

Niagara Operating Corp.

A-2

DEPARTMENT OF TAXATION AND FINANCE

MEMORANDUM

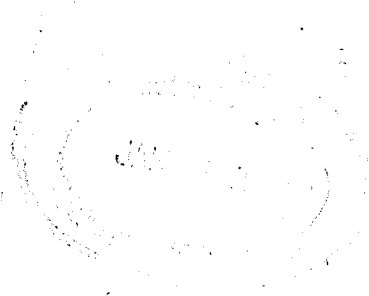
TO:	Commissioners Murphy and Manley	OFFICE	Sales Tax Bureau
FROM:	Fred W. Tierney	DATE	January 7, 1969
SUBJECT:	Offer in Compromise - Harold A. Levin President of Niagara Operating Corporation		
	Assessment No. 90 200 442A - \$ 4,475.52 Assessment No. 90 201 178A - \$15,633.55		

Wm Rook

Mr. Edward H. Best has requested my recommendations relating to the above Offer in Compromise. I have reviewed the accompanying file and Mr. Best's comments to you of December 30, 1968. As a result I wish to add my recommendations to Mr. Best's for your favorable consideration of this Offer in Compromise.

F. W. Tierney
 Fred W. Tierney
 Director, Sales Tax Bureau

Attachment



BUREAU OF LAW
MEMORANDUM

TO: Commissioners Murphy and Manley

FROM: E. H. Best, Counsel

SUBJECT: Offer in Compromise - Harold A. Levin
President of Niagara Operating Corporation

Assessment No. 90 200 442 A - \$4,475.52
Assessment No. 90 201 178 A - \$15,633.55

The above penalty assessments were issued against Harold A. Levin personally as the person required to collect and pay over sales taxes collected under Article 28 of the Tax Law on behalf of the Niagara Operating Corporation. Assessment 90 200 442 A represents the balance due on assessment 90 200 442 issued against the corporation for the period from August 1, 1965 to May 31, 1966 and is based on returns filed by the corporation. Assessment 90 201 178 is the additional amount determined to be due from the corporation as a result of a field audit and covers the period from August 1, 1965 to February 28, 1967. Assessment 90 201 178 A against Harold A. Levin is based on this assessment.

Warrants based on the assessments were filed in the Erie County Clerk's Office on June 23, 1967. The amount shown to be due, under assessment 90 201 178 A, does not reflect a payment of \$1,701.79 made on behalf of the corporation on June 21, 1967. Mr. Levin has now offered the sum of \$1,000.00 in full satisfaction of this tax liability.

From the offer in compromise submitted by Mr. Levin, it appears that Mr. Levin has liabilities of \$46,330.56 in addition to the above tax liability, while his assets total only \$2,700.00. A salary of \$9,750.00 was reported for the past twelve months which appears to have been supplemented by loans from relatives. He is presently employed by the Holiday Inn at 1720 Hancock Street, Port Huron, Michigan which he states is a temporary position which could end shortly.

From a review of the file, it appears that Mr. Levin is insolvent and that the sum offered in compromise is more than can be recovered through legal means. In view of the foregoing, it is the opinion of this office that the offer should be accepted.

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Forwarded herewith is the file of the Niagara Operating Corporation and a proposed Order of Compromise. If you concur with the recommendations of this office please execute three copies of the order and return all papers to this office for further processing.

E. H. Best
Counsel

JGR:dv/io

Encs.

December 30, 1968

STATE OF NEW YORK
STATE TAX COMMISSION

- - - - -
In the Matter of the Application :
of :
Harold Levin, President of the :
Niagara Operating Corporation for a :
Compromise of Personal Liability :
for Taxes :
- - - - -

A verified petition having been duly presented by HAROLD LEVIN residing at 50 Chapin Parkway, Buffalo, New York pursuant to Section 171, subdivision 15 of the Tax Law praying for a compromise of his liability under Section 1133 of the Tax Law for sales taxes collected by the Niagara Operating Corporation from August 1, 1965 to February 28, 1967; and

IT APPEARING that assessment number 90 200 442 A was issued against the said HAROLD LEVIN in the amount of \$8,950.20 upon which there remains unpaid the sum of \$4,475.52 and that assessment 90 201 178 A was issued against the said HAROLD LEVIN in the amount of \$16,136.82 upon which there remains unpaid the amount of \$13,931.76 and that warrants based on the above assessments were filed in the Erie County Clerk's Office on June 23, 1967; and

IT FURTHER APPEARING that the said HAROLD LEVIN is insolvent and that the sum of \$1,000.00 offered by him in compromise of his tax liability is not less than can be recovered through legal proceedings;

IT IS HEREBY ORDERED that pursuant to the authority conferred in and by Section 171, subdivision 15 of the Tax Law the said tax liability of HAROLD LEVIN resulting from the foregoing penalty assessments be, and the same is hereby compromised for the sum of \$1,000.00; and

IT IS FURTHER ORDERED, that the aforesaid \$1,000.00 shall be paid to the State Tax Commission within ninety days after receipt of the notice of the issuance of this Order, and that upon payment the said HAROLD LEVIN, the petitioner herein, will be thereby discharged and released by the State Tax Commission from liability for sales taxes assessed against the said HAROLD LEVIN for the periods from August 1, 1965 to May 31, 1966 and August 1, 1965 to February 28, 1967 and from all interest and penalties thereon, and that a properly and duly executed release of any liability for the said taxes be issued to the said HAROLD LEVIN. It is intended hereby to compromise only the tax liability of HAROLD A. LEVIN as responsible officer of the Niagara Operating Corporation, and the State Tax Commission reserves its right to proceed against the Niagara Operating Corporation and any other person deemed to be a responsible officer pursuant to 1133 of the Tax Law.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY
Commissioner

/s/

A. BRUCE MANLEY
Commissioner

DATED: 1968

APPROVED: _____
Justice of the Supreme Court