

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

POLY GRAPHIC GALLERY, INC.

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 & 29 of the :
Tax Law for the ~~Year(s) or~~ Period(s) :
12/1/69 through 11/30/72

State of New York
County of Albany

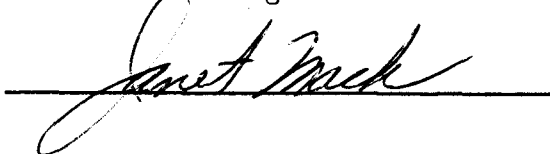
Marsina Donnini, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 22nd day of August, 1977, she served the within
Notice of Determination by (certified) mail upon Jerome M.
Stemper, Esq. (representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Jerome M. Stemper, Esq.
10 Cutter Mill Road
Great Neck, New York 11021

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

22nd day of August, 1977.




Marsina Donnini

STATE OF NEW YORK
STATE TAX COMMISSION

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POLY GRAPHIC GALLERY, INC.

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 & 29 of the
Tax Law for the ~~Year(s) or~~ Period(s)
12/1/69 through 11/30/72

State of New York
County of Albany

Marsina Donnini, 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 22nd day of August, 1977, she served the within Notice of Determination by ~~(certified)~~ mail upon Poly Graphic Gallery, Inc. ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Poly Graphic Gallery, Inc.
57 Water Mill Lane
Great Neck, New York 11021
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

22nd day of August, 1977.

Marsina Donnini

Janet Muck



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

August 22, 1977

Poly Graphic Gallery, Inc.
57 Water 11021 Lane
Great Neck, New York 11021

GENTLEMEN:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1135 & 1250** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


Joseph Chynoweth
Hearing Examiner

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
POLY GRAPHIC GALLERY, INC. :
for Revision of a Determination or for : DETERMINATION
Refund of Sales and Use Taxes under :
Articles 28 and 29 of the Tax Law for :
the Period December 1, 1969 through :
November 30, 1972. :

Applicant, Poly Graphic Gallery, Inc., 57 Water Mill Lane, Great Neck, New York 11021, 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 December 1, 1969 through November 30, 1972. (File No. 10285).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on January 28, 1977 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The applicant appeared by Jerome M. Stember, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq., (William Fox, Esq. of counsel).

ISSUE

Whether applicant was liable for the collection of sales tax on the sale of art through auctions sponsored by exempt organizations.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Applicant, Poly Graphic Gallery, Inc., was an art dealer which sold objects of art at auctions sponsored by exempt organizations.

2. In the written agreements between applicant and the exempt organizations sponsoring the various auctions, it was stated that applicant "...shall supply all the necessary Art, Appurtenances and Personnel necessary to conduct an Art Auction...." This agreement also stated that applicant shall supply to the sponsoring organization brochures, catalogues and advertising media.

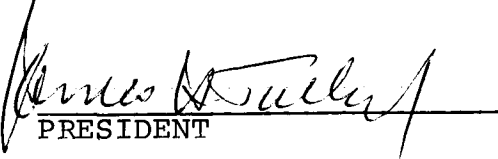
3. The exempt organizations sponsoring the art auctions provided the hall or room in which the auctions were held and personnel who assisted applicant's employees. That applicant, Poly Graphic Gallery, Inc., was a vendor as defined in section 1101(b) (8) (i) (A) of the Tax Law and, therefore, was required to collect sales tax on sales of art objects through auctions sponsored by exempt organizations in accordance with section 1105(a) of the Tax Law.

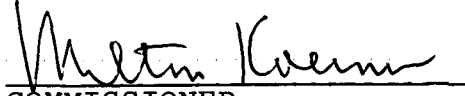
4. The exempt organizations sponsoring the art auctions did not acquire title to the objects of art sold but merely collected the proceeds from the sale and remitted 80% of said proceeds to applicant.

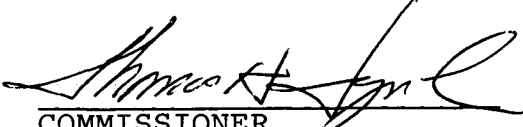
5. That the application of Poly Graphic Gallery, Inc. is hereby denied.

DATED: Albany, New York
August 22, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER