

STATE OF NEW YORK
STATE TAX COMMISSION

*B Falotico, Vincent
+ Asso.
O.B.T.
(1971)*

In the Matter of the Petition

VINCENT L. FALOTICO^{of}, JOHN L. CORNIANI
and JOHN H. KLINGE, d/b/u the firm
name and style of V.L.FALOTICO &
ASSOCIATES

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

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business:
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) October 31, :
1961 and 1962

State of New York
County of Albany

Rae Zimmerman, 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 23rd day of August, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon Arthur F.X.
Henricksen, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Arthur F. X. Henricksen, Esq.
120-10 Queens Boulevard
Kew Gardens, N.Y. 11415

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

23rd day of August, 1971.

Linda Wilson

Rae Zimmerman

To **Jim Scott**

8/23/71

**This was sent to the wrong address on
December 15, 1970. It would be regarded
as a closed case by you.**

Enc.

From Edward Rook

PATCH T (FILE A)



STATE OF NEW YORK
STATE TAX COMMISSION

Falotico
UBT 6/1/62

In the Matter of the Petition

of

VINCENT L. FALOTICO, JOHN L. CORNIANI
and JOHN H. KLINGE, d/b/u the firm
name and style of V.L.FALOTICO & ASSO.
For a Redetermination of a Deficiency or
a Refund of Unincorporated Business,
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) October 31, :
1961 and 1962

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

State of New York
County of Albany

Joyce S. Van Patten, 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 15th day of December, 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon V.L. Falotico
and Associates (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: V. L. Falotico & Associates
26 Court Street
Brooklyn, 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

15th day of December, 1970

[Signature]

Joyce S. Van Patten

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

VINCENT L. FALOTICO, JOHN L. CORNIANI
and JOHN H. KLINGE, d/b/u the firm
name and style of V.L. FALOTICO & ASSO.
For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) October 31, :
1961 and 1962

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

State of New York
County of Albany

Joyce S. Van Patten, 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 15th day of December, 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon J. Hendrickson, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: J. Hendrickson, Esq.
c/o Frederick J. Ludwig, Esq.
60 E. 42nd Street
New York, New York 10017
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

15th day of December, 1970.

Edward Beck

Joyce S. Van Patten

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
VINCENT L. FALOTICO, JOHN L. CORNIANI
and JOHN H. KLINGE, d/b/u the firm
name and style of
V. L. FALOTICO & ASSOCIATES
for a Redetermination of a Deficiency or
for Refund of Unincorporated Business Taxes
under Article 23 of the Tax Law for the
fiscal years ending October 31, 1961 and
1962

DECISION

Taxpayers petitioned for a redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the fiscal years ending October 31, 1961 and 1962. A formal hearing was held before Francis X. Boylan, Hearing Officer, in the offices of the State Tax Commission in the City of New York on November 12, 1969. The petitioners appeared through J. Hendrickson, Esq. and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq. of counsel).

FINDINGS OF FACT

1. The issue in this case is whether income derived from the business activities of a partnership engaged in the practice of engineering is subject to unincorporated business taxes when some member partners are not registered as professional engineers.

2. Taxpayers are partners of an engineering firm. Only Mr. Falotico was a licensed engineer under the laws of New York.

3. An audit of the petitioners' tax returns for the years in question resulted in a determination that the business activities of the petitioners constituted the carrying on of an unincorporated business. Accordingly, the partnership was issued a notice of deficiency in the amount of \$2,082.69 unincorporated business tax plus interest for fiscal year 1961, file #P-1409 dated November 4, 1963, and \$3,868.91 unincorporated business tax plus interest for

the fiscal year 1962, file #P-1409 dated March 28, 1966.

4. Taxpayers filed the equivalent of a petition for redetermination of the assessment for fiscal year 1961 on February 6, 1964, more than ninety days after issuance of the deficiency. They filed the petition for redetermination of the assessment for fiscal year 1962 on June 24, 1966.

5. Section 7202 of the Education Law prohibits the practice of engineering except by qualified engineers and architects duly licensed in New York. Section 7207(2) of the Education Law provides that engineers may only engage in the general practice of such activities in New York in partnership form where all members thereof are licensed in this state as either architects or engineers.

DECISION


A. The equivalent of a petition for redetermination of the assessment for fiscal year 1961 was untimely filed.

B. The business activities of the taxpayers constitute the carrying on of an unincorporated business within the meaning and intent of Article 23 of the Tax Law and the resulting income is subject to the unincorporated business tax.


C. The notices of deficiency are sustained and the petitions are denied.

DATED: Albany, New York
December 11, 1970

STATE TAX COMMISSION



COMMISSIONER



COMMISSIONER



COMMISSIONER

DEPARTMENT OF TAXATION AND FINANCE

MEMORANDUM

TO : Mr. Edward Rook
Secretary to the State Tax Commission

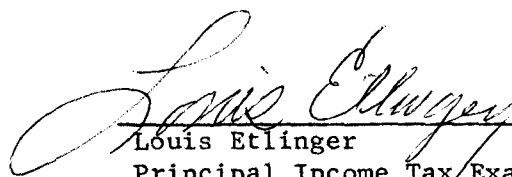
FROM : Louis Etlinger

SUBJECT: V. L. Falotico & Associates

OFFICE: Income Tax - Albany

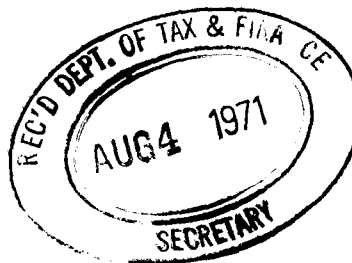
DATE : August 4, 1971

I am sending you a copy of the transcript of the Formal Hearing
in the above matter as requested in your memorandum of August 2,
1971.


Louis Etlinger
Principal Income Tax Examiner

FEW:MMR

Attached: Transcript



STATE TAX COMMISSION

In the Matter of the Petition

of

V. L. FALOTICO & Associates,

for a Redetermination of a
Deficiency or for Refund of
Unincorporated Business Taxes
under Articles 16A and 23 of
the Tax Law for the Years 1959
and 1960.

APPEARANCES:

FRANCIS X. BOYLAN, Hearing Officer

ALEXANDER WEISS, Esq. ✓
Trial Counsel

J. HENDRICKSON, ESQ.
60 East 42nd Street
New York, N. Y.

FORMAL HEARING held at the office of the State Tax
Commission, 80 Centre Street, New York, N. Y. on
November 12, 1969 at 1:30 p.m.

--

A. Nathanson Hearing Reporter

MR. BOYLAN: This is a formal hearing pursuant to the provisions of the Tax Law when an application for revision or refund has been denied or where a petition has been made under Article 23.

The format of the hearing normally is that the Department puts in its prima facie case which is usually a matter of documentary evidence.

Where the petitioner is present, or there is a witness, the petitioner or his witness, of course may testify or documentary or other evidence may be put in for the petitioner.

It does not appear that there will be any witnesses at the hearing today, so I do not have to speak of the right of cross-examination, because the attorney knows that. Very often it is felt even when the petitioner is represented that so much has already been written to state what his position is that it is not necessary for him to do anything much further at this time, so I will caution you against that, and anything you want to be considered as evidence should be put in the record.

The appearances have been noted informally.

Mr. Hendrickson, do you want to make an opening statement?

MR. HENDRICKSON: After reviewing the file I have concluded that we have no further evidence to submit to the Department. We understand its position. Our position is contrary. It appears that the issue that is presently before this Board is a question of law, namely, the construction of Section 7209 of the Education Law. It is a purely legal question in our judgment, and accordingly I was going to ask that we be permitted to submit a brief on this point.

MR. BOYLAN: Mr. Weiss, do you want to make an opening statement?

MR. WEISS: I have a few remarks that I wish to make as to the procedural aspects of this matter. The Notice of Hearing appears to indicate the years to be 1959 and 1960, that is, the fiscal years ending October 31. There appears to have been inadvertently omitted the year ending October 31, 1962, and I shall ask Mr. Hendrickson if he will stipulate that the notice of hearing also covers that.

MR. HENDRICKSON: I would so stipulate, but before doing so -- my records do not appear to be complete. I was going to raise that point myself. Does it appear we have filed any applications for

redetermination with respect to those years?

MR. WEISS: You filed timely applications.

MR. BOYLAN: Mr. Hendrickson, what years do you have petitions for?

MR. HENDRICKSON: 1959, 1960, 1962. I have an indication in the file.

MR. WEISS: There was a preliminary hearing covering 1959 and 1960. The assessment for 1962 is dated March 28, 1966.

MR. BOYLAN: There is no question about 1962. Can I take care of 1961 on the same basis?

MR. WEISS: That is what I am trying to find

MR. BOYLAN: I suggest we go ahead on the years already stated. Do you want to put in your papers on 1959, 1960 and 1962?

MR. WEISS: All right, I will do so.

First, I have the notice of additional assessment for the fiscal year ending October 31, 1959 which is submitted in evidence.

MR. BOYLAN: Notice of Additional Assessment is marked DEPARTMENT'S EXHIBIT A.

MR. WEISS: The same for the next fiscal year

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ending October 31, 1960 is offered in evidence.

MR. BOYLAN: EXHIBIT B is the additional assessment for the year 1960. The first is also dated February 14, 1963.

MR. WEISS: Next I offer the notice of deficiency for the fiscal year ending October 31, 1962.

MR. BOYLAN: Notice of deficiency dated March 28, 1966 for the year 1962 is DEPARTMENT'S EXHIBIT C in evidence, and related Statement of Audit Changes for that year dated March 28, 1966 is DEPARTMENT'S EXHIBIT C-1 in evidence.

MR. WEISS: I now offer Application for Revision or Refund for the year 1959.

MR. BOYLAN: Accepted in evidence as EXHIBIT D. Application for revision or refund sworn to 25 March 1963. Application for revision or refund as to the year 1960 sworn to 25 March 1963 accepted as EXHIBIT E in evidence.

MR. WEISS: And denial of the application for both those years dated November 20, 1964.

MR. BOYLAN: DEPARTMENT'S EXHIBIT F. It contains a statement of explanation as to the Department's position on the application for revision

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or redetermination submitted up to that time.

MR. WEISS: I submit now Demand for Hearing covering those two years.

MR. BOYLAN: It is dated December 11, 1964 as to the years 1959 and 1960. DEPARTMENT'S EXHIBIT G in evidence.

MR. WEISS: Application for revision or redetermination dated 25 March 1963.

MR. BOYLAN: Accepted as DEPARTMENT'S EXHIBIT H.

MR. WEISS: I have notice of determination covering the year 1961 dated November 4, 1963, but as to that I don't know if there was any application made for revision. Application for revision made covering the fiscal year 1961 received on February 6 1964. The time from November 4, 1963, the date of the assessment, to February 6, 1964 apparently is not timely. It was over three months. You had ninety days in which to object to it which would have been before February 4, 1964 when we received the application. In any case, it was on the wrong form. We don't use that form any more. Unless Mr. Hendrickson concedes it is untimely --

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MR. HENDRICKSON: I couldn't make such
a concession.

MR. WEISS: I offer assessment covering
the fiscal year 1961 together with statement of audit
changes.

MR. BOYLAN: Notice of deficiency dated
November 4, 1963 is DEPARTMENT'S EXHIBIT I and Statement
of Audit Changes dated February 26, 1963 DEPARTMENT'S
EXHIBIT I-1.

MR. WEISS: I offer protest of taxpayer
on Form IT-113.

MR. BOYLAN: Application submitted to do
the work of a petition for fiscal year October 31, 1961
sworn to 30 of February 1964 received February 18 1964.
There is an earlier receipt dated February 6. As to
this the Department's position is it wasn't timely.
However it is received as Exhibit J.

MR. WEISS: Statement of Audit Changes
was dated February 26, 1963. Actual Notice of Determination.
was dated November 4, 1963.

I have application for revision as to that
year although it designated the wrong year as ending
October 31, 1962, but the amount is correct. That was
filed May 24, 1963 which is some time after November 4, 1963.

So this application was filed long after the notice of determination so as to the year 1961 it was untimely filed.

MR. BOYLAN: You raise the question of timeliness as to Exhibit I and I-1?

MR. WEISS: Also 1962.

MR. HENDRICKSON: Was there a denial of the two applications?

MR. BOYLAN: Would you reserve on that until Mr. Weiss finishes the documentary presentation?

MR. HENDRICKSON: Yes.

MR. WEISS: I don't see an application based on the assessment for the year 10-31-62 as ever having been made so 1962 is not properly before us, I don't think. I have demand for hearing covering years 1959, 1960, 1961, 1962 and 1963 filed Feb. 1, 1966.

MR. BOYLAN: As to Exhibit J it was typewritten as the fiscal year ended Oct. 31, 1964 then written over in ink by someone on behalf of the petitioner to read '1961'. You have an assessment of \$2225.58 Exhibit I and is credited for the year 1961 and the strike-over is intended, so this particular Exhibit J is referable to the year 1961.

MR. WEISS: So that application was premature. It was based on statement of audit changes

rather than the notice of termination.

MR. BOYLAN: That may be. Do you have any other papers?

MR. WEISS: Apparently we don't have applications for the other years mentioned in this demand for hearing.

MR. BOYLAN: Demand for Hearing on its face 1959, 1960, 1961, 1962, 1963, 1964, denied by the State Tax Commission January 12, 1966; it is dated January 29, 1966 and carried a departmental legend saying that a Form IT-114 was previously filed for fiscal 1959 and 1960. No other applications have been denied. This will be Department's Exhibit K.

MR. WEISS: Also letter dated March 25, 1963 to the taxpayer stating that the application for revision filed for fiscal 1961 may not be recognized since the statement of audit changes is merely a proposed change.

MR. BOYLAN: Exhibit L.

MR. WEISS: Those are all the jurisdictional papers I will submit.

MR. BOYLAN: Have you any papers to submit?

MR. HENDRICKSON: None whatsoever.

We are not questioning the assessment per se, the figures; we are questioning the rationale or law.

MR. BOYLAN: What do you have on the fiscal year ending 1961?

MR. HENDRICKSON: A copy of the application for revision or refund. It appears to refer to the year ending October 31, 1961 where the figure '2' has been stricken out.

MR. BOYLAN: That is already on the record.

Do you have anything else?

MR. HENDRICKSON: Nothing else.

MR. BOYLAN: Do you have any papers to put in by way of evidence?

MR. HENDRICKSON: Just a letterhead of the taxpayers.

MR. BOYLAN: I will swear you in and ask you several questions.

ARTHUR F. X. HENDRICKSON, having been duly sworn by the Hearing Officer, testified as follows:

Q What do you know about that letterhead?

A This is part of the legal file on this case of Frederick J. Ludwig, attorney of record for the taxpayer and it was obtained from V. L. Falotico & Associates at the inception of the application. It is the letterhead used by V. L. Falotico during the years the assessment has been involved.

Q What years are you speaking of?

A 1959, 1960, 1961.

Q This letterhead goes back to 1959?

A Yes. We requested it to show how they were doing business at that time.

Q When?

A My conversation with Mr. Ludwig is he requested it when he was retained along with other material that dealt with a description of --

Q Mr. Hendrickson, what I am trying to find out is when this was submitted and what representation has been made about what period it refers to. After all, it is just a piece of paper.

A Of course. It's the one used by V. L. Falotico and Mr. Ludwig was so advised.

Q Mr. Ludwig told you that someone at V. L. Falotico told him it was the letterhead for

that time?

A Specifically Vincent Falotico.

MR. WEISS: That letterhead was used since then covering all the years?

THE WITNESS: I couldn't say all the year. I know the partnership discontinued 1965. There are some individuals who left before 1955 so this obviously is not the letterhead for that period. Mr. Corniani's name was always on there as an associate.

MR. BOYLAN: If you are to testify on any other matters, I wish you would do it now.

THE WITNESS: I didn't intend to now.

MR. BOYLAN: Petitioner's Exhibit 1 in Evidence.

BY MR. WEISS:

Q Was Mr. Corniani licensed to practice engineering in the State of New York?

A No, he wasn't.

Q Or anywhere else?

A No. He's a graduate of the N.Y.U. Engineering School. Mr. Falotico was a professional engineer.

Q Mr. Falotico was the only licensed New York engineer in the firm during these years?

A I would like to help you out, yes, it appears that Mr. Corniani was not licensed, but he held a B.S. in Mechanical Engineering from N.Y.U., obtaining same in 1936. These are taken from the notes in the legal file. The same individual was exempted, according to my notes, from the Board of Education Part 1 and 2 and never did bother to take Part 3.

Q Mr. Corniani was not licensed in the State of New York during these years to practice engineering?

A No.

Q Was there another partner by the name of 'Kling', the third partner?

A I know there was a Mr. Kling -- no, John Kling died in 1964. Yes, he wasn't a professional engineer.

Q What did Falotico do?

A I did not intend to offer any evidence on this. This is a matter of law, sir.

MR. BOYLAN: Mr. Hendrickson, do you wish

to be excused from testifying?

THE WITNESS: Yes.

MR. BOYLAN: I swore you in because you wanted to offer that exhibit, but in these circumstances since you do not wish to testify --

THE WITNESS: I want to help you out as much as possible.

BY MR. WEISS:

Q If I were to say that the work of V. L. Falotico & Associates involved the practice of professional engineering --

A I will not characterize their work beyond saying that V. L. Falotico to my knowledge based on the records was a professional engineer licensed by the State of New York.

Q Mr. Falotico as an individual?

A Correct.

Q What about the partner?

A I could not tell you beyond what I have said. I don't want to speak in the form of argument, sir.

MR. BOYLAN: I understood you to say

that you did not want to testify at all,
so which is it? Do you want to testify or
do you not?

THE WITNESS: No.

MR. BOYLAN: Do you wish to put material
into the record in the form of a brief?

THE WITNESS: Yes.

MR. BOYLAN: Do you have any other material
to present?

THE WITNESS: It is our position that
there is no section in any state law which prohibits
a professional engineer from doing business in the
form of a partnership.

MR. BOYLAN: With one licensed engineer?

THE WITNESS: Correct. Section 7209
speaks of doing business as a corporation.

MR. BOYLAN: You say that this partnership
practicing a profession can be accorded the status
under the unincorporated business law by virtue of
the fact that one partner is a professional.

THE WITNESS: There is no prohibition in
the Education Law to carrying on such a business.

MR. BOYLAN: Is this business an engineering

profession?

THE WITNESS: Yes, one of the outstanding and most reputable firms in the nation.

MR. WEISS: Do you know -- ?

THE WITNESS: Are you going to have me testifying again?

MR. WEISS: Yes. If you know.

MR. HENDRICKSON: I am not testifying here.

MR. BOYLAN: He is not testifying, Mr. Weiss.

MR. WEISS: Will you then concede that Mr. Corniani was held out as a licensed engineer?

MR. HENDRICKSON: That's right. I put the letterhead in. What we have before the hearing has been stated by him, that we have a partnership where the principal member, V. L. Falitico is a licensed professional engineer. He has an associate and partner one not licensed. The question we raise is we feel that that partnership can carry on this profession and there is no prohibition in the Education Law prohibiting it. Accordingly, the basis of these assessments is wrong. They have been looking at the Education Law which pertains to corporations.

MR. WEISS: Mr. Hendrickson, are you aware of the Edward J. Losi case and other similar cases that are before the courts?

MR. BOYLAN: I cannot allow you to question him if he is not a witness.

Are you offering this paper, Mr. Weiss?

MR. WEISS: No, I want to ask Mr. Hendrickson about a matter that is presently in litigation which involves the same issue.

MR. BOYLAN: Are you talking about a stipulation as to the facts?

MR. HENDRICKSON: Are you asking me if I am aware of that decision in that case?

MR. WEISS: Yes.

MR. HENDRICKSON: I will say that I am.

MR. WEISS: What was the decision?

MR. HENDRICKSON: It is not applicable to this case at all.

MR. BOYLAN: Are you going to submit a memorandum, Mr. Weiss?

MR. WEISS: Yes.

MR. BOYLAN: Do you want to submit a memorandum, Mr. Hendrickson?

MR. HENDRICKSON: Yes.

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MR. WEISS: The case I am referring to is in the matter of Edward J. Losi against James E. Allen, Jr., Commissioner of Education, 267 New York sub 2nd, 493, decided January 18, 1966, holding the Commissioner of Education was correct in having sustained the determination of the State Board of Examiners of Professional Engineers and Land Surveyors in accepting its recommendation that the petitioners be censured and reprimanded. The petitioner was a firm of engineers not all of whom were licensed in the State of New York.

MR. BOYLAN: We can read the case, Mr. Weiss.

You have thirty days to put in a memorandum, Mr. Hendrickson.

MR. HENDRICKSON: Fine, I appreciate it.

MR. WEISS: I will put one in in response.

MR. BOYLAN: Anything else?

MR. HENRICKSON: No.

Re: Falotico Associates

Per Floyd Worden —

7/28/71

- ① Only power of atty found was in favor of Joseph Klein, Frederick J Ludwig and Jacob Kantor
T/A Klein + Ziegler
covering fiscal years 59/60
- ② mention was made in minutes + documents of same firm for fiscal 61
-

③ The minutes of the hearing do not mention a power of atty in favor of Hendriksen, who appeared.

④ The representative's copy of the decision was sent to Hendriksen by Ludwig, which appears to be correct, since without a separate power, Hendriksen could only appear "of counsel" to Ludwig.

Suggestion — If Hendriksen can show us a "Power" in his favor, dated prior to the hearing, we must send him a reissued decision.

If not, this would apparently end the problem.

LW

7/27

According to Warden —

Fredrick L Ludwig

60 E4.5T — was atty

on Appellate for revision

This Warden will look
for minutes of
hearing

Arthur 7X
Hennrichsen
120-10

Ken Blood
Green
D. G.
11415
Linden

ARTHUR F. X. HENRIKSEN

ATTORNEY AT LAW

120-10 QUEENS BOULEVARD

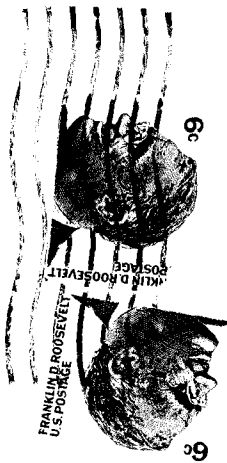
KEW GARDENS, N. Y. 11415

**Hon. Edward Rook
Secretary
New York State Tax Commission
State Campus
Albany, N.Y. 12227**

7-4539
~~7-4539~~
Don't know

ARTHUR F. X. HENRIKSEN
ATTORNEY AT LAW
120-10 QUEENS BOULEVARD
KEW GARDENS, N. Y. 11415

Hon. Edward Rook
State Tax Commission
Building 9, Room 214A
State Campus
Albany, N.Y. 12226



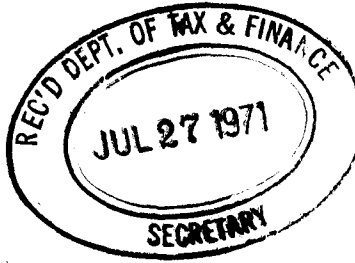
ARTHUR F. X. HENRIKSEN

ATTORNEY AT LAW

BOULEVARD 8-8000

BOULEVARD 8-4030

AREA CODE 212



120-10 QUEENS BOULEVARD
KEW GARDENS, N. Y. 11415

July 23, 1971

Hon. Edward Rook
Department of Taxation & Finance
State Tax Commission
Albany, New York 12227

Re: V. L. Falotico & Associates

Dear Mr. Rook:

As I indicated to you by phone this morning, I have not received notification that a determination by your Commission has been made. As your office is aware since June of 1970 I have made calls regarding when a determination might be expected.

I understand that a determination has been made. Your Secretary advised me of that this morning. I understand notification was forwarded to Mr. Ludwig, a prior attorney, but was returned. The record of the Hearing conducted by Mr. Francis Boylan in New York City will show that I appeared for Falotico and Associates and that I thereafter requested an extension of time to submit a brief.

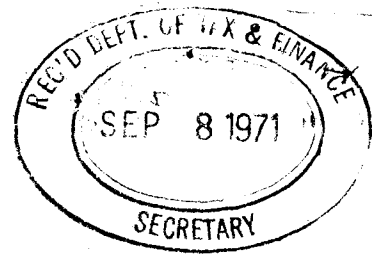
It is my intention to seek judicial review of any adverse determination and I would like to have a copy of the determination.

Please advise.

Very truly yours


Arthur F. X. Henriksen

AFXH:aa



September 7, 1971

New York State
Income Tax Bureau
Division 45
State Campus
Albany, N.Y. 12224

Re: V.L. Falotico, 476 Park Ave., N.Y., N.Y.
Account No. 217201: Notice & Demand

Gentlemen:

Please be advised that I only recently received official notice from the State Tax Commission that an adverse decision had been rendered in the above matter.

Receipt of your "Notice and Demand for Payment of Income Tax Due" is hereby acknowledged. However be further advised that judicial review will be sought within the next 4 months.

Very truly yours

Arthur F. X. Hennigan

AFFH:aa

CC Edward Reek, Secretary State Tax Commission

V.L. Falotico