

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SOUTHERN FRUIT GARDEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales & Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s) or~~ Period(s) :
3/1/72 - 2/28/75

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 16th day of June , 19 78, ~~he~~ served the within

Default Order by ~~(represented)~~ mail upon Southern Fruit Garden

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

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

as follows: Southern Fruit Garden
324 South Pearl Street
Albany, New York 12207

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)~~
~~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

16th day of June , 19 78

[Signature]

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SOUTHERN FRUIT GARDEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales & Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~years 1972~~ Period (s) :
3/1/72 - 2/28/75

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 16th day of June , 1978 , she served the within

Default Order by ~~(certified)~~ mail upon Stanley B. Eisenberg,

Public Accountant (representative of) the petitioner in the within proceeding,

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

as follows: Stanley B. Eisenberg, Public Accountant
105 Wolf Road
Albany, New York 12205

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

16th day of June , 1978.







STATE OF NEW YORK
DEPARTMENT OF
TAXATION AND FINANCE
ALBANY, NEW YORK 12227

BERTHLYNN J. DAVIS

SECRETARY TO THE
STATE TAX COMMISSION

June 16, 1978

Southern Fruit Garden
324 South Pearl Street
Albany, New York 12207

Gentlemen:

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

Please take further notice that pursuant to Section(s) 690 of the Tax Law, any proceeding in court to review an adverse decision must be commenced within **four 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,

BERTHLYNN J. DAVIS
SECRETARY TO THE STATE TAX COMMISSION

Enc.

cc: Petitioner's Representative:
Stanley B. Eisenberg, Public Accountant
105 Wolf Road
Albany, New York 12205
Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SOUTHERN FRUIT GARDEN

for Revision or for Refund of Sales & Use
under Article(s) 28 & 29 of the Tax Law for the
period 3/1/72 - 2/28/75

Taxes :

DEFAULT ORDER

Petitioner(s) Southern Fruit Garden, 324-S. Pearl Street, Albany,
New York 12207
for refund of Sales & Use
of the Tax Law for the period 3/1/72 - 2/28/75

filed a petition for revision or
taxes under Article(s) 28 & 29
. File No. 16044 .

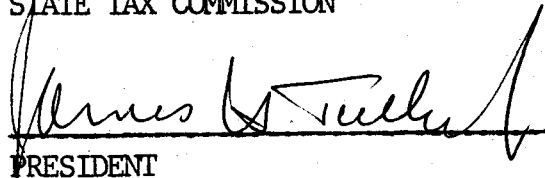
Under Section 601.5 of the State Tax Commission Rules of Practice and
Procedure, the taxpayer ~~XXXXXXXXXXXXXXXXXXXX~~ taxpayer's representative was served notice to
file a perfected petition. The taxpayer ~~XXXXXXXXXXXXXXXXXXXX~~ taxpayer's representative failed
to file a perfected petition. Notice to file a perfected petition was sent
to the taxpayer ~~XXXXXXXXXXXXXXXXXXXX~~ taxpayer's representative at last known address.

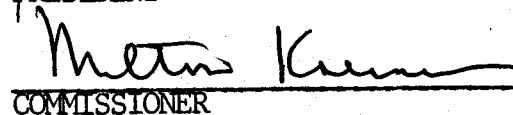
Now on motion of the attorney for the Department of Taxation and Finance,
it is

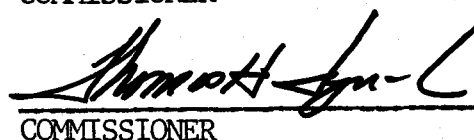
ORDERED that the petition of Southern Fruit Garden
be and the same is hereby denied.

DATED: Albany, New York
June 16, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

November 13, 1980

Estate of Nick J. DiNovo
d/b/a Southern Fruit Garden
c/o Lillian M. DiNovo, Executrix
Retreat House Road
Glenmont, New York 12077

RE: Estate of Nick J. DiNovo

Dear Ms. DiNovo:

This is to advise you that the default order issued in the above entitled matter on June 16, 1978 is hereby vacated, since a perfected petition was in fact filed in this matter on May 22, 1978.

You will receive an answer to the petition from the Law Bureau and a hearing on the matter will be scheduled by the Tax Appeals Bureau.

Sincerely,



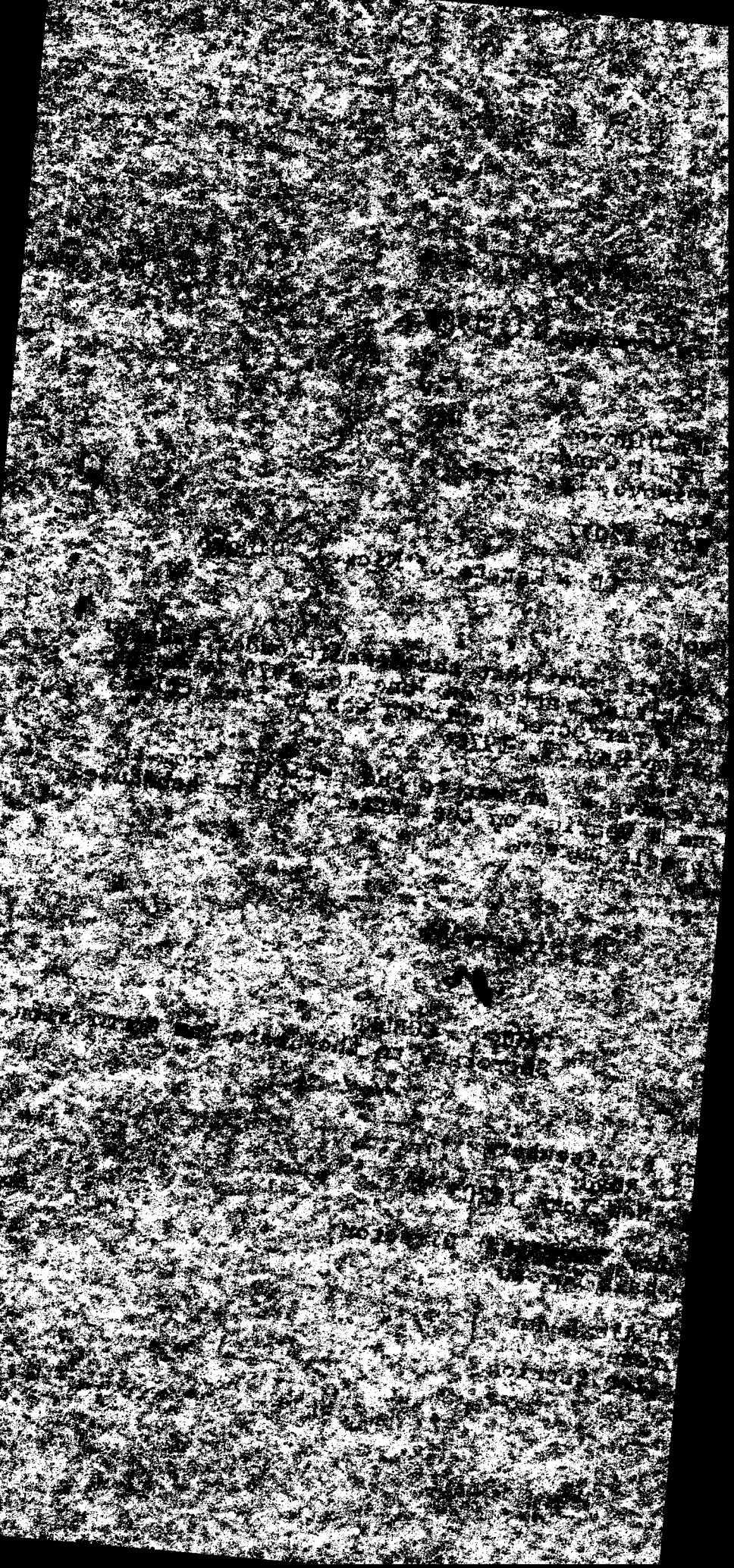
PAUL B. COBURN
Secretary to the State Tax Commission

PBC:mac

cc: Stanley B. Eisenberg
105 Wolf Road
Albany, New York 12205

Al Nendza, Assistant Director
Tax Appeals Bureau

Michael Alexander
Law Bureau
Litigation Section



STATE TAX COMMISSION
TAX APPEALS BUREAU
MEMORANDUM

TO : Paul Coburn
FROM : Aloysius J. Nendza
SUBJECT: Nick J. DiNovo, Deceased
d/b/a Southern Fruit Garden

On June 16, 1978, the petitioner was defaulted for failure to file a Perfected Petition. Recently, however, it was found that a Perfected Petition was received by the Tax Appeals Bureau on May 22, 1978. Apparently, the Perfected Petition was set aside and lost for a period of two years.

It is recommended that the Default Order be vacated and the matter sent for a hearing. Because of this late date, please advise if the Law Bureau is still required to answer.


Assistant Director

October 29, 1980

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SOUTHERN FRUIT GARDEN

DEFAULT ORDER

for Revision or for Refund of Sales & Use Taxes :

under Article(s) 28 & 29 of the Tax Law for the

period 3/1/72 - 2/28/75

Petitioner(s) Southern Fruit Garden, 324-S. Pearl Street, Albany,

New York 12207

filed a petition for revision or

for refund of Sales & Use

taxes under Article(s) 28 & 29

of the Tax Law for the period 3/1/72 - 2/28/75

. File No. 16044 .

Under Section 601.5 of the State Tax Commission Rules of Practice and Procedure, the taxpayer ~~XXXXXXXXXXXXXXXXXXXX~~ taxpayer's representative was served notice to file a perfected petition. The taxpayer ~~XXXXXXXXXXXXXXXXXXXX~~ taxpayer's representative failed to file a perfected petition. Notice to file a perfected petition was sent to the taxpayer ~~XXXXXXXXXXXXXXXXXXXX~~ taxpayer's representative's last known address.

Now on motion of the attorney for the Department of Taxation and Finance, it is

ORDERED that the petition of Southern Fruit Garden be and the same is hereby denied.

DATED: Albany, New York
June 16, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER