

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition of  
ELIAS J. PARAVALOS, as responsible :  
officer of PICCADILLY CIRCUS FISH & CHIPS, :  
INC. and PICCADILLY CIRCUS FISH & CHIPS, :  
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 and 29 of the :  
Tax Law for the ~~Year(s) or~~ Period(s) from :  
November 30, 1971 through September 12, 1973

State of New York  
County of Albany

Carmen Mottolese , 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 6th day of August , 1976 , she served the within  
Notice of Determination by ~~(certified)~~ mail upon Elias J. Paravalos, as  
Circus Fish & Chips ~~(XXXXXXXXXX)~~ the petitioner in the within proceeding, responsible officer of  
Chips, Inc. and Piccadilly  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Piccadilly Circus Fish & Chips, Inc. and  
Piccadilly Circus Fish & Chips, Inc.  
935 Harlem Road  
Cheektowaga, New York  
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)~~  
~~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

6th day of August , 1976.

Carmen Mottolese

Janet Mack

# **WAIVER, MODIFICATION OR CANCELLATION OF PENALTY AND INTEREST** **REQUIRING APPROVAL OF TAX COMMISSION**

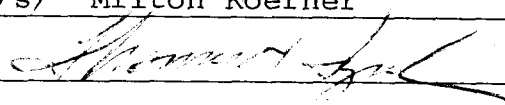
In accordance with the provisions of Memorandum No. E-94.2, the approval of the State Tax Commission, i.e. more than one member, is required because the proposed cancellation is for an amount in excess of \$2,500 or for a reason not specifically covered in the memorandum.

VENDOR		PENALTY AND INTEREST ASSESSED
Paragon Oldsmobile Inc. 56 02 Northern Blv. Woodside, NY 11377		\$ 6194.16
IDENTIFICATION NUMBER	PERIOD	RECOMMENDED CANCELLATION
11-2034516	11/30/75	\$ 5924.48
		BALANCE STILL DUE
		\$ 269.68

## **REASON FOR WAIVING, MODIFICATION OR CANCELLATION**

Return was received for processing on December 30, 1975. Vendor states return was mailed timely, but returned for insufficient postage. They remailed this on December 26, 1975, on the same day the Post Office returned their sales tax return for insufficient postage. The original envelope is attached to return showing postage meter date of December 19, 1975.

Vendor's file indicates that he has a good filing record.

PREPARED BY	
TAX EXAMINER	DATE
APPROVAL RECOMMENDED	
DIRECTOR, SALES TAX BUREAU	DATE
APPROVED	
COMMISSIONER	DATE
/s/ James H. Tully, Jr.	5/6/76
COMMISSIONER	DATE
/s/ Milton Koerner	4/27/76
COMMISSIONER	DATE
	4/27/76

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition of  
ELIAS J. PARAVALOS, as responsible officer :  
of PICCADILLY CIRCUS FISH & CHIPS, INC. and  
PICCADILLY CIRCUS FISH & CHIPS, 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 and 29 of the :  
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Carmen Mottolese , 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 6th day of August , 1976 , she served the within  
Notice of Determination by ~~(certified)~~ mail upon William G. Muehlbauer,  
Esq. (representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: William G. Muehlbauer, Esq.  
2292 Genesee Street  
Buffalo, New York 14225  
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

6th day of August , 1976.

Carmen Mottolese

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N.Y. 12227

August 6, 1976

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-3850**

Elias J. Paravalos, as responsible  
officer of Piccadilly Circus Fish &  
Chips, Inc. and Piccadilly Circus  
Fish & Chips, Inc.  
935 Harlem Road  
Cheektowaga, New York

Dear Mr. Paravalos:

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

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

*Paul E. Coburn*  
Paul E. Coburn  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

## STATE TAX COMMISSION

Applicant, Elias J. Paravalos, located at 935 Harlem Road, Cheektowaga, New York, has filed an application for a revision of a determination or for refund of sales and use tax under Articles 28 and 29 of the Tax Law for the period November 30, 1971 through September 12, 1973. (File No. 90,772,716 P). A formal hearing was held before L. Robert Leisner, Hearing Officer, at the offices of the State Tax Commission, State Office Building, Buffalo, New York on September 11, 1974, at 1:30 P.M. Applicant appeared by William G. Muelbauer, Esq. The Sales Tax Bureau appeared by Saul Heckelman, Esq. (James Scott, Esq., of counsel).

Where the purchaser of a business mailed a completed Form ST-271 "Notification of Sale, Transfer or Assignment in Bulk" and such form was dated September 12, 1973, and stated the date of transfer to be September 12, 1973, and such notice was received by the Sales Tax Bureau on September 17,

1973, was the purchaser in the bulk sales transaction liable for the sales and use tax owed for prior periods by the seller when the Sales Tax Bureau notified the purchaser of possible sales tax liability on December 10, 1973?

FINDINGS OF FACT

1. The "Notice of Determination and Demand for Payment of Sales and Use Taxes Due" dated January 10, 1974, issued by the Sales Tax Bureau against applicant, Elias J. Paravalos, called for payments of \$7,850.83 in sales tax plus \$1,617.76 as a penalty and interest for a total of \$9,468.59.

2. Applicant, Elias J. Paravalos, executed an agreement to purchase the assets of Piccadilly Circus Fish & Chips, Inc. of Buffalo from the president of the corporation for a consideration of \$23,500.00, of which \$7,200.00 was by assumption of existing debts of the seller, and the balance of \$16,300.00 paid by cash in escrow to the attorney for the seller.

3. Applicant, Elias J. Paravalos, by his attorney, sent a completed Form ST-271 "Notification of Sale, Transfer or Assignment in Bulk" by certified mail to the New York Sales Tax Bureau on September 12, 1973, stating thereon that the date of sale was September 12, 1973. The said "Notification" named the escrow agent and the escrow fund amount of \$16,300.00.

4. The said "Notification" was received by the New York Sales Tax Bureau on September 17, 1973 and receipt thereof was acknowledged to applicant, Elias J. Paravalos, on September 18, 1973.

5. On October 24, 1973, applicant, Elias J. Paravalos, paid a sales tax of \$700.00 upon the purchase price of \$10,000.00 for furniture and fixtures purchased from Piccadilly Circus Fish & Chips, Inc.

6. The escrow agent disbursed the escrow fund of \$16,300.00 to creditors other than the Sales Tax Bureau on or about September 26, 1973. The Sales Tax Bureau notified the escrow agent of seller's possible liability by a notice dated November 13, 1973.

7. By a "Notice of Claim to Purchaser" form letter ST-272, dated December 10, 1973, the New York State Tax Commission served notice upon the applicant, Elias J. Paravalos, of a possible claim for New York State sales and use taxes due under Articles 28 and 29 of the Tax Law.

8. For the period from November 30, 1971 through September 12, 1973, the seller, Piccadilly Circus Fish & Chips, Inc. (I.D. No. NY7470752) owed sales and use tax of \$7,784.88 plus penalty and interest of \$2,015.69 for a total of \$9,800.57 as of June 20, 1974.

9. Neither the applicant, Elias J. Paravalos, nor his attorney at or before the execution of the bulk sales agreement (or thereafter) made any cogent effort to ascertain from the seller, his attorney or accountant, or the local sales tax bureau office whether there was any outstanding sales or use tax liability owing on the business subject to the sale.

CONCLUSIONS OF LAW

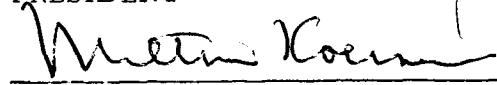
A. That notice of a possible claim against the purchaser for sales and use tax due and owing was given to the applicant, Elias J. Paravalos, by the Sales Tax Bureau within 180 days of the receipt of notice of the bulk transfer of assets to him, under Section 1141(c) of the Tax Law. Therefore, applicant, Elias J. Paravalos, is personally liable for payment to New York State of any sales and use taxes theretofore or thereafter determined to be due to New York State from the seller, said liability not to exceed the purchase price or fair market value of the business assets sold or transferred.

C. That the application of Elias J. Paravalos is denied and the Notice of Determination, dated January 10, 1974, is sustained.

DATED: Albany, New York  
August 6, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER