

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

QUEST STATIONERS, 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)~~ Period ~~(s)~~ :
January 1, 1973 through October 29, 1974.

State of New York
County of Albany

John Huhn , 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 31st day of March , 1978, she served the within
Notice of Determination by ~~(certified)~~ mail upon Quest Stationers, Inc.

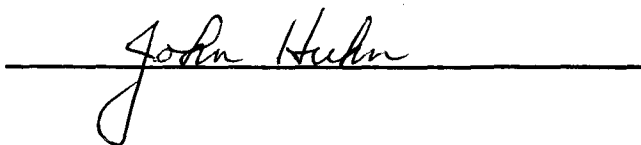
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Quest Stationers, Inc.
c/o Savino Albanese
43 Howes Street
Port Jefferson Station, New York 11776
and by depositing same enclosed in a postpaid 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

31st day of March , 1978





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January 1, 1973 through October 29, 1974.

State of New York
County of Albany

John Huhn, 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 31st day of March, 1978, he served the within
Notice of Determination by ~~(certified)~~ mail upon Hugh Janow
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Hugh Janow, Esq.
100 Park Avenue
New York, New York

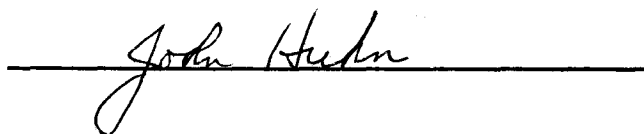
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative
of the) 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

31st day of March, 1978







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

March 31, 1978

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

Quest Stationers, Inc.
c/o Savino Albanese
43 Howe Street
Port Jefferson Station, New York 11776

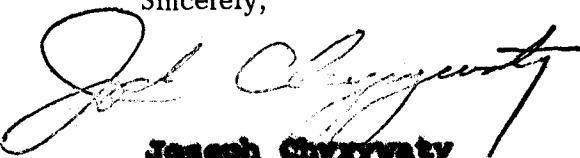
Dear Mr. Albanese:

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) **1138 & 1243** 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 Chyrywat
Hearing Examiner

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
QUEST STATIONERS, INC.	:	DETERMINATION
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, 1973 through	:	
October 29, 1974.	:	

Applicant, Quest Stationers, Inc. (c/o Savino Albanese), 43 Howes Street, Port Jefferson Station, New York 11776, 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 January 1, 1973 through October 29, 1974 (File No. 15423).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 15, 1977. Applicant appeared by Hugh Janow, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether the results of the examination of applicant's books and records by the Sales Tax Bureau for the period January 1, 1973 through October 29, 1974 properly reflected the applicant's additional sales tax liability.

FINDINGS OF FACT

1. During the period January 1, 1973 through October 29, 1974, applicant, Quest Stationers, Inc., operated a stationery store at 750 Third Avenue, New York, New York.

2. The Sales Tax Bureau conducted an examination of applicant's books and records for the period January 1, 1973 through October 29, 1974. As a result of said examination, it issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against applicant on June 17, 1975, in the amount of \$12,914.98 plus penalty and interest.

3. The aforesaid Notice was in addition to other outstanding assessments issued against applicant for failure to file New York state and local sales and use tax returns and/or pay over the tax due.

4. For purposes of the examination, applicant presented complete and detailed journals as well as a general ledger. The Sales Tax Bureau did not accept applicant's journals or its general ledger, since applicant was unable to present all purchase invoices and Federal tax returns.

5. Applicant's cash receipts and sales journals indicated it had made gross sales during the audit period of \$122,787.00. Applicant's cash disbursements and purchase journals indicated it had purchased merchandise for resale in the amount of \$51,989.07 during the audit period. Applicant's books and records revealed an above-average purchase mark-up when compared to other stationery stores of its size.

6. Applicant did not file Federal tax returns for the years 1973 and 1974 and its operations were closed by the Internal Revenue Service, an act that eventually led to applicant's bankruptcy.

7. The Sales Tax Bureau redetermined applicant's gross sales to be \$40,000.00 per quarter, which amounted to \$294,000.00 for the audit period. The Sales Tax Bureau arrived at the redetermined gross sales of \$294,000.00 on the basis of an arbitrary estimate.

CONCLUSIONS OF LAW

A. That although applicant did not present all purchase invoices and did not file Federal tax returns, the records it did present were detailed and complete and there were no external indicies to indicate that said records were not accurate.

B. That the results of the examination of applicant's books and records did not properly reflect the applicant's additional sales tax liability during the period January 1, 1973 through October 29, 1974.

C. That the Sales Tax Bureau is hereby directed to recompute the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued June 17, 1975 on the basis of applicant's gross sales per books in the sum of \$122,787.00, which sales are deemed to be 100% taxable.

D. That the application of Quest Stationers, Inc. is granted to the extent indicated in Conclusion of Law "C", and that, except as so granted, the application is in all other respects denied.

DATED: Albany, New York
March 31, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER