

STATE OF NEW YORK
STATE TAX COMMISSION

Romero
UBT
1970

In the Matter of the Petition

of
Manuel Samalot & Thomas Romero :
:
For a Redetermination of a Deficiency or
a Refund of Unincorporated Business :
Taxes under Article(s) 16-A of the
Tax Law for the (Year(s) 1956 - 1959 :

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Janet Wright , 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 11th day of February , 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon

Sam Orenstein, CPA (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Sam Orenstein, CPA
1 Union Square West
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 Post Office Department within the State of New York.

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

11th day of February, 1970.

Edward J. Book

Janet Wright

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
Manuel Samalot & Thomas
Romero

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business:
Taxes under Article(s) 16-A of the
Tax Law for the (Year(s)) 1956 - 1959:

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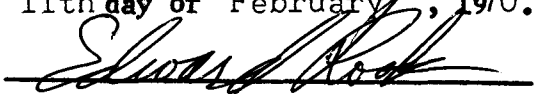
State of New York
County of Albany

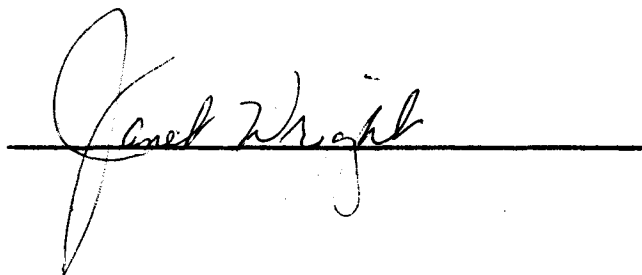
Janet Wright, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 11th day of February, 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon Manuel Samalot
and Thomas Romero (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Manuel Samalot & Thomas Romero
c/o Samalot Real Estate, Inc.
1014 East 163rd Street
Bronx, New York 10459
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 Post Office Department within the State of New York.

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

11th day of February, 1970.





STATE TAX COMMISSION

of

DETERMINATION

For Revision or Refund of Unincorporated
Business Taxes under Article 16-A of the :
Tax Law for the Years 1956, 1957, 1958 :
and 1959 :

The taxpayers having filed an application pursuant to Sections 386j and 374 of the Tax Law for revision or refund of Unincorporated Business taxes imposed by Article 16-A of the Tax Law for the years 1956 through 1959 under separate notice's of additional assessment each dated February 26, 1963 and such application having been denied and a hearing thereon having been demanded and a formal hearing held on November 27, 1967 before Vincent P. Molineaux, Hearing Officer, and the transcript of such hearing and all other papers pertaining to such additional assessment having been duly examined and considered,

FINDS:

1. The notice's of additional assessment increases the income of each year for the taxpayer's unincorporated business under the authority of Regulations 20 NYC RR 281.3 by amounts received as salaries by each of the taxpayers from a corporation, Samalot-Romero Real Estate Inc.. In addition increases in income are made, but are not contested by the taxpayer, for the year 1956 because of certain gains on the sale of real property and for the years 1958 and 1959 by reason of the income of "T.R. Realty Co." being considered a receipt of the unincorporated business and by increasing the income of such "T.R. Realty" for accelerated depreciation not allowable.

The amounts included in the computation are not in issue.

2. The taxpayer's unincorporated business is a partnership doing business as Samalot and Romero. It was formed on September 17, 1956 and is engaged in the business of buying, repairing, managing and selling real estate at its own risk and for its own account for profit.

3. During the taxable year, each of the taxpayers was an officer and 50% stockholder of Samalot-Romero Real Estate, Inc., formed on March 24, 1956, a date which preceded the formation of the unincorporated business. The business of the corporation was a continuation of the business of the sole proprietorship of Mr. Samalot who had employed Mr. Romero as a salesman. The corporation engaged solely in the business of real estate brokerage: the sale of real estate as agent for others and on their behalf for commission income. Both taxpayers are individually licensed as real estate brokers.

4. The business of the partnership and of the corporation is conducted at the same business office and address: 1014 East 163rd Street, Bronx, New York. A customer at the place of business was always told or already knew whether he was dealing with the taxpayers as principals of the partnership or as officers of the corporate broker.

5. About 75% of the sales of the partnership were made through the use of the corporation as broker.

6. The duties of the taxpayers for the corporation were primarily to supervise salesmen.

7. Although the corporation acted as broker for the partnership over 80% of the commissions earned by the corporation were from sales made of property not owned by the partnership.