

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition of
LOEW'S SUMMIT INC., WARWICK OPERATING CORP.,
SQUIRECO BUILDING CORP. c/o LOEW'S CORPORATION
and 51ST & 8TH AVE. CORP.

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 ~~XXXXXX~~ Period ~~(X)~~ :
1/1/70 - 5/31/70.

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 27th day of April , 19 77, ~~he~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Loew's Summit Inc.

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Loew's Summit Inc.
666 Fifth Avenue
New York, New York 10019

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)~~
~~XXXX~~ 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

27th day of April , 19 77

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition of
LOEW'S SUMMIT INC., WARWICK OPERATING CORP.,
SQUIRECO BUILDING CORP. c/o LOEW'S CORPORATION
and 51ST & 8TH AVE. CORP.

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)~~ Period ~~(s)~~ :
1/1/70 - 5/31/70.

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 27th day of April , 19 77, she served the within
Notice of Determination by ~~(certified)~~ mail upon Warwick Operating Corp.

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Warwick Operating Corp.
666 Fifth Avenue
New York, New York 10019

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

27th day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition of
LOEW'S SUMMIT INC., WARWICK OPERATING CORP.,
SQUIRECO BUILDING CORP. c/o LOEW'S CORPORATION
and 51ST & 8TH AVE. CORP.

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 ~~XXXXXX~~ Period ~~(x)~~ :
1/1/70 - 5/31/70.

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 27th day of April , 19 77, ~~she~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Squireco Building Corp.

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:
Squireco Building Corp.
c/o Loew's Corporation
666 Fifth Avenue
New York, New York 10019
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 Jeponent further says that the said addressee is the ~~(representative of)~~
~~XXXXXX~~ 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

27th day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition of
LOEW'S SUMMIT INC., WARWICK OPERATING CORP.,
SQUIRECO BUILDING CORP. c/o LOEW'S CORPORATION
and 51ST & 8TH AVE. CORP.

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 ~~years~~ Period (x) :
1/1/70 - 5/31/70.

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 27th day of April , 1977, ~~he~~ served the within
Notice of Determination by (~~certified~~) mail upon 51st & 8th Ave. Corp.

(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:
51st & 8th Ave. Corp.
666 Fifth Avenue
New York, New York 10019

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~~
~~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

27th day of April , 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

April 27, 1977

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

Loew's Summit Inc.
666 Fifth Avenue
New York, New York 10019

Gentlemen:

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

Please take further notice that pursuant to
Section(s) **1139 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,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:



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

April 27, 1977

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

Warwick Operating Corp.
666 Fifth Avenue
New York, New York 10019

Gentlemen:

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

Please take further notice that pursuant to
Section(s) **1139 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,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:



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

April 27, 1977

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

Squireco Building Corp.
c/o Loew's Corporation
666 Fifth Avenue
New York, New York 10019

Gentlemen:

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

Please take further notice that pursuant to
Section(s) **1139 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,

Frank J. Puccia

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Taxing Bureau's Representative~~

Taxing Bureau's Representative:



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

April 27, 1977

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

51st & 8th Ave. Corp.
666 Fifth Avenue
New York, New York 10019

Gentlemen:

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

Please take further notice that pursuant to
Section(s) **1139 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,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Taxing Bureau's Representative:~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :

of :

LOEW'S SUMMIT INC. :

for Revision of a Determination or for
Refund of Sales and Uses Taxes under Articles :
28 and 29 of the Tax Law for the Period :
1/1/70-5/31/70. :

In the Matter of the Application :

of :

WARWICK OPERATING CORP. :

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 :
1/1/70-5/31/70. ' :

DETERMINATION

In the Matter of the Application :

of :

SQUIRECO BUILDING CORP.
c/o LOEW'S CORPORATION :

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 :
1/1/70-5/31/70. :

In the Matter of the Application :

of :

51ST & 8TH AVE. CORP. :

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 :
1/1/70-5/31/70. :

Applicants, Loew's Summit Inc., Warwick Operating Corp., Squireco Building Corp., and 51st and 8th Ave. Corp., all of 666 Fifth Avenue, New York City, have filed applications 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 January 1, 1970 through May 31, 1970. A small claims hearing was held before Joseph Chyrywaty, Small Claims Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 27, 1976, at 1:15 P.M. Applicant appeared by W. E. Duffy, Director of Taxes for Loew's Corporation. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq., of counsel).

ISSUES

I. Are the applicants entitled to a refund of sales tax, where such tax was returned to the customers, but where the application for refund was not filed within three years after the tax was payable to the Tax Commission?

II. Is the applicant, Loew's Summit Inc., entitled to a refund of sales tax where an application for refund was filed within two years of payment of sales tax assessed in accordance with a consent to fixing of tax?

FINDINGS OF FACT

1. The applicants filed applications for credit or refund on September 16, 1974. The period covered by the claims is January 1, 1970 to May 31, 1970.

2. On November 9, 1974, the Sales Tax Bureau denied the four applicants' claim for refund.

3. The applicants, Warwick Operating Corp., Squireco Building Corp., 51st and 8th Ave. Corp., and Loew's Summit Inc., operate hotels at various locations in New York City. On January 1, 1970, the applicants adopted a policy of charging their guests for a message service upon which they also charged a sales tax. This charge was made whether or not the message service was actually rendered to the guest. The applicants reported and paid the sales tax for the message service charge on their quarterly sales tax returns.

4. On June 14, 1971, the Attorney General instituted proceedings, to restrain and prohibit Squireco Building Corp., 51st and 8th Ave. Corp., Loew's Summit Inc. and Warwick Operating Corp. from charging their customers for message services that were not rendered.

5. In a Consent and Final Judgement by Honorable Harold Burns, Justice of the Supreme Court of the State of New York, dated January 18, 1972, it was ordered that the applicants refund the charges for message services that were not rendered to their guests.

6. The applicants complied with the consent and final judgement by issuing refunds to its guests for the amount of the message service charge and the applicable sales tax charge.

7. Applicant, Loew's Summit Inc., signed a consent to fixing of tax not previously determined on February 2, 1973. The tax due under this consent was \$6,660.07 and covered the period March 1, 1969 through February 28, 1972.

CONCLUSIONS OF LAW

A. That section 1139(a) of the Tax Law requires that the application for refund must be filed with the Tax Commission within three years after the date when the tax was payable by such person to the Tax Commission.

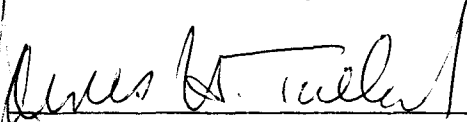
B. That the applications for credit or refund filed by Warwick Operating Corp., 51st and 8th Ave. Corp., and Squireco Building Corp. were not timely filed and are hereby denied.

C. That section 1139(c) of the Tax Law provides that where a person has signed a consent in accordance with section 1138(c), that such person shall be entitled to apply for a credit or refund pursuant to subdivision (a) and (b) of section 1139 as long as such application is made within two years of the date of payment of the amount assessed in accordance with the consent filed.

D. That the application of Loew's Summit Inc., is granted to the extent of the sales tax assessed in accordance with the Consent to Fixing of Tax Not Previously Determined and Assessed, but limited to the sales tax due for only the period of January 1, 1970 through May 31, 1970 and not to exceed \$2,988.00, which is the amount of the application for refund. The Sales Tax Bureau is directed to refund such determined amount together with such interest as may be lawfully owing.

DATED: Albany, New York
April 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER