

STATE OF NEW YORK  
STATE TAX COMMISSION

*Joseph Auto Co.,  
Inc, Etal  
1971, Linder*

In the Matter of the Petition

of

JOSEPH AUTO CO., INC.,

ET AL

For a Redetermination of a Deficiency or  
a Refund of Sales  
Taxes under Article(s) 28 & 29 of the  
Tax Law for the (Year(s))

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

State of New York  
County of Albany

Linda Wilson, 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 20th day of January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon JOSEPH AUTO CO., INC., ET AL (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Joseph Auto Co., Inc.  
1697 Main Street  
Buffalo, New York 14209

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

20th day of January, 1971.

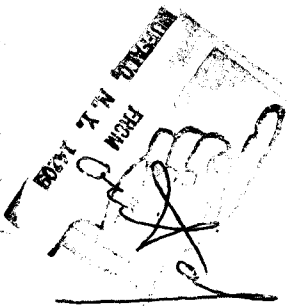
*Linda Wilson*

*Martha J. J. J.*

Mr Joseph Mistrutt

Dear Joseph,  
Please forward this to  
Joseph Auto Co. Inc.

STATE OF NEW YORK  
Department of Taxation and Finance  
STATE CAMPUS  
ALBANY, N. Y. 12226



*Bookman*  
*91317*

Joseph Auto Co., Inc.

1697 Main Street

Buffalo, New York 14209

*% Joseph Auto Co.*

*854-0665*  
*11-6171*  
*842-3304 S. Steg Ct.*  
*grad assignment*

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter	:	
of	:	
the Application of JOSEPH AUTO CO., INC.,	:	
and JOSEPH MISTRETT, Estate of ANTHONY J.	:	DECISION
MISTRETTA, FRANK L. MISTRETTA, FRANCES D.	:	
MISTRETT, HORACE A. GIOIA, COMMITTEE FOR	:	
JOSEPH MISTRETT for Revision of a	:	
Determination or Refund of Sales Taxes	:	
under Article(s) 28 and 29 of the Tax Law	:	

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Joseph Mistrett and Frank Mistretta having applied for a hearing to review determinations of Sales and Use Taxes imposed under Article 28 of the Tax Law, and a hearing having been duly held at the State Office Building, Buffalo, New York, on October 15, 1969, at 9:30 A.M. and the Department having appeared by E. H. Best, Counsel, (Alexander Weiss, Esq. of Counsel), and Joseph Mistrett, Frank L. Mistretta and June Mistretta, as Administratrix of the Estate of Anthony J. Mistretta, having appeared in person, and Horace Gioia, as Committee for Joseph Mistrett (during a period of incompetency) having appeared personally and by his attorney, Patrick Baker, Esq. of Buffalo, New York, and a hearing having been held, and the record having been duly examined and considered, the State Tax Commission finds that:

FINDINGS OF FACT

1. Assessments of additional sales tax due were made by the Department against Joseph Auto Company, Inc., hereinafter referred to as the Corporation, and against its principal officers, and other persons responsible for collection of the sales tax and the payment thereof, as follows:

Total Tax Due before Penalty & Interest

Joseph Auto Company, Inc.	- August 1, 1965	
	to	
	March 13, 1968	- \$10,320.74
Joseph Mistrett	- August 1, 1965	
President	to	
	January 3, 1966	- 874.75
Frank L. Mistretta	- January 4, 1966	
President	to	
	October 15, 1966	- 2,466.77
Estate of Anthony J.	- January 4, 1966	
Mistretta, deceased	to	
former Vice President	October 15, 1966	
& Treasurer		- 2,466.77

Subsequently additional assessments for said sales tax due were made against the following:

Total Tax Due before Penalty & Interest

Joseph Mistrett	- August 1, 1965	
President	to	
	March 13, 1968	- \$10, 320.74
Horace A. Gioia	- October 16, 1966	
Committee for	to	
Joseph Mistrett	March 13, 1968	- 6,979.22
Frances D. Mistrett	- October 16, 1966	
as Principal Officer	to	
	March 13, 1968	- 6,979.22

2. Said assessment against the corporation was based on an audit computing the taxes due on sales made. The amount of this assessment was not controverted at the hearing.

3. Joseph Mistrett was the President of the corporation during the period from August 1, 1965 to January 3, 1966.

4. Frank L. Mistrett was the President and Anthony J. Mistretta was the Vice President and Treasurer of the corporation from January 4, 1966 to October 15, 1966. Said Anthony J. Mistretta is now deceased, and June Mistretta was duly appointed

as Administratrix of his estate.

5. Joseph Mistrett was adjudged incompetent and on June 7, 1966 Horace A. Gioia was appointed by the court as Committee of Joseph Mistrett, incompetent, and said committee, together with Frances Mistrett, wife of said Joseph Mistrett, acquired control of the corporation and operated the business of the corporation during the period from October 16, 1966 through March 13, 1968.

DECISION

A. Accordingly, the State Tax Commission hereby finds that of the above assessments the following were proper and are sustained:

Notice No. 90,202,078-B against Joseph Auto Company, Inc., 1697 Main St., Buffalo, N. Y.	\$10,320.74
Notice No. 90,202,078-D against Joseph Mistrett, 1703 Main St., Buffalo, N. Y., tax due	874.75
Notice No. 90,202,078-E against Frank L. Mistretta, 218 Westfield Rd., Eggertsville, N. Y., tax due	2,466.77
Notice No. 90,202,078-F against Estate of Anthony J. Mistretta, Mrs. June Mistretta, Administratrix, 51 Langmeyer Ave., Buffalo, N. Y., tax due	2,466.77
Notice No. 90,202,078-G against Horace A. Gioia, 220 Ruskin Rd., Eggertsville, N. Y., Committee for Joseph Mistrett	6,979.22
Notice No. 90,202,078-H against Frances D. Mistrett, 40 Audley End, Snyder, N. Y.	6,979.22

B. That each of said assessments is affirmed against the corporation as the primary obligor and against the individuals as the principal officers of the corporation or otherwise responsible for the collection of the tax imposed for the period of the assessments, under the provisions of Sections 1101; 1131(1); 1133(a) of the Tax Law.

C. Appropriate penalties and interest are to be added to each assessment computed to the date of payment, in accordance with the provisions of Section 1145 of the Tax Law.

D. Notice No. 90,202,078-C against Joseph Mistrett for \$10,320.74 is cancelled; (Superseded by Notice No. 90,202,078-D above.)

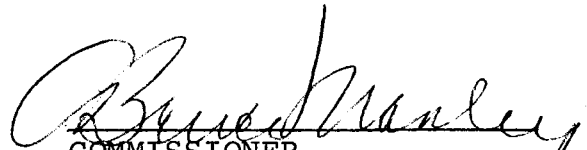
And IT IS SO ORDERED.

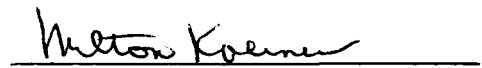
DATED: Albany, New York

*January 18, 1971.*

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

BUREAU OF LAW  
MEMORANDUM

TO: Benjamin Sheber, Sales Tax Bureau  
FROM: James Scott  
SUBJECT: Transfer of Files

✓ Joseph Auto Co., Inc.  
Elmira Coca-Cola Bottling Works, Inc.  
Latham Ready Mix, Inc.

The taxpayers in the foregoing matters have failed to institute an Article 78 proceeding within the statutory period of time.

Said files are herewith returned for further administrative disposition.

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Associate Attorney

JS:lk  
Enc.

cc: Edward Rook  
June 14, 1971