

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
BELMONT PRODUCTIONS INC.
filed in the name of its assignor

S.A. SUMMIT, INC.

For a Redetermination of a Deficiency or
a Refund of Sales and Use
Taxes under Article(s) 28 and 29 of the
Tax Law for the ~~XXXXXX~~ Period 8/31/65 :
through 5/31/67

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~(CERTIFIED)~~ MAIL

State of New York
County of Albany

Janet Mack , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of September , 1974 , she served the within
Notice of Decision (or Determination) by ~~(CERTIFIED)~~ mail upon S.A. Summit, Inc.

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

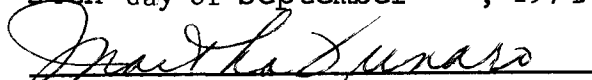
321 West 44th Street
New York, New York 10036

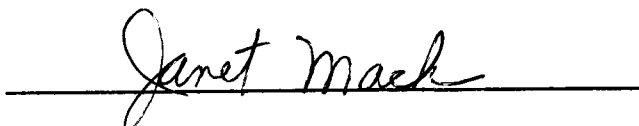
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~xxx~~ 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

24th day of September , 1974





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

BELMONT PRODUCTIONS INC.

filed in the name of its assignor

S.A. Summit, Inc.

For a Redetermination of a Deficiency or
a Refund of Sales and Use

Taxes under Article(s) 28 and 29 of the
Tax Law for the Year(s) Period 8/31/65 :

through 5/31/67

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~(CERTIFIED)~~ MAIL

State of New York
County of Albany

Janet Mack , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of September , 1974 , she served the within
Notice of Decision (or Determination) by ~~(certified)~~ mail upon Belmont Productions
Inc. ~~(representation of)~~ the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Belmont Productions, Inc.

1116 First Avenue
New York, New York 10021

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~of~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~(representative of)~~ petitioner.

Sworn to before me this

24th day of September , 1974

Shirley Dunbar

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
BELMONT PRODUCTIONS INC. :
filed in the name of its assignor
S.A. SUMMIT, INC. :
For a Redetermination of a Deficiency or
a Refund of Sales and Use :
Taxes under Article(s) 28 and 29 of the
Tax Law for the ~~year(s)~~ Period 8/31/65:
through 5/31/67

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~(CERTIFIED)~~ MAIL

State of New York
County of Albany

Janet Mack , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of September , 1974 , she served the within
Notice of Decision (or Determination) by ~~(certified)~~ mail upon Frederick I.
Kahn, C.P.A. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Frederick I. Kahn, C.P.A.

Tunick & Platkin
2 Park Avenue
New York, New York 10016
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

24th day of September , 1974 .

Paul H. Durano

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

~~NOTICE TO TAXPAYER~~
Mario A. Procaccino
~~NOTICE TO TAXPAYER~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York

September 24, 1974

S.A. Summit, Inc.
321 West 44th Street
New York, New York 10036

Gentlemen:

Please take notice of the **DETERMINATION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **1139 and 1243** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
BELMONT PRODUCTIONS INC.	:	
filed in the name of its assignor	:	
S.A. SUMMIT, INC.	:	DETERMINATION
for a Hearing to Review a Determination	:	
or a Denial of Refund of Sales and Use	:	
Taxes under Articles 28 and 29 of the	:	
Tax Law for the Period ending August 31,	:	
1965 through May 31, 1967.	:	

Belmont Productions Inc. filed an application under section 1139(b) of the Tax Law in the name of its assignor, S.A. Summit, Inc., for a hearing to review the denial to the extent of \$2,212.00 of a refund claim in the full amount of \$2,347.50 for sales and use taxes paid under Articles 28 and 29 of the Tax Law by Belmont Productions Inc. to S.A. Summit, Inc. and by them to the State for the period ending August 31, 1965 through May 31, 1967.

A hearing was duly held on October 18, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. The applicant was represented by Frederick I. Kahn, C.P.A., of Tunick & Platkin. The Sales Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq.

ISSUES

The issues in this case are whether there was a "sale" of tangible personal property (defined under section 1101(b)(5) as "any transfer of title or possession or both, ... rental, lease or license to use or consume, ... in any manner or by any means ...") or whether, as applicant insists, there was only a transfer of an intangible right to reproduce which would not be taxable under section 1105 of the Tax Law as either a sale of tangible personal property or as a specified service.

FINDINGS OF FACT

1. The property which is the subject of the determination herein are illustrations.

2. The subject illustrations are produced by S.A. Summit, Inc., of New York City. Each illustration is drawn to the customer's specifications. The illustrator works closely with the customer. It charges its customers about \$300.00. The exact price depends primarily on artist time and overhead for each illustration and such illustration is returned by the customer to S.A. Summit, Inc. after its use. If an illustration is to be reused, another fee would be collected but this happens rarely, if ever. S.A. Summit, Inc. collected sales taxes on the illustrations and remitted said taxes to the State.

3. The customer of S.A. Summit, Inc. is a book publisher, Belmont Productions Inc., of New York City. Belmont publishes paperback books in the lowest price range in the categories of "westerns" and mysteries. Belmont averages about 12 new titles each month and each title is printed in a single run of from 30,000 to 70,000 copies and is typically not printed again.

The purpose of the illustrated cover is to attract the customers' attention and to identify the general subject matter of the book.

4. The illustrations here in question are sent by S.A. Summit, Inc. to its customer, Belmont, to be photographed or to Belmont's independent photographer. The illustration, as produced, is much larger than the size of an ordinary book cover. At the photographer's studio, the title of the book and other printed matter are placed over the illustration and they are photographed in reduced size. The photograph film is used to make plates and these plates are used by the customer in the printing of its books. When the

illustrations are returned to S.A. Summit, Inc., they have not been altered, defaced, retouched or otherwise changed or destroyed.

5. There is no formal contract between S.A. Summit, Inc. and Belmont. Invoices for the illustrations make no mention of a sale of reproduction rights.

6. An affidavit of Harold Siegel, President of S.A. Summit, Inc., "certifies" that the transaction involving illustrations here in dispute represents "the sale of a right given to reproduce such illustrations and not a sale of the illustration itself".

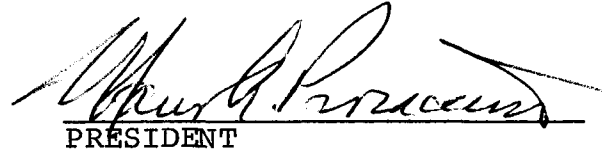
CONCLUSIONS OF LAW

The transaction here in dispute constitutes a sale of personal property.

The refund here claimed is denied.

DATED: Albany, New York
September 24, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

Mario A. Procaccino

~~XXXXXXXXXXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York

September 24, 1974

S.A. Summit, Inc.
321 West 44th Street
New York, New York 10036

Gentlemen:

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

Please take further notice that pursuant to
Section(s) 1139 and 1243 of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within 4 months
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
Department of Taxation and Finance

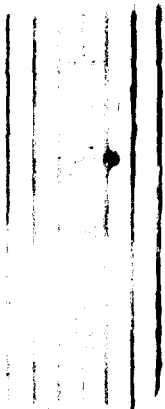
STATE CAMPUS

ALBANY, N. Y. 12227

D

Belmont Productions, Inc.
1116 First Avenue
New York, New York 10021





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
BELMONT PRODUCTIONS INC.	:	
filed in the name of its assignor	:	
S.A. SUMMIT, INC.	:	DETERMINATION
for a Hearing to Review a Determination	:	
or a Denial of Refund of Sales and Use	:	
Taxes under Articles 28 and 29 of the	:	
Tax Law for the Period ending August 31,	:	
1965 through May 31, 1967.	:	

Belmont Productions Inc. filed an application under section 1139(b) of the Tax Law in the name of its assignor, S.A. Summit, Inc., for a hearing to review the denial to the extent of \$2,212.00 of a refund claim in the full amount of \$2,347.50 for sales and use taxes paid under Articles 28 and 29 of the Tax Law by Belmont Productions Inc. to S.A. Summit, Inc. and by them to the State for the period ending August 31, 1965 through May 31, 1967.

A hearing was duly held on October 18, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. The applicant was represented by Frederick I. Kahn, C.P.A., of Tunick & Platkin. The Sales Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq.

ISSUES

The issues in this case are whether there was a "sale" of tangible personal property (defined under section 1101(b)(5) as "any transfer of title or possession or both, ... rental, lease or license to use or consume, ... in any manner or by any means ...") or whether, as applicant insists, there was only a transfer of an intangible right to reproduce which would not be taxable under section 1105 of the Tax Law as either a sale of tangible personal property or as a specified service.

In the Matter of the Application

BEAUMONT PRODUCTIONS, INC.

Filed in the name of its assignor

S.A. TURNER, INC.

DETERMINATION

for a Hearing to Review a Determination
on a Denial of Refund of Sales and Use
Taxes under Articles 28 and 29 of the
Tax Law for the Period ending August 31,
1967 through May 31, 1967.

Beaumont Productions, Inc., filed an application under section

113(5) of the Tax Law in the name of its assignor, S.A. Turner, Inc.,

and, for a hearing to review the denial to the extent of \$2,312.00

of a refund claim to the full amount of \$2,312.00 for sales and use

taxes paid under Articles 28 and 29 of the Tax Law by Beaumont

Productions, Inc., to S.A. Turner, Inc., and by S.A. Turner, Inc.,

for the period ending August 31, 1967 through May 31, 1967.

A hearing was duly held on October 12, 1967, at the offices

of the State Tax Commission, 150 West 25th Street, New York, New York,

before Nigel G. Wright, Hearing Officer. The applicant was

represented by Frederick J. Kahn, Esq., of Turner & Robinson.

The State Tax Bureau was represented by Carl Hershman, Esq.,

appearing by Francis M. Bolyan, Esq.

ISSUES

The issue in this case is whether there was a "sale" of

transferable personal property (defined under section 1103(5)(2) as

"any transfer of title or possession of goods... rental, lease

or license to use or consume, ... in any manner or for any

purpose ...") or whether, as applicant insists, there was only

a transfer of an intangible right to possession which would not

be transferable under section 1103 of the Tax Law as either a sale

of transferable personal property or as a specified service.

FINDINGS OF FACT

1. The property which is the subject of the determination herein are illustrations.

2. The subject illustrations are produced by S.A. Summit, Inc., of New York City. Each illustration is drawn to the customer's specifications. The illustrator works closely with the customer. It charges its customers about \$300.00. The exact price depends primarily on artist time and overhead for each illustration and such illustration is returned by the customer to S.A. Summit, Inc. after its use. If an illustration is to be reused, another fee would be collected but this happens rarely, if ever. S.A. Summit, Inc. collected sales taxes on the illustrations and remitted said taxes to the State.

3. The customer of S.A. Summit, Inc. is a book publisher, Belmont Productions Inc., of New York City. Belmont publishes paperback books in the lowest price range in the categories of "westerns" and mysteries. Belmont averages about 12 new titles each month and each title is printed in a single run of from 30,000 to 70,000 copies and is typically not printed again.

The purpose of the illustrated cover is to attract the customers' attention and to identify the general subject matter of the book.

4. The illustrations here in question are sent by S.A. Summit, Inc. to its customer, Belmont, to be photographed or to Belmont's independent photographer. The illustration, as produced, is much larger than the size of an ordinary book cover. At the photographer's studio, the title of the book and other printed matter are placed over the illustration and they are photographed in reduced size. The photograph film is used to make plates and these plates are used by the customer in the printing of its books. When the

- 2 -
ITEMS OF FACT

1. The property which is the subject of the determination

herein are illustrations.

2. The subject illustrations are produced by S.A. Summit,

Inc., of New York City. Each illustration is shown to the

customer's specifications. The illustrations were closely with

the customer. It charges the customer about \$300.00. The exact

price depends primarily on artist time and overhead for each

illustration and each illustration is referred by the customer

to S.A. Summit, Inc. for its use. If an illustration is to

be shown, another fee would be collected and this happens rarely,

if ever. S.A. Summit, Inc. collected sales taxes on the illus-

trations and royalties were earned to the artist.

3. The customer of S.A. Summit, Inc. is a book publisher,

Belmont Productions Inc., of New York City. Belmont publishes

paperback books in the lowest price range in the category of

'western' and 'mystery'. Belmont averages about 12 new titles

each month and each title is printed in a single run of from

25,000 to 75,000 copies and is typically not printed again.

The purpose of the illustrated cover is to attract the

customer's attention and to identify the general subject matter

of the book.

4. The illustrations here in question are sent by S.A. Summit,

Inc. to its customer, Belmont, to be photographed or to Belmont's

independent photographer. The illustration, as produced, is much

larger than the size of an ordinary book cover. As the photographer's

studio, the title of the book and other printed matter are placed

over the illustration and they are photographed in separate shots.

The photograph film is used to make plates and these plates are

used by the customer in the printing of the books. When the

illustrations are returned to S.A. Summit, Inc., they have not been altered, defaced, retouched or otherwise changed or destroyed.

5. There is no formal contract between S.A. Summit, Inc. and Belmont. Invoices for the illustrations make no mention of a sale of reproduction rights.

6. An affidavit of Harold Siegel, President of S.A. Summit, Inc., "certifies" that the transaction involving illustrations here in dispute represents "the sale of a right given to reproduce such illustrations and not a sale of the illustration itself".

CONCLUSIONS OF LAW

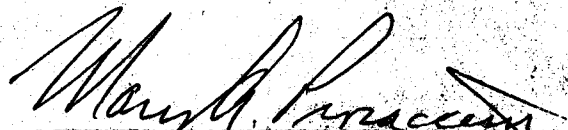
The transaction here in dispute constitutes a sale of personal property.

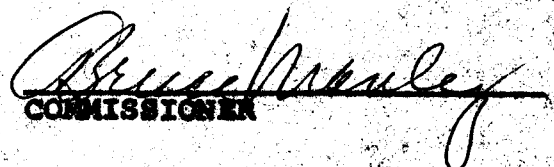
The refund here claimed is denied.


DATED: Albany, New York

September 24, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

such illustrations and not a case of the "Illustration level".

REF ID: A65248

intended to stir a nationalist struggle at once nationalistic and

23100

1. State of New York

7025 021744Z XAB 014500

FROM: oil, viscida, CATAL

APR 1 1968

7-25-57

10-10-1960

000000000000



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12226

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION

Mario A. Procaccino

~~XXXXXXXXXXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York

September 24, 1974

S.A. Summit, Inc.
321 West 44th Street
New York, New York 10036

Gentlemen:

Please take notice of the **DETERMINATION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **1139 and 1243** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

Enc.

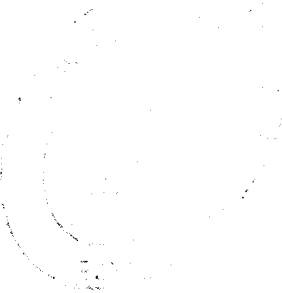
cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227



S.A. Summit, Inc.

321 West 44th Street

New York, New York

10036

PAID 10036

CCF:

Reg'd. Albany

Bldg #9

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
BELMONT PRODUCTIONS INC.	:	
filed in the name of its assignor	:	
S.A. SUMMIT, INC.	:	DETERMINATION
for a Hearing to Review a Determination	:	
or a Denial of Refund of Sales and Use	:	
Taxes under Articles 28 and 29 of the	:	
Tax Law for the Period ending August 31,	:	
1965 through May 31, 1967.	:	

Belmont Productions Inc. filed an application under section 1139(b) of the Tax Law in the name of its assignor, S.A. Summit, Inc., for a hearing to review the denial to the extent of \$2,212.00 of a refund claim in the full amount of \$2,347.50 for sales and use taxes paid under Articles 28 and 29 of the Tax Law by Belmont Productions Inc. to S.A. Summit, Inc. and by them to the State for the period ending August 31, 1965 through May 31, 1967.

A hearing was duly held on October 18, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. The applicant was represented by Frederick I. Kahn, C.P.A., of Tunick & Platkin. The Sales Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq.

ISSUES

The issues in this case are whether there was a "sale" of tangible personal property (defined under section 1101(b)(5) as "any transfer of title or possession or both, ... rental, lease or license to use or consume, ... in any manner or by any means ...") or whether, as applicant insists, there was only a transfer of an intangible right to reproduce which would not be taxable under section 1105 of the Tax Law as either a sale of tangible personal property or as a specified service.

FINDINGS OF FACT

1. The property which is the subject of the determination herein are illustrations.

2. The subject illustrations are produced by S.A. Summit, Inc., of New York City. Each illustration is drawn to the customer's specifications. The illustrator works closely with the customer. It charges its customers about \$300.00. The exact price depends primarily on artist time and overhead for each illustration and such illustration is returned by the customer to S.A. Summit, Inc. after its use. If an illustration is to be reused, another fee would be collected but this happens rarely, if ever. S.A. Summit, Inc. collected sales taxes on the illustrations and remitted said taxes to the State.

3. The customer of S.A. Summit, Inc. is a book publisher, Belmont Productions Inc., of New York City. Belmont publishes paperback books in the lowest price range in the categories of "westerns" and mysteries. Belmont averages about 12 new titles each month and each title is printed in a single run of from 30,000 to 70,000 copies and is typically not printed again.

The purpose of the illustrated cover is to attract the customers' attention and to identify the general subject matter of the book.

4. The illustrations here in question are sent by S.A. Summit, Inc. to its customer, Belmont, to be photographed or to Belmont's independent photographer. The illustration, as produced, is much larger than the size of an ordinary book cover. At the photographer's studio, the title of the book and other printed matter are placed over the illustration and they are photographed in reduced size. The photograph film is used to make plates and these plates are used by the customer in the printing of its books. When the

illustrations are returned to S.A. Summit, Inc., they have not been altered, defaced, retouched or otherwise changed or destroyed.

5. There is no formal contract between S.A. Summit, Inc. and Belmont. Invoices for the illustrations make no mention of a sale of reproduction rights.

6. An affidavit of Harold Siegel, President of S.A. Summit, Inc., "certifies" that the transaction involving illustrations here in dispute represents "the sale of a right given to reproduce such illustrations and not a sale of the illustration itself".

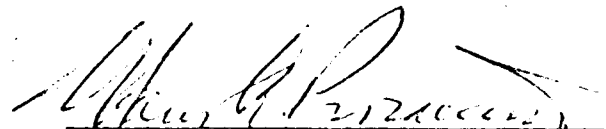
CONCLUSIONS OF LAW

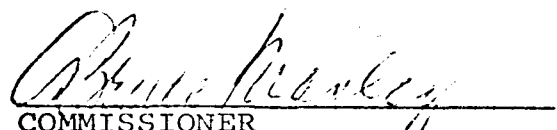
The transaction here in dispute constitutes a sale of personal property.

The refund here claimed is denied.

DATED: Albany, New York
September 24, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER