

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

PAUL B. COBURN
SECRETARY
Telephone: (518) 457-6162

July 30, 1980

Lorenzo's
2235 Broadway
Schenectady, NY 12306

Gentlemen:

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

Please take further notice that pursuant to Section(s) 1138 & 1243 of the Tax Law, any proceeding in court to review this decision must be commenced within 4 months from the date of this notice.

Inquires concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the undersigned.

Very truly yours,

PAUL B. COBURN
SECRETARY TO THE
STATE TAX COMMISSION

cc: Petitioner's Representative
D. A. Parisi
151 Barrett Street
Schenectady, NY 12305
Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Lorenzo's : DEFAULT ORDER
: 80-P-25
for Revision or for Refund of Sales & Use Tax :
under Article(s) 28 & 29 of the Tax Law :
for the Period 9/1/75-8/31/78. :

Petitioner(s) Lorenzo's filed a petition for revision or for refund of Sales & Use Tax under Article(s) 28 & 29 of the Tax Law for the Period 9/1/75-8/31/78. File No. 24648.

Under Section 601.5 of the State Tax Commission Rules of Practice and Procedure, a notice was served on the petitioner(s) representative, to file a perfected petition. Notice to file the perfected petition was sent to the representative's last known address. Petitioner(s) failed to file a perfected petition. A default has been duly noted.

Now on motion of the Secretary to the State Tax Commission, it is
ORDERED that the petition of Lorenzo's be and the same is hereby denied.

DEFAULT ORDER
ADOPTED BY THE STATE TAX COMMISSION
ALBANY, NEW YORK
JULY 30, 1980

December 12, 1980

Edward J. Salvo, Jr.
115 Clinton Street
Schenectady, New York 12305

RE: LORENZO'S

Dear Mr. Salvo:

In accordance with your letter of August 15, 1980 and our subsequent telephone conversation of December 11, 1980, the default order issued on July 30, 1980 for failure to file a perfected petition is vacated upon condition that you file a perfected petition within 45 days from the date of this letter.

Perfected Petition Forms are enclosed for your convenience.

Sincerely,

PAUL B. COBURN
Secretary to the State Tax Commission

PBC:mac
Enc.

cc: John Sollecito, Director
Tax Appeals Bureau

1. The first part of the report is a general introduction to the subject of the study. It discusses the importance of the study and the objectives of the research. It also provides a brief overview of the methodology used in the study.

2. The second part of the report is a detailed description of the methodology used in the study. It discusses the data sources, the data collection methods, and the data analysis methods.

3. The third part of the report is a discussion of the results of the study. It discusses the findings of the study and their implications for the field of study.

4. The fourth part of the report is a conclusion and a list of references. The conclusion summarizes the main findings of the study and provides recommendations for future research. The references list the sources of information used in the study.

5. The fifth part of the report is a list of appendices. The appendices contain supplementary material that is related to the study but is not included in the main body of the report.

EDWARD J. SALVO, JR.
COUNSELOR AT LAW
115 CLINTON STREET
SCHENECTADY, NEW YORK 12305
TELEPHONE (518) 377-1044

December 8, 1980

State of New York
Department of Taxation & Finance
Albany, New York 12227

ATT: Paul B. Coburn
Secretary to the State Tax Commission

RE: Lorenzo's

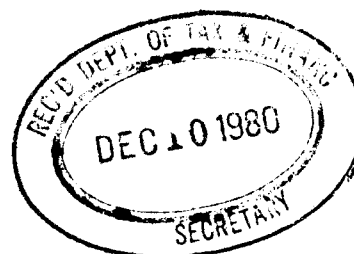
Dear Mr. Coburn:

In accordance with your request of December 2, 1980,
I am enclosing herein original and one executed copy of a
Power of Attorney signed by my client, Lorenzo's.

Very truly yours,

E. J. Salvo, Jr.

EJS/svs
encs.



POWER OF ATTORNEY (INDIVIDUAL)

Taxpayer's Name and Address Ralph De Lorenzo d/b/a Lorenzo's 2235 Broadway Schenectady, New York 12306	Appointed Representative's Name and Address Edward J. Salvo, Jr., Esq. 115 Clinton Street Schenectady, New York 12305
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KNOW ALL MEN BY THESE PRESENTS that I, the taxpayer named above, appoint the person named above as my true and lawful attorney, to appear and represent me before the Department of Taxation and Finance in connection with a proceeding involving:

Refund of Sales & Use Tax

Type of Tax & Tax Year(s) or Period(s)

Sales & Use Tax for the Period 9/1/75-8/31/78

with full power to receive a copy of all communications in such proceedings; to receive refund checks, to execute waivers of restrictions on assessment of deficiencies and consents to extensions of the Statute of Limitations with full power of substitution and revocation.

All Powers of Attorney heretofore filed or granted for this purpose are hereby revoked.

Taxpayer's Signature <i>Ralph De Lorenzo</i>	Date December 5, 1980	Spouse's Signature, if Joint Return Involved	Date
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*This Power of Attorney must be acknowledged before a notary public or witnessed by two disinterested individuals.

The person(s) signing as the above taxpayer(s) appeared before us and acknowledged this Power of Attorney as his/her/their voluntary act and deed.

Signature of Witness <i>Sandra Von Stetina</i>	Date 12/8/80	Signature of Witness <i>Anne P. Pomeroy</i>	Date 12/8/80
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ACKNOWLEDGEMENT

State of New York

County of Schenectady

s.s.:

On this 5th day of December, 1980, before me personally came to me known to be the person(s) described in the foregoing Power of Attorney, and he acknowledged that he executed the same.

Signature of Notary Public	Date
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NOTICE OF APPEARANCE

I agree to represent the above-named taxpayer in accordance with the above Power of Attorney and hereby give notice that I will appear in the above proceeding. All notices, decisions and other documents are to be sent to me at the address shown above. (If address different than above, send attachment with address)

NOTE: IF A POWER OF ATTORNEY has been previously filed, a conformed copy thereof should be annexed hereto.

I am:

- | | |
|---|---|
| <input type="checkbox"/> an attorney-at-law licensed to practice in New York State | <input type="checkbox"/> an attorney-at-law or accountant duly authorized to practice in another State who prepared the taxpayer's return or claim for refund to which the petition relates |
| <input type="checkbox"/> a certified public accountant duly qualified to practice in New York State | <input type="checkbox"/> a person admitted to practice before the Internal Revenue Service or before the U.S. Tax Court |
| <input type="checkbox"/> a public accountant enrolled with the New York State Education Department | <input type="checkbox"/> the taxpayer's spouse, child, or parent |

Signature of Appointed Representative

*See Section 600.5 (c) of the Procedural Regulations on the back of this form

December 2, 1980

Edward J. Salvo, Jr., Esq.
115 Clinton Street
Schenectady, New York 12305

RE: LORENZO'S

Dear Mr. Salvo:

Your letter of August 15, 1980 addressed to the Department of Taxation and Finance Tax Compliance Bureau, requesting that the default order issued against Lorenzo's dated July 30, 1980 be vacated, has been referred to this office, since it is this office's responsibility to vacate Perfected Petition Defaults.

However, in reviewing the file, it appears you have not filed a power of attorney for your client. Enclosed herein are Power of Attorney Forms. Please have the power of attorney executed and return it to me. Upon receipt I will contact you in response to your letter.

Sincerely,

PAUL B. COBURN
Secretary to the State Tax Commission

PBC:mac
Enc.



New York State Department of
TAXATION and FINANCE

TAX APPEALS BUREAU

TO *Paul Coburn* DATE *11/24/80*

On 11/20/80, the attached letter was forwarded to TAB. I've also attached the petitioner's file folder. There is no POA for Mr. Salvo.

Please review + advise.

mc

00057209

EDWARD J. SALVO, JR.
COUNSELOR AT LAW
115 CLINTON STREET
SCHENECTADY, NEW YORK 12305
TELEPHONE (518) 377-1044

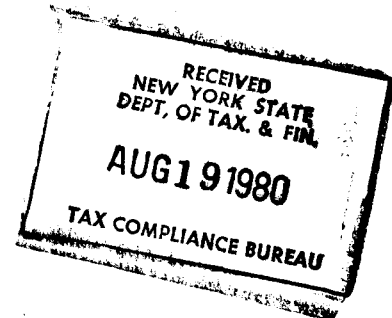
August 15, 1980

State of New York
Department of Taxation & Finance
State Campus
Building 8
Albany, New York 12227

Certified Mail-Return Receipt Requested

Attention: Tax Compliance Department

Re: Taxpayer - Lorenzo's
I.D. #14-1417875
Assessment #S 781207002-A
File #24648
Default Order 80-P-25



Gentlemen:

Please be advised that I am the attorney for the above named taxpayer. The said taxpayer filed a Petition for revision or for refund of sales and use tax under Articles 28 and 29 of the Tax Law for the period 9/1/75 through 8/31/78. The said Petition was denied by Default Order adopted by the State Tax Commission, Albany District Office, on July 30, 1980, on the grounds that a perfected Petition was never filed. A copy of same is attached hereto.

Before moving to vacate the said Default Order, I wish to know whether or not this matter can be finally settled in accordance with the following proposed items:

1. As of 11/20/78, the balance due was computed to be \$2,158.91, as stated in the Consent to Fixing of Tax Form attached hereto. I hereby request that any penalties incurred on said balance be adjusted or abated in their entirety. The tax code states that the penalty for underpayment shall be imposed "unless it is shown that such underpayment or non payment is due to reasonable cause and not due to wilful neglect", Internal Revenue Code, Section 6656. In the instant case, the taxpayer presented his records to his public accountant in timely fashion and completely relied upon him to promptly prepare and file the tax returns in question. It is respectfully submitted that reliance upon one's public accountant constitutes reasonable

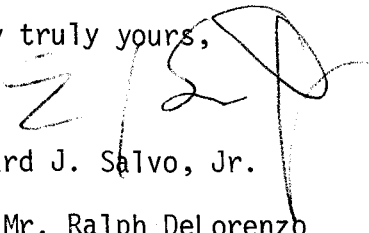
State of New York
Department of Tax & Finance
Page 2
August 15, 1980

cause. Therefore, any proposed penalty should be abated.

2. Due to the fact that considerable time, legal expense and litigation would be involved if a Motion was made by myself to vacate the said Default Order, I am respectfully protesting the said penalties on the aforesaid basis. I feel that my client's case for a revision of sales tax computation has merit and that the Default Order was obtained on a mere technicality, which can be reversed on appeal through the Court system.
3. In consideration of foregoing any further legal action and delay, in addition to the protest of penalties, request is hereby made for a deferred payment agreement. Please advise what your computation is as to the total amount of money due at present from my client. I must advise you that the taxpayer would need at least a year to repay any indebtedness which you assess, as he is incapable of paying the amount due in a lump sum. The taxpayer's business has been steadily declining and his establishment is now open only four days a week.
4. I am also requesting that any enforcement procedures with respect to said Default Order be held in abeyance until such time as there is some agreement with respect to the settlement and payment of the amount due.

If you should have any questions, please do not hesitate to call. I anxiously await your reply as my client is most desirous of meeting his sales tax obligations.

Very truly yours,



Edward J. Salvo, Jr.

cc: Mr. Ralph DeLorenzo