporting ("PSR"), Automatic Investor Data Service ("AIDS") and EZPort.

36. PSR is a service designed to provide brokerage firms (ADP's clients) with reports concerning the status, history, value, and performance of their various customers' accounts. The PSR reports which are most commonly furnished to clients, and which typify the information provided through this service, are the Basic PSR Report, the Appraisal Report, the Capital Gains Report, and the Cross-Reference Report.

37. The Basic PSR Report is principally intended for the use of the registered representative (broker) of the brokerage firm who is responsible for the customer account to which the report pertains. The Basic PSR Report consists of three sections, each of which contains a wealth of information relating to the account. The first is the statistical section, designed to measure the past performance of the account, both in absolute terms and relative to various market indicia. Included in this section is a summary of realized gains and losses over the period covered by the report. The second section

lists all "open positions" (the stocks, bonds, and other securities presently held in the account) and shows the price paid to acquire each position, the date the position was acquired, and the present market value of each position. The final section lists any transaction which occurred on the last trading day preceding the preparation of the report.

38. The Appraisal Report provides information relating to the current status of a customer's account. The Appraisal Report contains much of the information that may be found in the central section of the Basic PSR Report, but goes into somewhat more detail. Securities positions held in the account are listed by category (i.e., bonds, preferred stock, common stock) and subcategory (e.g., tax-exempt bonds, government bonds, convertible bonds). With respect to each position, the Report indicates the unit cost, the date of purchase, and the current value of the position. These values are added to arrive at an overall valuation for the account.

39. The PSR Capital Gains Report is a monthly summary of transactions through which the customer realized gain or loss. The report lists the transactions, the amount of gain or loss realized, and the short- or long-term character of the gain or loss.

40. The Cross-Reference Report, produced on a periodic basis for each registered representative of a client brokerage firm, lists each security held by the representative's customers as a group, and the identity of each customer holding that security. The Cross-Reference Report enables a registered representative to quickly ascertain which customers hold a particular security so that he can communicate with them at once in the event of a development affecting that security.

41. With the exception of the pricing data used in valuing a customer's account on a PSR Basic Report or a PSR Appraisal Report, or pricing data displayed on a PSR Cross-Reference Report, the information used to prepare the PSR Reports consists solely of data furnished to ADP by the client regarding the holdings and transactions of their customers. Such data is typically transmitted to ADP from a remote terminal and then stored on ADP's computers. The data furnished to ADP by each client is held in strict confidence and is never incorporated in reports furnished to other clients.

42. The prices used to value the customers' securities on those reports containing an appraisal of the customers' holdings (the Basic PSR Report and the Appraisal Report) and pricing data displayed on the PSR Cross-Reference Report reflect the closing prices for those securities as of the date preceding the day of distribution of the reports. This information is purchased by ADP from Interactive Data Services, Inc. ("IDSI"), a supplier of pricing information, and sales tax has always been collected with respect to such purchases.

43. AIDS provides to money managers essentially the same types of information as provided by PSR to brokerage firms, with certain changes in the presentation of information to meet the particular needs of money managers.

44. The basic reports generated by AIDS consist of the Transaction Ledger, Current Position Asset Report, Performance Metrics Report, and Schedule of Realized Gains and Losses.

45. The AIDS Transaction Ledger summarizes transactions in an investment fund or account which occurred over a specified period of time, including the purchase and sale of securities, the receipt of stock dividends and cash dividends, and the receipt and disbursement of funds.

46. The Current Position Asset Report is similar in format to the PSR Appraisal Report. The Report lists the securities held in a particular fund or account and indicates the acquisition date, cost basis, and current value of the securities.

47. The Performance Metrics Report analyzes the performance (e.g., appreciation in value) of the fund, in absolute terms and relative to various market indicia such as the Dow Jones Industrial Average.

48. The Schedule of Realized Gains and Losses lists the securities positions in the account which have been closed out during the year, resulting in the realization of gain or loss, and indicates the amount of such gains and losses and their character as long-term or short-term gains and losses.

49. With the exception of the pricing data used in valuing the securities held in a fund or account in an AIDS Current Position Asset Report, the information used to prepare the AIDS reports consists solely of data furnished to ADP by its clients concerning the holdings and transactions of the funds and accounts under their management. The data furnished to ADP by each client is held in strict confidence and is never incorporated in reports furnished to other clients. The pricing data used to compute the current value of a fund or account on an AIDS Current Position Asset Report is purchased from IDSI, a vendor of pricing services, and reflects the closing price for each security on the trading day preceding the day on which the report is distributed. Sales tax is paid by ADP on the purchase of this data (reflecting its belief that it is the ultimate consumer of this information).

50. EZPort is an on-line, real time service designed to enable clients to immediately obtain an Appraisal Report or a Report of Realized Gains and Losses with respect to a particular account. Unlike the PSR and AIDS reports, which

are prepared at night and physically delivered to the client the next morning, EZPort reports are immediately prepared by the ADP computer in response to the client's request and transmitted to the client's terminal where they are printed out on the client's printer. The EZPort Appraisal Report is similar in format to the PSR Appraisal Report, and the EZPort Schedule of Realized Gains and Losses is similar in format to the PSR Capital Gains Report and the AIDS Schedule of Realized Gains and Losses.

51. Except for the pricing data used to value the customer's account on the EZPort Appraisal Report, all of the information used to prepare EZPort reports consists of data furnished to ADP by the client from a remote terminal concerning the transactions and holdings of its customers. This information is protected from access by other clients and is never incorporated in reports furnished to other clients.

52. The pricing information used in preparing EZPort Appraisal Reports is purchased by ADP from IDSI. The prices used in the EZPort reports are no more current than those used in the PSR or AIDS Reports, the most recent being the closing prices for the previous trading day.

53. On occasion, a client of one of the Portfolio Services will furnish ADP with a security price to be used in lieu of the IDSI price. This is generally in the case of securities (usually bonds) for which there is no active market. In such event, ADP uses the client's price in valuing the security on reports furnished to that client.

54. The sole purpose of the pricing data used in the Portfolio Services is to compute a total value for the security positions in the customer's account, so as to arrive at a total value for the account. Clients do not use the Portfolio Services as a means of obtaining an up-to-date price for a particular

security. For that purpose, they would use a stock quotation device furnished by a vendor of securities prices.

55. Fees charged for PSR are based on the number of transactions performed by the client, the amount of computer memory needed to store information furnished by the client (the "storage" or "tax-lot" charge), and the quantity and type of reports generated for the client.

56. Fees for the AIDS service are based on the number of transactions, the number of accounts maintained for the client, and computer storage requirements with respect to the accounts. The amount and method of calculation of such charges varies depending on the needs and desires of each client, and the fees paid by some clients are based on only one or two of the three components listed above.

57. Fees for EZPort are based on the amount of time during which the client is connected to the computer, and on the amount of information stored on the computer if the client elects to store data.

58. The charges by ADP for Portfolio Services products during the test period of May, 1979 appear in those invoices with the prefix "P". The "P" invoices listed in the Audit Division's analysis of sales for the test period and subjected to tax may be categorized as follows: Invoices P0000104 through P0000135 contain charges for EZPort, invoices P10557 through P10700 contain charges for AIDS, and invoices P11721 through P11746 contain charges for PSR.

59. Included on several of the invoices for PSR and AIDS for the May, 1979 test period are certain miscellaneous charges for services related to PSR and AIDS, described below.

(a) <u>Conversion or Position Tape</u>. The "Conversion Tape" charge on invoice P10603 relates to the transfer of client information from ADP computer

storage to magnetic tape, at the client's request. The transfer is accomplished through computer processing to retrieve the data from the client's electronic files and to reformat such data, followed by transferral of the manipulated data to the tape. The "Position Tape" charge appearing on invoice P10630 relates to the same service.

(b) Firm Trading Bookkeeping; 13E Report; 13F Report; Delivery Expense; Month End Valuation Firm Trading Account; Investment Advisory Billing System; Terminal Charge; Performance Service. The Audit Division in its brief conceded the nontaxability of these services.

60. ADP's charges for the basic and optional Portfolio Services for the May, 1979 test period which were treated by the Audit Division on audit as being subject to tax were in the amounts set forth in Appendix A.

BROKER TERMINAL SERVICE

Basic Service

61. Broker Terminal Service ("BTS") is an ADP service which allows a broker to make teletype inquiries concerning the status and history of his customers' accounts, and to have the information requested instantly displayed on a video screen located in his office.

62. The basic service of the Broker Terminal Service consists of displaying, on request, one of three different screens of information relating to a particular customer's account: the Money Line File, the Position File, and the 30 Day History File.

63. A request for any of these three basic Broker Terminal Service files, along with an account number, results in the display of a screen of information, the first four lines of which show the following: the account name and number, the cash in the account available to purchase securities, the total market

value of the securities held in the account, the equity in the account, the house excess (i.e., the amount in excess of that required by the client to be kept in the account), the percentage of liquidity of the account, the interest charged to the account, and instructions as to how to handle funds and securities received for the account.

64. To compute the market value of an account, or any security therein, Broker Terminal Service multiplies the number of shares of each security the customer owns by the closing price for that security on the previous day. The closing prices employed are either those which ADP has purchased from Interactive Data Services, Inc. or prices supplied by the client.

65. In addition to the foregoing information, a Money Line File displays the trade date balance, settlement date balance, market value, house excess, and equity of each of the sub-accounts within the customer's account. These sub-accounts, numbered 1 through 9, include the cash account, the margin account, and the short account. A Money Line File is typically requested by the client's registered representative to ascertain whether his customer has funds available to purchase additional securities.

66. A Position File will, after the first four lines, display the name and total number of shares of each security currently owned (or sold short) by the customer. The Position File screen also shows the security symbol, stock exchange, and previous night's closing price for each such security.

67. A Position File is typically requested by the client's registered representative to ascertain the securities the customer owns and the amount owned. By copying down this information, and using an independent company's up-to-the-minute quotation service, the registered representative will be able

to respond knowledgeably over the telephone to his customer's question: "How are my stocks doing?"

68. A 30 Day History File displays, after the first four lines, all transactions in securities and all debits and credits to the customer's account during the prior 30 days. This screen is typically requested by the client's registered representative when the customer inquires about a problem with a transaction in his account.

69. The screens displayed by the Broker Terminal Service are prepared the previous evening and are not updated during the business day.

70. With the exception of the securities prices used to compute the market value and equity of the customer's account, all of the information used to prepare the files displayed by the Broker Terminal Service consists of data furnished to ADP by the client concerning the assets and transactions of its customers. This data is held in strict confidence and is never incorporated in reports furnished to other clients.

71. Clients of the Broker Terminal Service do not use BTS in order to obtain an up-to-date price quotation for a particular security. The prices displayed on a Position File are closing prices for the preceding trading day. Furthermore, BTS prices may be accessed only by calling up the Position File for an account containing the security in question. BTS clients seeking a price quotation would consult a stock quotation service in which complete pricing data can be accessed by typing in the stock symbol.

72. There are three different charges associated with the basic Broker Terminal Service system. First, there is a charge for each record transferred (i.e., "loaded") from Brokerage Processing Service and reprocessed to make it available for a Money Line File, Position File or 30 Day History File inquiry.

This charge is imposed whether or not any inquiry is actually made. The charge is computed by adding together the number of records loaded for each of the three screens and charging $.05 per record for the first 10,000 records, $.02 per record for the next 30,000 records, $.015 per record for the next 40,000 records, and $.01 per record for all remaining records.

73. The second part of the basic Broker Terminal Service charge is a $.05 charge for each inquiry pertaining to a Money Line File, a Position File, or a 30 Day History File.

74. The third part of the basic Broker Terminal Service charge is a "port" charge. The "port" charge is a flat charge for having terminals attached to the system. It is intended to cover some of the cost of ADP's overhead and labor in operating the Broker Terminal Service system. Customers were generally charged for one or two "ports", depending mainly on the number of terminals connected to ADP's computers.

75. ADP's charges for the Broker Terminal Service basic service for the May, 1979 test period which were treated by the Audit Division on audit as being subject to tax were in the amounts set forth in Appendix A.

76. Bring Up BTS. The Broker Terminal Service ordinarily operates on weekdays only. A client wishing to use Broker Terminal Service on a weekend is charged an additional amount for "bringing up" the system on that date. According to the stipulation executed on June 13, 1984, the parties agree that the charges for bringing up Broker Terminal Service on a weekend are subject to or exempt from sales tax depending on whether the basic charges for Broker Terminal Service are held subject to or exempt from sales tax. The charges for Bring Up BTS for the May, 1979 test period which were treated by the Audit

Division on audit as being subject to tax were in the amounts set forth in Appendix A.

BROKERAGE PROCESSING SERVICE SPECIAL REPORTS

77. The parties are agreed that many of the ADP services billed by ADP on B-prefixed invoices, which were treated by the Audit Division on audit as items on which tax should have been charged, are services for which ADP was not required to collect tax under Articles 28 and 29 of the Tax Law. ADP's charges for the Brokerage Processing Service Special Reports for the May, 1979 test period which were treated on audit as being subject to tax, but which the parties have agreed are not subject to tax, were in the amounts set forth in Appendix B.

The parties are not agreed as to whether ADP was required to charge tax under Articles 28 and 29 with respect to the items appearing on B-prefixed invoices described in paragraphs 78 through 83, below.

78. Margin Equity Report. As a special optional service of the Brokerage Processing Service, ADP prepares a report to the client which lists in client branch sequence, each customer margin account, showing the equity in each such account. The equity is computed by valuing each security position held in the account and subtracting therefrom the amount owed by the customer on his margin purchases. The valuation of securities is based on prices furnished to ADP by IDSI, a vendor of pricing information. The prices used are the closing prices for each security for the trading day preceding the day on which the report is delivered. The closing prices used to make the equity computation are not displayed on the report. ADP paid sales tax on its purchase of pricing information from IDSI.

79. <u>Mark to Market Units</u>. As an optional service of the Brokerage Processing Service, ADP generates a report known as a "mark to market unit" which identifies a transaction in which a security owed to the client by another broker (as a result of a prior loan or a failure to receive on the settlement date) or owed by the client to another broker (as a result of a prior loan to the client or a failure of the client to deliver on the settlement date) changed in price from the original contract price. The report identifies the security and number of shares in question, lists the original contract price, the current price, and the total change in dollars. A copy of the mark to market unit can be delivered by the client to the opposing broker (or a common clearing house) to obtain a refund of excess collateral (in the case of securities owed by the client where the price had decreased) or to request additional collateral (in the case of securities owed to the client where the price had increased). The market values shown on the reports are computed through use of closing prices supplied by IDSI.

80. <u>Credit Exposure Report</u>. As an optional service of the Brokerage Processing Service, ADP generates a report to the client showing all customer accounts where the customer has not yet fully paid for a security purchased. The report, called a Credit Exposure Report, shows the customer's account number, name, registered representative, security purchased, the deficit amount, and the number of other securities positions held in the customer's account. The "deficit amount" equals the difference between the value of the securities in a customer's account and the total customer's equity in that account. The market values used to compute the deficit amount are derived from closing prices for the day preceding the day on which the report is furnished.

The closing prices used are furnished to ADP by IDSI. No prices, values, or equity computations are shown on the face of the report.

81. <u>Net Capital Haircut Report</u>. As an optional service of the Brokerage Processing Service, ADP furnishes a client with a report which analyzes the purchases and sales of securities which the client transacted for its own account (i.e., not on behalf of its customers). The report recalculates the market value of the client's current securities positions and adjusts the client's net capital ratios for regulatory purposes. The market values used in the reports are computed using the previous day's closing prices supplied by IDSI.

82. <u>Option Link Report</u>. As an optional service of the Brokerage Processing Service, ADP prepares a report to a client showing, for each of his customers who has written an option, a description of the option, the number of options in the option position, the strike price of the option (i.e., the price the customer would receive for the underlying security on exercise of the option), the preceding night's closing price of the underlying security, the expiration date of the option, the exchange over which the option is traded, whether the option is covered by the customer's ownership of the underlying security or a purchased option on the same security, the margin required for the option position, and the market value of any underlying security which the customer owns. The report is used by the client to assess compliance with margin requirements and for surveillance of activity in option accounts. The underlying security price used in this report is supplied by IDSI.

83. <u>R-1 List of Secured and Unsecured Balances</u>. As an optional service of the Brokerage Processing Service, ADP prepares a report for the client which provides information which the client would use to prepare his R-1 regulatory

report to the Securities and Exchange Commission. This report shows all the client's customers' accounts which have negative cash balances or frozen positive cash balances, the amount of the funds frozen, the market value of any securities held in the account which "secure" the negative balance, and the amounts of such balances which are unsecured or partially secured by such securities. In computing the market values of securities for this report, ADP employs closing prices supplied by IDSI. The closing prices used do not appear on the face of the report.

84. In the case of the reports described in paragraphs 78 through 83 above:

(a) all of the information used to prepare the reports, except IDSI pricing information, where applicable, is derived from information furnished to ADP by the client receiving the report and relates to the particular assets or transactions of the client or its customers;

(b) at the client's request, on occasion the reports employ a security price which the client supplies to ADP in the place of the IDSI-supplied price; and

(c) none of the information furnished in the reports, except IDSI pricing information, where applicable, is incorporated in reports furnished to other clients.

85. ADP's charges for the reports described in paragraphs 78 through 83 for the May, 1979 test period which were treated as being subject to tax by the Audit Division on audit were in the amounts set forth in Appendix A.

CAGE MANAGEMENT SERVICE; DATA COLLECTION SERVICE; DATA TRANSMISSION SERVICE

86. The parties are agreed that the Cage Management Service, Data Collection Service, and Data Transmission Service, which were treated by the Audit Division

on audit as items on which tax should have been charged, are services for which ADP was not required to collect tax under Articles 28 and 29 of the Tax Law. ADP's charges for the Cage Management Service, Data Collection Service, and Data Transmission Service for the May, 1979 test period which were treated on audit as being subject to tax, but which the parties have agreed are not subject to tax, were in the amounts set forth in Appendix B.

BROKER TERMINAL SERVICE N/A INQUIRY; AMEX AND CBOE OPTIONS; CASH AND SECURITIES OVER THE WIRE; LOADING BANK BALANCES ON-LINE; CHECKS ON-LINE

87. The Audit Division in its brief conceded the nontaxability of these services. ADP's charges for the Broker Terminal Service N/A Inquiry, AMEX and CBOE Options, Cash and Securities over the Wire feature, Loading Bank Balances On-Line feature and Checks On-Line feature during the May, 1979 test period which were treated by the Audit Division on audit as being subject to tax were in the amounts set forth in Appendix A.

EQUIPMENT RENTAL AND MAINTENANCE

88. On audit, in its Analysis of Sales for May, 1979, the Audit Division listed the following as items on which sales tax should have been, but was not charged: Paradyne 4800 Baud Modem, $405.00 (Invoice C2184); CSR8356 CKT 60490, $100.71 (Invoice C2856). The invoices show, however, that 8 percent sales tax was charged on the sale of this equipment.

89. In its Analysis of Sales, the Audit Division listed as an item on which sales tax should have been, but was not charged, "CMS", $14,248 (Invoice C2842). The invoice shows, however, that the $14,248 figure is the sum of three items: first, a $13,600 charge for "Computer Interface and Processing Charges" for the Cashiering Management Service; second, under the heading "Equipment Rental & Maintenance", a $216 charge for "2 Western Union 120 CPS at

$100. (N.Y.C.) S/N 82021 and 86001"; and third, also under this heading, a $432
charge for "4 Decwriters 11 30 CPS at $100. (N.Y.C.) S/N 30568, 23472, C4889
and 11115." The invoice shows that 8 percent sales tax was charged on the $216
and $432 items.

90. In its Analysis of Sales, the Audit Division listed as items on which
sales tax should have been, but was not charged, the following items for
Invoice C2834:

DTS lines loaded	$ 1,907.91
BTS Service Charge	1,700.00
Various Per Invoice	15,493.76
Teletype Repair Serv.	441.50
Total	$19,543.17

The sum of all the charges on the invoice for which no sales tax is shown,
excluding charges for equipment delivered in Ohio, is $19,142.85. The invoice
shows the following equipment rental and maintenance charges for equipment
delivered in Ohio, on which no sales tax was charged:

4 Decwriters 11 30 CPS at $100.	(Ohio)	$ 400.00
1 Line Printer System at $800.	(OH)	800.00
1 Modem at $120.	"	120.00
2 Acoustic Coupler at $10.	"	20.00
	Total	$1,340.00

Since the total of the amounts listed on the Analysis of Sales ($19,543.17)
exceeds the sum of the invoice charges on which sales tax was not collected
(except for charges relating to equipment delivered in Ohio) ($19,142.85) by
$400.32, within the "Various Per Invoice" entry on the Analysis of Sales must
be $400.32 of charges for equipment delivered in Ohio.

BOOKKEEPING NOTICES

91. As an optional service of the Brokerage Processing Service, ADP
generates notices which indicate the receipt by the client brokerage house of a
check or security from its customer. These "bookkeeping notices", produced in

duplicate, are distributed to appropriate departments within the client's offices, including to the customer's registered representative. The client may also send a copy of the notice to the customer.

92. ADP's charges for Bookkeeping Notices for the May, 1979 test period which were treated by the Audit Division on audit as being subject to tax were in the amount set forth in Appendix A.

N/A CARDS

93. As an optional service of the Brokerage Processing Service, ADP provides the client, on request, with information relating to customer accounts at a particular client branch or handled by a particular client registered representative. Where requested, the information relating to each account is furnished on a 3" x 5" index card containing the following information: the account name, address, trading limitations, and other similar identifying and governing information. All this information was previously entered by the client into ADP computers through the Data Collection Service.

94. ADP's charges for N/A Cards for the May, 1979 test period which were treated by the Audit Division on audit as being subject to tax were in the amounts set forth in Appendix A.

SPLITS

95. On occasion, a client of ADP's Brokerage Processing Service wishes to process on its own computer equipment and software data pertaining to the client which ADP previously collected from the client through the Data Collection Service, the Data Network Service, or by other means. Where so requested, ADP creates a "split" or copy of the data in question on magnetic tape, which is made available to the client for copying. After the client copies the data,

the tape is returned to ADP. In creating the "split", ADP is usually required to re-sort the data so that it can be run on the client's computer.

96. ADP's charges for splits for the May, 1979 test period which were treated by the Audit Division on audit as being subject to tax were in the amounts set forth in Appendix A.

LINE CHARGES

97. To facilitate the installation and standardization of telephone lines from the client's offices to ADP computers, ADP on occasion acts as agent for the client and orders telephone lines directly from the telephone company. When this occurs, ADP pays the bills it receives from the telephone company for these lines (which include sales and excise tax charges where applicable). The exact dollar amount of the telephone bill (including the taxes paid) is then billed to the client as a "Line Charge" on the client's ADP invoice.

98. ADP's "Line Charges" for the May, 1979 test period which were treated by the Audit Division on audit as being subject to tax were in the amounts set forth in Appendix A.

CONCLUSIONS OF LAW

DATA NETWORK SERVICE

A. That the Data Network Service provided by ADP to its clients constitutes a data processing service, and not telephone or telegraph service taxable pursuant to section 1105(b) of the Tax Law. ADP is engaged in the sale of, and its clients contract for the purchase of, data processing service; the transmission of electronic signals over lines linking the DNS computer with the terminals of a DNS client or with a stock exchange computer (which lines are leased by ADP's client from a communications company) is merely an incident of such service. "It is common knowledge that a telegraph company normally functions

as a mere conduit, transmitting to third-party recipients messages given it by various originators." (Quotron Systems, Inc. v. Gallman, 39 N.Y.2d 428, 432.[3]) ADP is far from a "mere conduit" in rendering the Data Network Service. DNS activities include: validating orders and executions; automatic routing, which relieves the client of the necessity of determining the exchange upon which each particular order will be executed; altering the form and/or content of orders and executions before retransmitting them to their destinations; storage of information contained in messages; matching orders with executions; preparation of daily reports of trading activity and open orders; and in some instances, transferring stored data for use by other ADP divisions in the production of reports. Finally, example 3 of regulation section 527.2(d)(2)[4] does not govern, again, because ADP does not function as a conduit, simply shifting or diverting the same, unaltered message from one channel or line to another.

B. That in accordance with the rationale of Conclusion of Law "A", the following optional and special DNS charges are not subject to tax under section 1105(b): Institutional System; Automatic Routing System; Routing by Symbol; Floor Report Only Input; "Clearing Input to AMEX", "Clearing Input to SIAC", "Clearing Input to CBOE Option" and "AMEX Option Extraction"; DOT/ODD LOT Access Charge; PACE Routing Charge and One Time Programming Charge for PACE;

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3   "While the tax sought to be imposed in [Quotron] was a tax upon businesses
    furnishing utility services under section 186-a of the Tax Law rather than
    sales tax under section 1105, the determinative issue as defined by the
    court was whether the taxpayer was engaged in the sale of telegraphy or
    the furnishing of telegraph service." N.Y.S. Cable Tel. Assn. v. State Tax
    Comm., 59 A.D.2d 81, 84.

4
    "Message switching services, transmitted to a computer over lines leased
    from a communication carrier are telegraph services subject to the tax
    imposed under section 1105(b) of the Tax Law." 20 NYCRR 527.2(d)(2) ex.3.

One Time Charge for Trailer Rejecting Back to Originator; and CMTA Program One Time Charge.

C.   That the P&S Tape Handling Charge constitutes a receipt from the sale of tangible personal property subject to tax pursuant to section 1105(a). (Matter of Finserv Computer Corp. v. Tully, 94 A.D.2d 197, affd. mem., 61 N.Y.2d 947.)

D.   That the Ex-Dividend Transmission Report is an information service excepted from tax by section 1105(c)(1) (see the more detailed treatment of information services in Conclusion of Law "F"). The purpose of the report is not to inform ADP's client that a particular corporation has announced a dividend (information known to the client via other sources) but rather to identify which of its pending customer orders are affected by dividend announcements.

E.   That the evidence establishes that ADP collected the applicable sales tax on the Rental Charge re Execution Services.

PORTFOLIO SERVICES

F.   That the Portfolio Services rendered by ADP are excluded from tax as "the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons..." (Tax Law section 1105[c][1]. See also 20 NYCRR 527.3[b][2], especially Example 3). The reports furnished by ADP present information relating to the securities transactions and positions of ADP's clients or of the customers of its clients. The report relating to each account is unique because it is based on the particular holdings in that account. Further, ADP holds each client's reports in confidence and takes measures to ensure that such reports are not disclosed to other clients. The use of prices purchased

by ADP from IDSI to value customers' securities on certain Portfolio Services reports (Basic PSR Report, Appraisal Report, Cross-Reference Report, Current Position Asset Report, Performance Metrics Report and EZPort Appraisal Report) does not change the essential nature of such reports as personal and individual. The statute only requires, and the regulation example cited above makes abundantly clear, that the information furnished to the customer must be personal or individual in nature and not substantially incorporated in reports furnished to others; there is no requirement that all information in each report be used only in that particular report.

G. That the reasoning and result of Conclusion of Law "C" are equally applicable to the charges for Conversion or Position Tape.

BROKER TERMINAL SERVICE-BASIC SERVICE; BROKER PROCESSING SERVICE SPECIAL REPORTS; BOOKKEEPING NOTICES; N/A CARDS; SPLITS

H. That the charges for Broker Terminal Service-Basic Service, Broker Processing Service Special Reports, Bookkeeping Notices, N/A Cards and Splits are not subject to tax, in accordance with the reasoning of Conclusion of Law "F".

EQUIPMENT RENTAL AND MAINTENANCE

I. That the evidence establishes that ADP collected the sales tax on Equipment Rental and Maintenance receipts where appropriate.

LINE CHARGES

J. That Line Charges are not subject to tax inasmuch as ADP merely acted as agent for a client in obtaining lines from the telephone company, and the telephone company's billing already includes sales tax on the telephone service and any installation fee.

K. That the petition of Automatic Data Processing, Inc. (successor to ADP Brokerage Services, Inc.) is granted to the extent indicated in the conclusions above; and the assessment issued on June 19, 1981 is to be reduced accordingly, and is also to be reduced to take account of the concessions made by the Audit Division.

DATED: Albany, New York

STATE TAX COMMISSION

MAY 0 8 1985

_____
PRESIDENT

_____
COMMISSIONER

_____
COMMISSIONER

APPENDIX A

DATA NETWORK SERVICE

Basic Services

Trade Charges

Invoice	Entry	Amount
D3038	Trade Charges	$ 147.00
D3041	Trade Charges	1,784.59
D3043	Trade Charges (DNS System)	2,896.86
D3228	Trade Charges	2,885.97
D3237	Processing Charges (Trades)	5,612.80
D3241	Trade Charges	11,612.70
	Credits	(750.00)
	Total	$ 24,189.92

Processing Charges

Invoice	Entry	Amount
D3041	Processing charges – baud ports (ports to SIAC)	$ 4,650.00
D3043	Processing charges – baud ports (Inc. SIAC ports)	6,300.00
D3228	Processing charges	4,850.00
D3235	Processing charges	3,150.00
D3236	Processing charges (DNS)	3,925.00
D3238	Processing charges	25,800.00
D3243	Processing charges	27,816.00*
D3245	Processing charges	26,125.00
D3246	Processing charges	18,400.00
	Total	$121,016.00

Optional Services

Special Features

Institutional System

Invoice	Entry	Amount
D3043	Institutional System	$ 350.00
	Total	$ 350.00

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* Invoice shows $16.00 of sales tax was charged.

Automatic Routing System

Invoice	Entry		Amount
D3043	Automatic Routing System		$ 350.00
D3245	Automatic Routing Monthly Charges		350.00
		Total	$ 700.00

Routing by Symbol

Invoice	Entry		Amount
D3228	Routing by Symbol		$ 350.00
		Total	$ 350.00

Floor Report Only Input

Invoice	Entry		Amount
D3238	Floor report only input		$ 1,000.00
		Total	$ 1,000.00

Clearing Input

Invoice	Entry		Amount
D3043	Clearing Input to AMEX option		$ 50.00
D3228	Clearing Input to AMEX		50.00
D3236	Clearing Input to AMEX option		50.00
D3238	Clearing Input to SIAC for NYSE & AMEX		1,250.00
D3238	AMEX Options Extractions		750.00
D3243	Clearing Input to SIAC		250.00
D3243	AMEX Option Extraction		150.00
D3245	AMEX Option		50.00
D3246	Clearing Input to CBOE Option		50.00
D3246	Clearing Input to AMEX Option		50.00
		Total	$ 2,700.00

Special Reports

Ex-Dividend Transmission

Invoice	Entry		Amount
D3235	Ex-Dividend Transmission		$ 150.00
		Total	$ 150.00

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* Conceded by the Audit Division as nontaxable.

Z-LOG/Open Order Report*

Invoice	Entry		Amount
D3041	Z LOG Open Order Report	$	100.00
D3043	Z LOG and Open Order Report		100.00
D3228	Traffic Log/Open Order Report		100.00
D3243	Z LOG Open Order Report		150.00
D3245	Z LOG		150.00
D3246	Z LOG and Open Order Report		150.00
		Total $	750.00

"D Match" Report*

Invoice	Entry		Amount
D3238	D Match Report executions	$	500.00
		Total $	500.00

Daily & Monthly Open Order Confirmation*

Invoice	Entry		Amount
D3235	Daily & Monthly Open Order Confirmation	$	150.00
D3236	Monthly & Daily Open Order Customer Confirmation		25.00
D3237	Daily & Monthly Customer Open Order Confirm		150.00
D3243	Monthly Open Order Confirmation		99.98
D3245	Customer Confirms		25.00
D3246	Monthly Open Order Confirm Charge		49.42
		Total $	499.40

Customer Confirmation and Confirmation Transmission*

Invoice	Entry		Amount
D3228	Customer Confirmation Charges (DNS System)	$	1,683.92
D3235	Customer Confirmations		877.10
D3237	Total Confirms Delivered		715.84
D3238	Confirmation Transmission		1,000.00
D3243	Customer Confirmations		325.44
D3245	Customer Confirms		473.76
D3246	Customer Confirmation Charges		72.48
		Total $	5,148.54

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* Conceded by the Audit Division as nontaxable.

Special Charges

DOT/ODD LOT Access

Invoice	Entry		Amount
D3235	DOT/ODD Access		$ 925.00
D3241	DOT Access		600.00
		Total	$ 1,525.00

PACE Routing

Invoice	Entry		Amount
D3241	PACE Routing		$ 350.00
D3245	PACE Routing		100.00
		Total	$ 450.00

1 Time Charge for Trailer Rejecting Back to Originator

Invoice	Entry		Amount
D3238	1 Time charge for trailer rejecting back to originator		$ 350.00
		Total	$ 350.00

CMTA Program

Invoice	Entry		Amount
D3245	CMTA Program one time charge		$ 500.00
		Total	$ 500.00

P&S Tape Handling Charge

Invoice	Entry		Amount
D3235	P&S Tape Handling Charge		$ 400.00
		Total	$ 400.00

Rental Charge re Execution Services

Invoice	Entry		Amount
D3245	Execution services		$ 864.00*
	Execution services		486.00*
		Total	$ 1,350.00

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* Invoice shows that 8% sales tax was charged on these entries.

PORTFOLIO SERVICES

Basic Portfolio Services

Portfolio Status Reporting

Invoice	Entry		Amount
P11721	Portfolio Services		$ 8,913.58
P11722	Portfolio Services		12,242.46
P11723	Portfolio Services		800.00
P11724	Portfolio Services, Minimum		3,000.00
P11726	Portfolio Services		1,146.50
P11727	Portfolio Services		1,251.90
P11728	Portfolio Services		1,021.50
P11730	Portfolio Services		666.15
P11731	Portfolio Services		5,334.40
P11732	Portfolio Services		2,484.76
P11737	Portfolio Services		21,116.73
P11742	Various		1,808.30
P11743	Various		2,298.55
P11744	PSR		2,149.00
P11745	PSR		344.50
P11746	PSR		1,121.25
		Total	$ 65,699.58

Automatic Investor Data Services

Invoice	Entry	Amount
P10557	Portfolio Reporting Services (Est. Bill)	$ 9,000.00
P10583	Portfolio Reporting Services	1,358.05
P10584	Portfolio Reporting Services	421.70
P10585	Portfolio Reporting Services	1,053.75
P10586	Portfolio Reporting Services	2,459.15
P10587	Portfolio Reporting Services	531.50
P10588	Portfolio Reporting Services	2,232.90
P10589	Portfolio Reporting Services	1,034.60
P10593	Portfolio Reporting Services	894.50
P10594	Portfolio Reporting Services	644.00
P10595	Portfolio Reporting Services	500.00
P10596	Portfolio Reporting Services	369.25
P10598	Minimum	500.00
P10599	Portfolio	1,770.10
P10600	Portfolio	500.00
P10602	Portfolio	2,307.75
P10603	Portfolio	5,814.00
P10604	Portfolio	500.00
P10609	Portfolio	2,000.00

Automatic Investor Data Services (con't.)

Invoice	Entry	Amount
P10610	Portfolio, EF Hutton Suggests	2,740.25*
P10611	Portfolio	616.45
P10617	Portfolio	500.00
P10618	Portfolio	428.20
P10619	Portfolio	508.00
P10627	Portfolio	3,184.00
P10629	Portfolio	699.05
P10635	Portfolio	500.00
P10637	Portfolio	983.50
P10640	Portfolio, Ref. Thornson Brown**	1,111.66
P10644	Portfolio	1,060.20
P10645	Portfolio, Accounts, tax lots, trans.***	3,833.55
P10647	Portfolio	1,614.93
P10650	Portfolio	1,726.81
P10651	Portfolio	2,181.25
P10652	Portfolio	1,104.15
P10654	Portfolio	1,686.96
P10655	Portfolio	400.00
P10656	Portfolio	2,037.50
P10657	Portfolio	1,633.50
P10661	Portfolio Services	2,409.48
P10662	Portfolio Services	4,938.75
P10666	Portfolio Services	1,224.00
P10669	Portfolio Services	1,862.90
P10672	Portfolio Services	710.30
P10675	Portfolio Services	2,356.00
P10676	Portfolio Services	5,164.80
P10677	Portfolio Services	4,970.50
P10678	"Get copy inv."	3,451.00
P10680	Portfolio Services	8,000.00
P10681	Portfolio Services	2,106.10
P10682	Portfolio Services	1,029.20
P10684	Portfolio Services	9,657.19
P10685	Portfolio Services	1,666.70
P10686	Portfolio Services	3,247.75
P10689	Portfolio Services	2,276.80
P10691	Portfolio Services	2,730.75
P10700	Portfolio Services	654.75
	Total	$120,798.18

* Includes $108 for terminal for which invoice shows sales tax was charged. E.F. Hutton Suggests is not a separate service, but a department within the client's offices. (Tr. 299-230)

** Thornson, Brown is not a separate service, but the name of a client.

*** Accounts, Tax Lots and Transactions charges are in all other cases assessed on the analysis of sales merely with the words "Portfolio", "Portfolio Reporting Services", or "Portfolio Services".

EZPort

Invoice	Entry	Amount
P0000104	EZPort	$ 807.98
P0000105	EZPort	379.08
P0000107	EZPort	743.52
P0000111	EZPort	100.00
P0000114	EZPort	400.00
P0000115	EZPort	100.00
P0000118	EZPort	4,553.72
P0000121	EZPort	100.00
P0000124	EZPort	39.10
P0000128	EZPort	100.00
P0000135	EZPort	274.90
	Total	$ 7,598.30

Miscellaneous Portfolio Services

Conversion Tape or Position Tape

Invoice	Entry	Amount
P10603	Conversion Tape	$ 500.00
P10630	Portfolio, Position Tape	500.00
	Total	$ 1,000.00

Firm Trading Bookkeeping*

Invoice	Entry	Amount
P10659	Portfolio Services, Firm Trading Bookkeeping	$ 3,500.00**
	Total	$ 3,500.00

13E Report*

Invoice	Entry	Amount
P10672	Report	$ 100.00
	Total	$ 100.00

13F Report*

Invoice	Entry	Amount
P10678	"Get copy inv."	$ 1,000.00
	Total	$ 1,000.00

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* Conceded by the Audit Division as nontaxable.

** Includes $500 charge for Marks Program.

Delivery Expense*

Invoice	Entry		Amount
P10678	"Get copy inv."		$ 110.00
		Total	$ 110.00

Month End Valuation Firm Trading Account*

Invoice	Entry		Amount
P10678	"Get copy inv."		$ 200.00
		Total	$ 200.00

Investment Advisory Billing System*

Invoice	Entry		Amount
P10678	"Get copy inv."		$ 526.00
		Total	$ 526.00

Terminal*

Invoice	Entry		Amount
P10678	"Get copy inv."		$ 100.00**
		Total	$ 100.00

Performance Services (AIDS)*

Invoice	Entry		Amount
P11738	AIDS		$ 150.00
		Total	$ 150.00

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* Conceded by the Audit Division as nontaxable.

** Invoice shows $8 of sales tax was charged on this item.

BROKER TERMINAL SERVICE - BASIC SERVICE

Port Charge

Invoice	Entry	Amount
C2184	Port Charge	$ 500.00
C2192	"See Invoice"	1,000.00
	"See Invoice"	167.00
	"See Invoice"	125.00
C2819	2 Ports	1,000.00
C2820	BTS Port & Line	500.00
C2834	"Various per Invoice"	500.00
	"Various per Invoice"	10.00
C2856	BTS Interface	167.00
C2860	"Copy Inv."	900.00
	Total	$ 4,869.00

30 Day History, Position File, Money Line -- Records Loaded and Inquiries

Invoice	Entry	Amount
C2184	30 Day History File	$ 500.00
	Position File	483.40
	Position File, Money Line, 30 Day History	254.85
C2812	Broker Terminal System	
	30 Day History	500.00
	Position File	600.00
	Money Line	241.36
C2819	30 Day History, Position File, Money Line	1,000.20
C2820	BTS service charge	416.45
	BTS service charge	873.64
C2834	BTS service charge	1,700.00
	"Various per Invoice"	1,768.86
	"Various per Invoice"	3,123.85
C2856	30 Day History	500.00
	Position File	60.44
	Money Line	121.20
	30 Day History, etc.	121.20
C2860	"Copy Inv."	500.00
	"Copy Inv."	600.00
	"Copy Inv."	600.00
	"Copy Inv."	5,423.86
	"Copy Inv."	4,681.75
	Total	$ 24,071.06

Bring Up BTS

Invoice	Invoice Description	Amount Billed
B46478	Bring Up BTS 5/19	$ 250.00
	Bring Up BTS 4/28/79	250.00
	Total	$ 500.00

BROKERAGE PROCESSING SERVICE SPECIAL REPORTS

Margin Equity Report for NYSE

Invoice	Invoice Description	Amount Billed	Discount Allowed
B47472	Margin Equity Report for NYSE	$ 30.00	
B47468	Margin Equity Report for NYSE	30.00	
B47449	Margin Equity Report for NYSE	30.00	less 25%
B47447	Margin Equity Report for NYSE	30.00	
B47437	Margin Equity Report for NYSE	30.00	
	Total	$ 142.50	

Mark to Market Units

Invoice	Invoice Description	Amount Billed
B47461	Mark to Market Units ($75/Wednesday)	$ 375.00
B47459	Weekly Mark to Market Units ($75/Thursday)	300.00
B47439	Mark to Market Units ($75/Wk.)	300.00
B47437	Mark to Market Units ($75/Wednesday)	375.00
B46483	Mark to Market Units Off Line ($75/Wk.)	300.00
	Total	$1,650.00

Credit Exposure Report

Invoice	Invoice Description	Amount Billed	Discount Allowed
B47472	Credit Exposure Report	$ 350.00	
B47449	Credit Exposure Report	750.00	less 25%
B47446	Credit Exposure Report	350.00	
B47437	Credit Exposure Report	750.00	
B46478	Credit Exposure Report	750.00	less 50%
	Total	$2,387.50	

Net Capital Haircut Report for Firm Trading A/C Monthly

Invoice	Invoice Description	Amount Billed
B47445	Net Capital Haircut Report for Firm Trading A/C Monthly	$ 250.00

Option Link Report

Invoice	Invoice Description	Amount Billed	Discount Allowed
B47472	Option Link Report	$ 300.00	
B47449	Option Link Report	300.00	less 25%
B47437	Option Link Report	300.00	
	Total	$ 825.00	

R-1 List of Secured and Unsecured Balances

Invoice	Invoice Description	Amount Billed	Discount Allowed
B47472	R-1 List of Secured & Unsecured Balances	$ 50.00	
B47459	R-1 List of Partially Secured & Unsecured Balances	50.00	
B47449	R-1 List of Secured & Unsecured Balances	50.00	less 25%
B47447	R-1 List of Partially Secured & Unsecured Balances	50.00	
B46478	R-1 Unsecured & Partially Secured	50.00	less 50%
	Total	$ 212.50	

BROKER TERMINAL SERVICE N/A INQUIRY
(INCLUDING LOADING FOR INQUIRY)*

Invoice	Entry	Amount
C2184	CICS N/A Inquiry	$ 98.30
	NA Loading	200.00
C2820	BTS N/A Inquiry	20.35
C2828	Loading N/A file for On Line Application	200.00
	N/A Inquiry	12.30
C2832	CBOE Options**	400.00
C2834	"Various per Invoice"	400.00
	"Various per Invoice"	189.30
	"Various per Invoice"	20.80
	Total	$ 1,541.05

AMEX AND CBOE OPTIONS*

Invoice	Entry	Amount
C2184	AMEX Options	$ 42.65
C2187	AMEX	1,476.84
C2187	CBOE Options	1,284.60
C2806	AMEX Option	414.75
C2822	AMEX Option	16.50
C2827	AMEX Option	30.95
C2828	AMEX	17.85
C2832	AMEX Options	183.70
C2834	"Various per Invoice"	119.10
C2835	AMEX Options	109.80
C2854	AMEX Option	70.95
	Total	$ 3,767.69

CASH & SECURITIES OVER THE WIRE*

Invoice	Entry	Amount
C2819	Broker Terminal System (Cash & Securities Over the Wire)	$ 2,179.55
	Total	$ 2,179.55

LOADING BANK BALANCES ON-LINE*

Invoice	Entry	Amount
C2192	"See Invoice"	$ 250.00
	Total	$ 250.00

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* Conceded by the Audit Division as nontaxable.

** Examination of invoice shows that the $400.00 entry is actually
associated with N/A Loading.

CHECKS ON LINE*

Invoice	Entry		Amount
C2199	Checks on line	$	3.00
C2828	Checks on line		100.30
C2829	Checks on line		85.30
C2834	"Various per Invoice"		234.00
		Total $	422.60

BOOKKEEPING NOTICES

Invoice	Invoice Description	Amount Billed
B47446	Bookkeeping Notices (.05/Customer Trade)	$ 479.50

N/A CARDS

Invoice	Invoice Description	Amount Billed	Discount Allowed
B47465	N/A Cards Br. 69	$ 120.00	
B47462	N/A Cards RR. 220 Br.20	120.00	less 13%
B47457	N/A Cards RR. 003 Br. 37	120.00	
B47449	N/A Cards Br. 36-48 RR. 28	200.00	less 25%
	Total	$494.40	

SPLITS

Invoice	Invoice Description	Amount Billed	Discount Allowed
B47449	Split BMG 05, BPS 30, BMG 02	$ 180.00	less 25%
B47449	Split B206, B212	120.00	less 25%
B47437	Split B214	60.00	
B47461	3 Daily Magnetic Tapes	1,300.00	
	Total	$1,585.00	

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* Conceded by the Audit Division as nontaxable.

LINE CHARGE

Invoice	Entry	Amount
C2184	Line Charge	$ 16.51
C2187	Monthly Charge for Circuits	18.41
C2192	"See Invoice"	160.50
	"See Invoice"	600.00
	"See Invoice"	225.00
	"See Invoice"	160.00
	"See Invoice"	17.44
	"See Invoice"	579.12
C2822	Line Charge	16.51
C2828	Line Charge	16.51
C2834	"Various per Invoice"	49.53
C2854	Line Charge	16.51
	Total	$ 1,876.04

APPENDIX B

BROKERAGE PROCESSING SERVICE SPECIAL REPORTS

Invoice	Service	Amount
B47472	Adjusted Balances Interest Report	$ 1,000.00
B47483, B47478, B47477, B47462, B47447, B47439, B47437, B47426, B46478	ASE Transaction Charge Report	837.00
B47477, B47448, B47447, B47426, B46478	Bank Loan on Margin Activity Statement	550.00
B46478	Becker I Program	275.00
B47437	Bookkeeping Detail Tape	60.00
B47479, B47472, B47471, B47460, B47449	CAMS	7,976.22
B47472	CBO Processing	1,000.00
B47472	CBO Reconciliation	150.00
B47472, B47452	Check Digit Roster Br. 66	350.00
B47478, B47471, B47465, B47448, B47445, B47437, B46483	Classified Trial Balance	1,065.00
B47462, B47461, B47457, B47456, B47449, B47437, B46478	CNS/DTC Automatic Entries	6,387.55
B47472, B47461, B47459, B47452, B47449, B47439	Commission Account Summary	575.00
B47457, B47449	Commission Comparison Report	4,762.08
B47472	Commission Schedule Br. 360	1,050.00
B47449	Commodities, Data Base & Bookkeeping Fails Processing	5,625.00
B47483, B47477, B47450	Correspondence Clearance RIO Tape to SIAC	750.00
B47472, B47456	Cost Allocation	1,800.00

B47478, B47462, B47459, B47457, B47452, B47449, B47448, B47439, B47437	Credit Interest Calculation	1,798.75
B47483, B47477, B47476, B47472, B47468, B47466, B47464, B47462, B47461, B47459, B47457, B47456, B47449, B47448, B47439, B46478	Customer Receive and Deliver Units	7,138.37
B47437	Daily Commission Summary Report	250.00
B47456	Daily List of Unpriced Securities	300.00
B47472, B47467, B47457, B47449, B47439, B47438, B47437	Daily Securities Transaction Listing	1,412.50
B47483, B47478, B47472, B47457, B47456, B47449, B47448, B47437, B46478	Dividend Trial Balance	1,802.50
B47484, B47483, B47472, B47460, B47457, B47452, B47449, B47448, B47442, B47439, B47437, B47426, B46478	DTC Position vs. Stock Record Reconciliation	4,995.00
B46478	Eliminate Expired Options	75.00
B47483, B47472, B47468, B47461, B47457, B47452, B47447, B47439, B47438	Fails	2,080.00
B47468, B47448, B47447, B47439, B47437, B47426	Fails vs. Stock Record Match	840.00
B47485, B47478, B47472, B47458, B47449, B47439, B47437	Federal Reserve Report	625.00
B47483, B47472, B47459, B47449, B47442, B47437, B46478	15c3-3 Reports	2,275.00
B47467, B47456	Firm Inventory Trading Analysis	525.00
B47483, B47461, B47449, B46478	Floor Brokerage Payable	4,913.07
B47484, B47483, B47472, B47459, B47457	General Ledger System	1,460.00

B47479, B47462, B47437	Generate A/C #'s	243.50
B47456, B47438	GNMA Processing	2,750.00
B47478, B47477, B47472, B47468, B47464, B47462, B47460, B47459, B47458, B47449, B47448, B47445, B47437	I.D. Trades	2,241.38
B47484, B47472, B47449, B47448, B47439, B47437, B46478	Income Checks	1,455.48
B47449, B47447, B47426	Interest Calculation (Debit)	343.75
B47448	Inventory Average Cost Report	537.80
B47462, B47482, B47479, B47472, B47471, B47461, B47457, B47456, B47452, B47450, B47448, B47446, B47439, B47426, B47492, B47451, B47444, B47443, B46482, B0000493, B0000490, B0000468	Keypunch Assistance	9,830.32
B47439	Large Position Report	300.00
B47448	Loading SIAC Contract Sheets	200.00
B47484, B47483, B47479, B47447, B47472, B47468, B47462, B47461, B47459, B47457, B47452, B47449, B47448, B47447, B47446, B47439, B47437, B46478	Loan Availability Report	4,556.00
B47484, B47472, B47460, B47457, B47446, B47437	Margin Option Surveillance Report	600.00
B46478	Month End Profit & Loss Accounting	250.00
B47468, B46478	Monthly Commission Summary	450.00
B47483, B47472, B47462, B47461, B47449, B47447, B47439, B47437, B47426	Monthly State Tax Report	2,030.00
B47483	Monthly State Year to Date Commission Report	150.00

B47449	MSD Books - 6 Broker N/A	157.50
B47448, B47478, B47472, B47461, B47458, B47449, B47448, B47439, B47437, B46478, B0000528, C2859, C2851, B47487, B47474, B47473, B47444, B47443, B47440, C2860	N/A Labels	12,036.69
B47448	N/A Loading	80.00
B47482, B47472, B47461, B47457, B47456, B47449, B47448, B47439, B47437, B46478	N/A Roster	3,485.00
B47426	New York & American Receive & Deliver Units	200.00
B47472, B47462, B47461, B47448, B47445, B47437	OCC Daily Position Reconciliation	1,317.50
B47483, B47461, B47442, B47437, B46478	OCC Daily Trade Date Activity Reconciliation	2,300.00
B47449	Open Orders	204.30
B47482, B47478, B47477, B47472, B47468, B46478	Options, Bonds, Warrants, Expiration Report	550.00
B47472, B47461, B47460, B47446, B47437, B46478	Option Limit Report	550.00
B47484, B47483, B47482, B47478, B47477, B47472, B47462, B47461, B47460, B47459, B47458, B47457, B47452, B47449, B47448, B47447, B47445, B47442, B47437, B47426, B46480	Option Offset Entries	3,794.34
B47461, B47449, B46478	Option Trade Date Stock Record	1,125.00
B47472, B47465, B47456, B47449, B46478	P & S Quarterly-Monthly	2,184.22
B47458, B46478	Post Settlement Date Blotter	166.65
B47478	Printing of Margin Activity Statement for Interest Calculation	150.00

B47452	Produce Special DTC A/O 4/20	100.00
B47485, B47483, B47478, B47477, B47472, B47468, B47467, B47462, B47460, B47457, B47452, B47449, B47447, B47446, B47437, B46481, B46478, B47492, B47490, B47489, B47488, B47470, B47463, B47451, B47444, B47443, B47440, B46482	Proxy Labels	5,911.74
B47464	Quarterly Report of Listed Business	500.00
B47472	Reload Accts.	20.00
B47472, B47450, B47449, B47448	Reload Confirms	102.50
B47472, B47448, B47437	Reload NCOMM, DSUMM, MONEY, DLMAS	240.00
B47472	Reload to TRAC R Stmts.	20.00
B47449, B47437, B46481	Reprint BMG05	58.75
B47449	Reprint BPS 30 Recap	63.75
B47449	Reprint Br. 48 Statements	131.25
B47449	Reprint Daily Mgn	75.00
B47493	Reprint Daily S/R	75.00
B47493, B47448	Reprint Divsy! (sic)	70.00
B47468, B47449, B46481, B46478	RI-Detail	243.75
B47472, B47449, B47442, B47437, B46478	RR Moneyline Daily	2,500.00
B47472, B47465, B47462, B47459, B47452, B47449, B47447, B47439, B47437	RR Option Expiration Report	1,312.00
B47449	Security Information System (Maintenance)	75.00
B47461, B47460, B47446, B47442, B46478	Short Option Analytical Report	800.00

B47472, B47462, B47449, B47446, B47437, B46478	SIAC/CNS Compared Trade Detail Reconciliation	1,935.50
B47462, B47449, B47439, B47437, B46478	SIAC/CNS Position Reconciliation	1,030.00
B47461	Special Pricing Service	324.00
B47464	Specialist Statements	300.00
B47483, B47462, B47457, B47456, B47449, B47445, B46480	Specialist Trading System	2,535.00
B47449	Spread Trial Balance	266.25
B47493, B47485, B47483, B47482, B47479, B47476, B47472, B47465, B47462, B47461, B47459, B47457, B47456, B47450, B47449, B47448, B47447, B47446, B47445, B47439, B47438, B47437, B46478	Street Side Listing; Range Requests; Account Requests; Short Position Listing	4,952.42
B47461	Trading, Margin, Transaction Summary	250.00
B47449	Transaction Charge Report	75.00
B47484, B47483, B47479, B47472, B47462, B47460, B47457, B47452, B47449, B47448, B47447, B47439, B47437, B46478	Transfer Units	5,046.00
B47452, B47449, B47439	Under Seg Report Type 1 & 8 Accounts	343.75
B47472, B47449, B47426, B46478	Weekly Stock Record	881.25
B47437	Williams Act	300.00

CAGE MANAGEMENT SERVICE

Invoice	Service	Amount
C2184, C2192, C2197, C2199, C2832, C2842, C2860, C2863, C2869	Cage Management	$109,610.00

DATA COLLECTION SERVICE

Invoice	Service	Amount
C2184, C2187, C2192, C2199, C2834, C2860	Data Collection	$ 49,463.79

DATA TRANSMISSION SERVICE

Invoice	Service	Amount
C2184, C2192, C2834, C2860	Data Transmission	$ 18,522.96