

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
EXCELSIOR LIQUOR STORE-
EDITH RAZOR

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales and Use :
Taxes under Article(s) 28 and 29 of the :
Tax Law for the ~~XXXXXX~~ Period(s) :
August 31, 1971 to May 31, 1974.

State of New York
County of Albany

Carmen Mottolese, 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 25th day of August, 1976, she served the within Notice of Determination by ~~(certified)~~ mail upon Excelsior Liquor Store-Edith Razor ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Excelsior Liquor Store-Edith Razor
1232 East Fayette Street
Syracuse, New York 13210
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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

Sworn to before me this

25th day of August, 1976.

Carmen Mottolese

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

August 25, 1976

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-3850**

Excelsior Liquor Store-
Edith Razor
1232 East Fayette Street
Syracuse, New York 13210

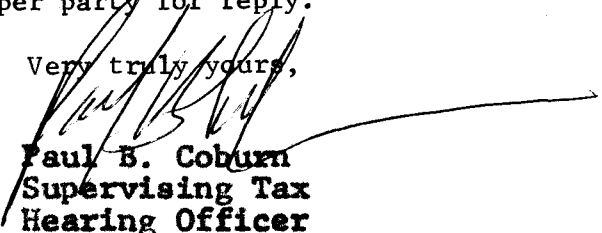
Dear Ms. Razor:

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

Please take further notice that pursuant to
Section(s) **1138 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.

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. They
will be referred to the proper party for reply.

Very truly yours,


Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: ~~Reference to the enclosed copy of the letter~~

Taxing Bureau's Representative:

STATE TAX COMMISSION

In the Matter of the Application :
of :
EXCELSIOR LIQUOR STORE - : DETERMINATION
EDITH RAZOR :
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 August 31, 1971 to May 31, :
1974.

Applicant, Excelsior Liquor Store - Edith Razor, 1232 East Fayette Street, Syracuse, New York 13210, filed an application 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 August 31, 1971 to May 31, 1974. (File No. 0-0001610). A formal hearing was held before Julius E. Braun, Esq., Hearing Officer, at the offices of the State Tax Commission, State Office Building, Syracuse, New York, on March 31, 1976 at 9:50 A.M. Applicant appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weis, Esq., of Counsel).

Whether additional sales tax was due from applicant, Excelsior Liquor Store - Edith Razor, for the period August 31, 1971 to May 31, 1974.

1. On August 2, 1974, as the result of a field audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the period August 31, 1971 to May 31, 1974

in the sum of \$2,964.78 plus penalty and interest of \$674.35 for a total of \$3,639.13.

2. Applicant, Excelsior Liquor Store - Edith Razor, operated a retail liquor store at 1232 East Fayette Street, Syracuse, New York during the period in issue. An audit of applicant indicated that gross sales as per its records were greater than sales reported. Pursuant to a markup test of 38%, which was found on audit to be an average markup, it was estimated that there was a margin of error of from 26.9% at the beginning of the audit period to 92% for the last quarter of the audit period. For every tax quarter, therefore, the percent of error was therefore progressed proportionately.

3. The determination of additional taxable sales and resulting sales tax for the period August 31, 1971 to May 31, 1974 was based upon substantial findings of fact in the course of a field audit of applicant, Excelsior Liquor Store - Edith Razor's books and records. The Sales Tax Bureau in arriving at its determination followed generally accepted procedures and tests consistent with the nature of the business operations and available records. Applicant, Excelsior Liquor Store - Edith Razor has failed to submit documentary or other sufficient evidence to disprove the Sales Tax Bureau determination of taxable sales or the computation of sales tax due.

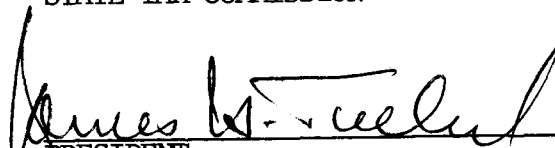
CONCLUSIONS OF LAW

A. That the examination of applicant, Excelsior Liquor Store - Edith Razor's books and records by the Sales Tax Bureau was properly conducted and the resultant findings as to the amount of additional sales tax due for the period August 31, 1971 to May 31, 1974 were supported by substantial evidence.

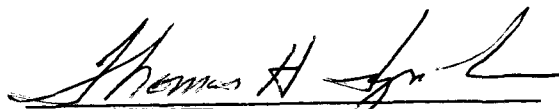
B. That the application of Excelsior Liquor Store - Edith Razor is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued August 2, 1974, is sustained.

DATED: Albany, New York
August 25, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER