

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

October 6, 1982

Rona Dresses & Delani
Divisions of Genesco, Inc.
498 7th Ave.
New York, NY 10018

Gentlemen:

Please take notice of the Decision 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Michael Cook
104 E. 40th St.
New York, NY 10016
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RONA DRESSES AND DELANI	:	DECISION
DIVISIONS OF GENESCO, INC.	:	
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 June 1, 1974	:	
through May 31, 1977.	:	

Petitioners, Rona Dresses and Delani Divisions of Genesco, Inc., 498 7th Avenue, New York, New York 10018, filed a petition 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 June 1, 1974 through May 31, 1977 (File No. 21715).

A formal hearing was held before Robert F. Mulligan, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on January 18, 1982 at 9:15 A.M. Petitioners appeared by Michael Cook, Esq. The Audit Division appeared by Paul B. Coburn, Esq. (William Fox, Esq., of counsel).

ISSUE

Whether certain sales made by petitioners were sales for resale and thus not subject to tax.

FINDINGS OF FACT

1. Genesco, Inc. manufactures dresses which are sold by its Rona Dresses and Delani Divisions. Upon field audit it was discovered that petitioners made sales where delivery took place in New York, but for which no resale or exemption certificates were received.

2. Although adequate books and records were available, sales were tested for the period September 1, 1976 through November 30, 1976 and the results applied to the entire audit period.

3. At the formal hearing the petitioners and the Audit Division entered into the following stipulation:

"That pursuant to the Matter of Chartair v. the State Tax Commission, 65 A.D.2d 44 (1978), it is stipulated that the sales tax liability of the petitioner be limited to the period beginning September 1, 1976 and ending November 30, 1976, the period actually tested by the auditor.

The sales tax due for this period amounts to the sum of \$1,186.42.

In addition there is a sum of \$311.30 representing sales tax collected by the petitioner, but were not paid and the break down of this sum will be as follows: May 31, 1975 - \$20.03; for the quarter ending August 31, 1975 - \$55.49; quarter ending November 30, 1975 is a credit of \$63.01; for the quarter ending February 29, 1976 - 0; for the quarter ending May 31, 1976 - \$50.90; for the quarter ending August 31, 1976 - \$61.31; for the quarter ended November 30, 1976, \$18.65; for the quarter ending February 28, 1977 \$137.56; and for the quarter ending May 31, 1977 - \$30.37.

The total liability amounts to \$1,497.72 of tax plus simple interest from the various due dates.

Counsel for the petitioner further stipulates that he is agreeing on behalf of the petitioner to the above sales tax liability, but not conceding that liability is based on the merits of the case."

CONCLUSIONS OF LAW

A. That since adequate books and records were available, the Audit Division has conceded that the assessment is defective for all periods except the period during which the books and records were actually examined, i.e. September 1, 1976 through November 30, 1976. Matter of Chartair v. State Tax Commission, 65 A.D.2d 44. Under the stipulation, the Audit Division has agreed to limit petitioners' liability for the portion of the assessment


attributable to uncollected sales tax to the period September 1, 1976 through November 30, 1976. The petitioners have agreed to pay the amount of uncollected sales tax found to be due for said period. The petitioners have also agreed to pay the sum of \$311.30 in sales tax collected by petitioners but not previously remitted.

B. That the petition of Rona Dresses and Delani Divisions of Genesco, Inc. is granted to the extent that the Notice of Determination and Demand for Payment of Sales and Use Taxes due is reduced to \$1,497.72 in tax plus simple interest from the appropriate due dates.

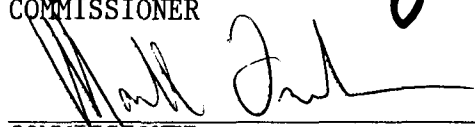
DATED: Albany, New York

OCT 06 1982

STATE TAX COMMISSION


ACTING PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
Rona Dresses & Delani
Divisions of Genesco, Inc.

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision
of a Determination or a Refund of Sales & Use Tax
under Article 28 & 29 of the Tax Law for the Period
6/1/74-5/31/77.

State of New York
County of Albany

Jay Vredenburg, 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 6th day of October, 1982, he served the within notice of Decision by certified mail upon Rona Dresses & Delani, Divisions of Genesco, Inc. the petitioners in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

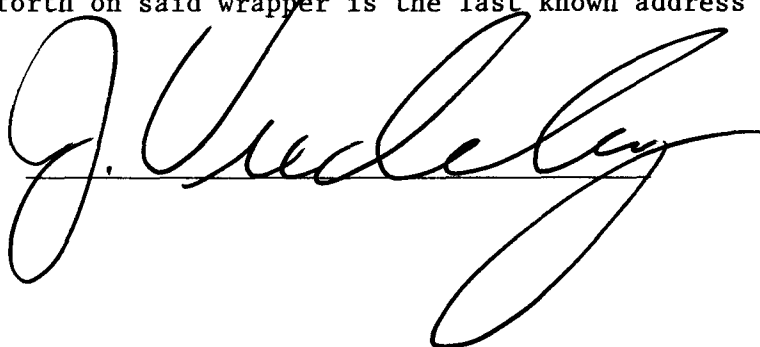
Rona Dresses & Delani
Divisions of Genesco, Inc.
498 7th Ave.
New York, NY 10018

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of October, 1982.

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

A large, stylized handwritten signature in black ink, appearing to read 'J. Vredenburg', is written over a horizontal line.

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
Rona Dresses & Delani	:	
Divisions of Genesco, Inc.	:	AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision	:	
of a Determination or a Refund of Sales & Use Tax	:	
under Article 28 & 29 of the Tax Law for the	:	
Period 6/1/74-5/31/77.	:	

State of New York
County of Albany

Jay Vredenburg, 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 6th day of October, 1982, he served the within notice of Decision by certified mail upon Michael Cook the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

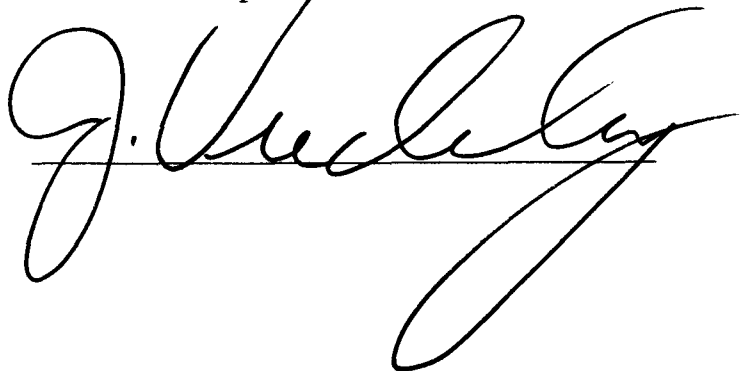
Michael Cook
104 E. 40th St.
New York, NY 10016

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 October, 1982.

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



P 230 842 965
RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

SENT TO		<i>Michael Look</i>	
STREET AND NO.		<i>104-E 40 St.</i>	
P.O., STATE AND ZIP CODE		<i>N.Y. N.Y. 10016</i>	
POSTAGE		\$	
CONSULT POSTMASTER FOR FEES	OPTIONAL SERVICES	CERTIFIED FEE	¢
		SPECIAL DELIVERY	¢
		RESTRICTED DELIVERY	¢
	RETURN RECEIPT SERVICE	SHOW TO WHOM AND DATE DELIVERED	¢
		SHOW TO WHOM, DATE, AND ADDRESS OF DELIVERY	¢
		SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	¢
		SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES		\$	
POSTMARK OR DATE			

PS Form 3800, Apr. 1976

P 230 842 964
RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

SENT TO		<i>Rona Dussan & Velani</i>	
STREET AND NO.		<i>495-7 Ave. 8 Boro Park</i>	
P.O., STATE AND ZIP CODE		<i>New York, N.Y. 10018</i>	
POSTAGE		\$	
CONSULT POSTMASTER FOR FEES	OPTIONAL SERVICES	CERTIFIED FEE	¢
		SPECIAL DELIVERY	¢
		RESTRICTED DELIVERY	¢
	RETURN RECEIPT SERVICE	SHOW TO WHOM AND DATE DELIVERED	¢
		SHOW TO WHOM, DATE, AND ADDRESS OF DELIVERY	¢
		SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	¢
		SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES		\$	
POSTMARK OR DATE			

PS Form 3800, Apr. 1976

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
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AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision
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State of New York
County of Albany

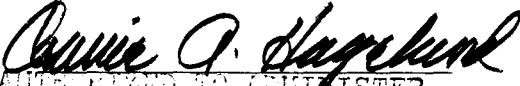
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 29th day of October, 1982, he served the within notice of Decision by certified mail upon Rona Dresses & Delani, Divisions of Genesco, Inc. the petitioners in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

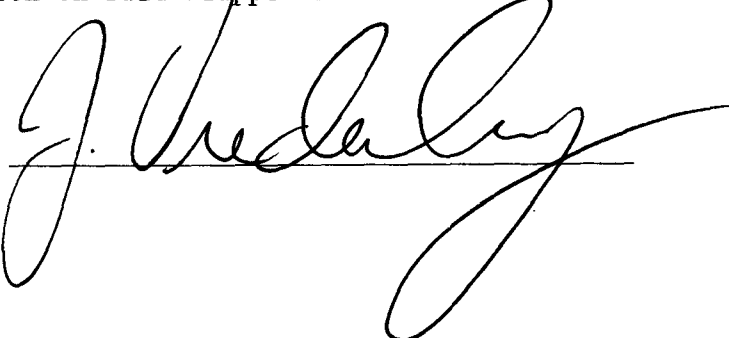
Rona Dresses & Delani
Divisions of Genesco, Inc.
c/o Michael Cook
104 East 40th St.
New York, NY 10016

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
29th day of October, 1982.


Carmine A. Hagekorn
AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



REQUEST FOR BETTER ADDRESS

Requested by <i>C. Haglund</i>	Unit <i>Cal.</i>	Date of Request <i>10-22-82</i>
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Please find most recent address of taxpayer described below; return to person named above.

Social Security Number	Date of Petition <i>Form Rec 10-06-82</i>
Name <i>Rona Dresses & Belani</i>	
Address <i>Division of Genesco Inc. 498 7th Ave. New York, NY 10018</i>	

Results of search by Files

<input type="checkbox"/> New address:	
<input type="checkbox"/> Same as above, no better address	
<input checked="" type="checkbox"/> Other: <i>sent to Rep</i>	<i>c/o MICHAEL COOK 104 E. 40th St New York, NY 10016</i>

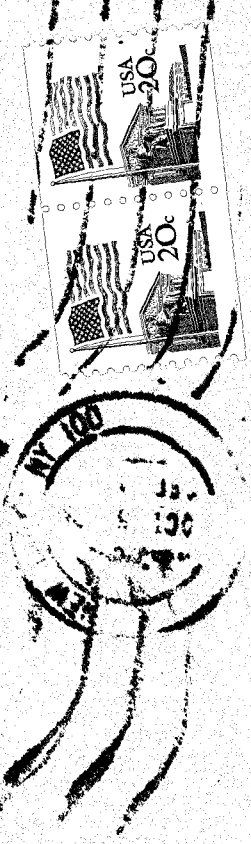
Searched by	Section	Date of Search

PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER

566 RONALCO INDUSTRIES INC.
~~RONALCO INDUSTRIES INC.~~

498 SEVENTH AVENUE
NEW YORK, N. Y. 10018

STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227



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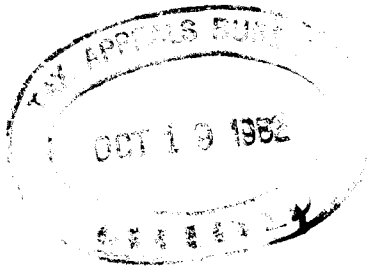
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STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

Rona Dresses & Delani
Divisions of Genesco, Inc.
498 7th Ave.
New York, NY 10018



Handwritten: 566-7706

Handwritten: L20

CERTIFIED

P 230 842 964

MAIL

RONA Dresses

566 498 Seventh Avenue, New York, N.Y. 10018 (212) 566-2300
~~800-228-6854~~

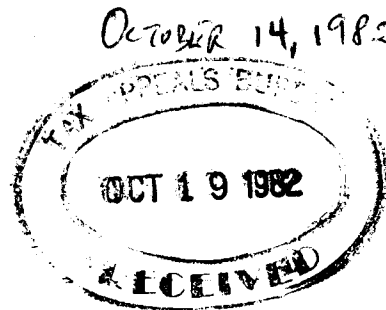
921-8640

STATE TAX COMMISSION
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

GENTLEMEN:

ONE OF OUR PEOPLE INADVERTENTLY SIGNED FOR THE
ENCLOSED LETTER ADDRESSED TO RONA DRESSES DIVISION OF
GENESCO, INC.. GENESCO INC SOLD THESE DIVISIONS IN OCTOBER 1978.

GENESCO INC NO LONGER IS LOCATED IN NEW YORK AND
I CANNOT FORWARD THIS TO THEM. I AM THEREFORE RETURNING
THE LETTER TO YOUR OFFICE!



RONDALCO INDUSTRIES, INC.

A handwritten signature in dark ink, appearing to read 'Paul Marcus'.

DIVISION OF



RONDALCO
INDUSTRIES, INC.

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

~~October 6, 1982~~

remailed
OCT 29 1982

Rona Dresses & Delani
Divisions of Genesco, Inc.
498 7th Ave
New York, NY 10018

*W. Michael Cook
114 E. 40th St
New York, NY 10016*

Gentlemen:

Please take notice of the Decision 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.

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