

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

May 31, 1983

Chumley's Pub, Inc.
and Robert S. Linder and Raymond Lindner
c/o Robert S. Linder
11091 Glenwood Dr.
Coral Springs, FL 33065

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 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 Law 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
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
CHUMLEY'S PUB, INC.	:	
AND	:	
ROBERT S. LINDNER	:	DECISION
AND	:	
RAYMOND LINDNER	:	
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 September 1,	:	
1973 through May 31, 1977.	:	

Petitioners, Chumley's Pub, Inc., Robert S. Lindner and Raymond Lindner, c/o Robert S. Lindner, 11091 Glenwood Drive, Coral Springs, Florida 33065, 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 September 1, 1973 through May 31, 1977 (File No. 21165).

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on February 25, 1982 at 10:45 A.M. Petitioners appeared by Robert S. Lindner. The Audit Division appeared by Ralph J. Vecchio, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether the Audit Division properly determined petitioners' sales tax liability.

FINDINGS OF FACT

1. Petitioner Chumley's Pub, Inc. operated a bar located at 583 Main Street, New Rochelle, New York.

2. On October 18, 1977, as the result of an audit, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due (#90,741,735) against petitioners Chumley's Pub, Inc., and Robert S. Lindner and Raymond Lindner, individually and as officers, covering the period September 1, 1973 through May 31, 1977 for taxes due of \$22,600.38, plus penalty and interest of \$7,519.01, for a total of \$30,119.39.

The additional taxes due on said notice consists of the following:

\$16,841.95	sales tax returns not filed or filed without payment
2,856.11	tax due on additional food sales
<u>2,902.32</u>	tax due on overcollections
\$22,600.38	

3. On January 9, 1978, the Audit Division revised the taxes due on notice number 90,741,735 to \$9,136.79 as a result of returns filed and payments made.

The Audit Division conceded that said notice should be further revised to \$5,304.85 based on the verification of additional payments and certain audit adjustments made at a prehearing conference.

4. Notice numbers 91,892,030 and 91,892,032 were issued for \$2,329.50 and \$3,331.09, respectively for unpaid sales tax returns filed for the periods ending May 31, 1976 and November 30, 1976. A payment of \$100.00 was applied towards notice number 91,892,030.

The balance due on the foregoing notices is in addition to notice number 90,741,735.

5. Petitioner Robert S. Lindner appeared at the hearing for the purpose of ascertaining the exact tax liability of Chumley's Pub, Inc. Mr. Lindner did not take exception to the audit results nor show that the liability of Chumley's is other than as indicated above.

6. Petitioners failed to establish that the failure to file returns or pay over the sales taxes at issue was due to reasonable cause.

CONCLUSIONS OF LAW

A. That the Audit Division properly determined the additional taxes due from Chumley's Pub, Inc. in accordance with section 1138(a) of the Tax Law. That the original determination was correctly revised when it was discovered that assessments had already been issued for unpaid sales tax returns filed for periods covered by the audit.

B. That the outstanding tax liability of petitioners is as follows:

<u>Notice Number</u>	<u>Period</u>	<u>Amount</u>
90,741,735	September 1, 1973 through May 31, 1977	\$ 5,304.85
91,892,030	March 1, 1976 through May 31, 1976	2,229.50
91,892,032	September 1, 1976 through November 30, 1976	<u>3,331.09</u>
Total Taxes Due		\$10,865.44*

* Plus applicable penalty and interest.

C. That the petition of Chumley's Pub, Inc., Robert S. Lindner and Raymond Lindner, individually and as officers is denied.

DATED: Albany, New York

STATE TAX COMMISSION

MAY 31 1983

Roderick W. Allen
PRESIDENT

Francis R. Koenig
COMMISSIONER

Mark J. Smith
COMMISSIONER

REQUEST FOR BETTER ADDRESS

Requested by Tax Appeals Bureau Room 107 - Bldg. #9 State Campus Albany, New York 12227	Unit	Date of Request 7/6/83
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Please find most recent address of taxpayer described below; return to person named above.

Social Security Number	Date of Petition SC - Dec. 5/31/83
Name Chumley's Pub and Robert S. Linder & Raymond Linder	
Address c/o Robert S. Linder 11091 Glenwood Dr. Coral Springs, Fl. 33065	

Results of search by Files

<input type="checkbox"/> New address:	
<input type="checkbox"/> Same as above, no better address	
<input checked="" type="checkbox"/> Other:	Unclaimed

Searched by SD	Section	Date of Search 7/6/83
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PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER

TA 26 (9-79)

STATE OF NEW YORK

State Tax Commission

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

CLAIM CHECK
NO.

627936

☐ HOLD

DATE

6/3/83

1ST NOTICE

2ND NOTICE

6-18

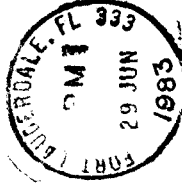
STAMP

CERTIFIED

P 481 207

MAIL

Chumley's Pub, Inc.
and Robert S. Linder and Raymond Lindner
c/o Robert S. Linder
11091 Glenwood Dr.
Coral Springs, FL 33065



HELP

WILL

THE
CAPPED

