

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROMAN J. SKOROBOHATY d/b/a

KITTY'S LUNCHEONETTE

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales and Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s)~~ Period ~~(s)~~ :
June 1, 1967 through February 26, 1971.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor, 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 7th day of June, 1977, ~~she~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Roman J. Skorobohaty

~~(representative of)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Mr. Roman J. Skorobohaty
d/b/a Kitty's Luncheonette
79 East 7th Street
New York, New York 10009

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)~~
~~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

7th day of June, 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROMAN J. SKOROBHATY d/b/a

AFFIDAVIT OF MAILING

KITTY'S LUNCHEONETTE

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Sales and Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the ~~Years(s)~~ or Period(s)
June 1, 1967 through February 26, 1971.

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 7th day of June, 1977, ~~he~~ served the within
Notice of Determination by (certified) mail upon David H. Harmon

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

David H. Harmon, Esq.
299 Broadway
New York, New York 10007

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

7th day of June, 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 7, 1977

TELEPHONE: (518) **457-1723**

Mr. Roman J. Skorobohaty
d/b/a Kitty's Luncheonette
79 East 7th Street
New York, New York 10009

Dear Mr. Skorobohaty:

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

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

Frank J. Puccia

Frank J. Puccia

Supervisor of

Small Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE TAX COMMISSION

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on January 28, 1977 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The applicant appeared by David H. Harmon, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Whether the examination of applicant's books and records for the period June 1, 1967 through February 26, 1971 properly reflected his activities during said period.

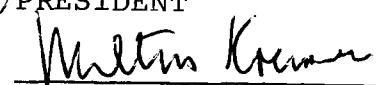
FINDINGS OF FACT AND CONCLUSIONS OF LAW


1. During the period June 1, 1967 through February 26, 1971, applicant operated a luncheonette which offered counter service only. On February 26, 1971, applicant sold the luncheonette and ceased operations.
2. The Sales Tax Bureau conducted an audit of applicant's books and records for the period June 1, 1967 through February 26, 1971.
3. The basis of the audit was an observation test conducted by the Sales Tax Bureau on the activities of the purchaser of applicant's luncheonette. Said observation test was conducted several months after applicant ceased operation and after the purchaser completely remodeled the premises and substantially changed the business operations.
4. The Sales Tax Bureau did not visit the luncheonette while owned and operated by applicant.
5. That the Sales Tax Bureau's audit did not reflect applicant's activities during the period at issue.
6. That the application of Roman J. Skorobohaty, d/b/a Kitty's Luncheonette is granted and the Notice of Determination and Demand dated January 25, 1972 in the sum of \$11,972.52 is cancelled.

DATED: Albany, New York
June 7, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER