

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JONES, KREEGER & COMPANY

(PARTNERSHIP IN DISSOLUTION)

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Unincorporated Business
Taxes under Article (x) 23 of the
Tax Law for the ~~Year(s) or Period(s)~~
f/y/e July 31, 1970.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor, 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 14th day of January, 1977, she served the within
Notice of Default Order by (certified) mail upon Jones, Kreeger & Company
(Partnership in Dissolution) ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Jones, Kreeger & Company
(Partnership in Dissolution)
P.O. Box 19131
Washington, DC
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)~~
~~XXXXXX~~ 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

14th day of January, 1977.

Bruce Batchelor

Janet Trach

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JONES, KREEGER & COMPANY

(PARTNERSHIP IN DISSOLUTION)

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article (x) 23 of the :
Tax Law for the ~~Year(s) or Period(s)~~ :
f/y/e July 31, 1970.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor, 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 14th day of January, 1977, he served the within
Notice of Default Order by (certified) mail upon R. Stan Mortenson

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: R. Stan Mortenson, Esq.
Miller, Cassidy, Larroca & Lewin
1320 19th Street, NW, Suite 500
Washington, DC 20036

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

14th day of January, 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

January 14, 1977

TELEPHONE: (518) **457-1723**

Jones, Kreeger & Company
(Partnership in Dissolution)
P.O. Box 19131
Washington, DC

Gentlemen:

Please take notice of the **DEFAULT ORDER**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(x) **722** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned. They
will be referred to the proper party for reply.

Very truly yours,

Paul S. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
JONES, KREEGER & COMPANY
(PARTNERSHIP IN DISSOLUTION)
for Redetermination of Deficiency or for Refund of
Unincorporated Business
Taxes under Article ~~(x)~~ 23 of the Tax Law for the
~~Year(s)~~ f/y/e July 31, 1970.

DEFAULT ORDER

Petitioner ~~(s)~~, Jones, Kreeger & Company (Partnership in Dissolution)
PO Box 19131, Washington, DC filed a petition for redetermination of deficiency
or for refund of unincorporated business taxes under Article ~~(s)~~
23 of the Tax Law for the ~~year(s)~~ f/y/e July 31, 1970 File No. ~~(s)~~ 01290.

A formal hearing on the petition was scheduled before
Edward L. Johnson, Hearing Officer, at the offices of the State
Tax Commission, Two World Trade Center, New York, New York,
on Tuesday, November 16, 1976 at 2:45 P.M. Notice of said formal
hearing was given to petitioner(s) and petitioner(s) representative, R. Stan
Mortenson, Esq. Petitioner(s) or petitioner(s) representative did
not appear at the formal hearing. A default has been duly noted.

Now on motion of the attorney for the Department of Taxation and Finance,
it is

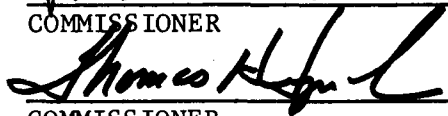
ORDERED that the petition of Jones, Kreeger & Company (Partnership in
Dissolution)
be and the same is hereby denied.

DATED: Albany, New York
January 14, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

March 18, 1980

Thomas B. Carr, Esq.
Miller, Cassidy, Larroca
& Lewin
2555 M Street, N. W. - Suite 500
Washington, D.C. 20037

Dear Mr. Carr:

Please be advised that State Tax Commissioner Thomas H. Lynch has vacated the default order entered against your client, Jones, Kreeger and Company, on January 14, 1977.

I have this date advised the Tax Appeals Bureau that the default order has been vacated. They will reschedule the matter for a hearing.

Sincerely yours,

PAUL B. COBURN
Secretary to the State Tax Commission

PBC:mac

cc: Paul Leffebvre, Law Bureau
John Sollecito, Director
Tax Appeals Bureau

DEPARTMENT OF TAXATION AND FINANCE

To..... Paul Coburn,

Re: Jones, Kreeger & Company

Open default.

3/18/80
Attachment

THL

Thomas H. Lynch
Tax Commissioner



New York State Department of
TAXATION and FINANCE

MEMORANDUM

AD-53.1 (4/77)

TO: Commissioner Lynch
FROM: Paul B. Coburn
SUBJECT: Jones, Kreeger & Company

Please advise whether you wish to vacate the default order in this case.

Please note that Notice of Hearing was sent to the wrong address even though the Department had knowledge of the correct address.

I have spoken to Mr. Leffebvre of our Law Bureau, and he has no objection to vacating the default.



PAUL B. COBURN

March 11, 1980



LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
2555 M STREET, N.W. - SUITE 500
WASHINGTON, D. C. 20037

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
JAMES E. ROCAP, III
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STEPHEN L. NIGHTINGALE
SETH P. WAXMAN

COURTNEY A. EVANS
OF COUNSEL

TELEPHONE
(202) 293-6400

TELECOPIER
(202) 293-1827

March 4, 1980

DEPARTMENT OF TAXATION AND FINANCE
LAW BUREAU
TELEX
99-2343

MAR 10 1980

ESTATE, BANKRUPTCY & COLLECTION UNIT

State Tax Commission
State of New York
Albany, New York 12227

Gentlemen:

Re: Jones, Kreeger & Company

I am enclosing for filing the original and five copies of the petition of Jones, Kreeger & Company to vacate the January 14, 1977 default order entered against that partnership.

Sincerely yours,

Thomas B. Carr

Thomas B. Carr

TBC:jrr

cc. Paul Leffebvre, Law Bureau
Victoria A. Gary, Calendar Clerk

Enclosure:
As stated above

RECEIVED
DEPARTMENT OF
TAXATION AND FINANCE
MAR 10 1980
LAW BUREAU

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition of	:	
ONES, KREEGER & COMPANY	:	
(PARTNERSHIP IN DISSOLUTION)	:	
	:	<u>Petition to Vacate</u>
For Redetermination of Deficiency	:	
or for Refund of Unincorporated	:	<u>Default Order</u>
Business	:	
	:	
Taxes under Article 23 of the Tax	:	
Law for the f/y/e July 31, 1970.	:	

Petitioner Jones, Kreeger & Company (Partnership in Dissolution) hereby petitions the New York State Tax Commission for an order vacating the Default Order entered in this matter on January 14, 1977.

The grounds for this petition, more fully stated in the attached memorandum of points and authorities, are: (1) the sole basis for entering the default order was the failure of petitioner or petitioner's representative to appear at a formal hearing scheduled for November 16, 1976; (2) in fact, neither petitioner nor petitioner's representative had actual notice of the November 16, 1976 hearing; (3) instead, petitioner's representative was advised by letter dated November 15, 1976 that petitioner's petition as of that date was still pending in the Tax Compliance Bureau and that when a formal hearing was scheduled, the partnership or its representative would be promptly notified; (4) when petitioner's representative first learned of the entry of the default order, petitioner's representative was assured that the order would be vacated sua sponte; (5) petitioner's representative only recently became aware that the default order was still

in effect and required a formal petition for its expungement.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas B. Carr". The signature is written in a cursive style with a large, prominent "B".

Thomas B. Carr
MILLER, CASSIDY, LARROCA & LEWIN
2555 M Street, N.W. Suite 500
Washington, D.C. 20037
(202) 293-6400

Attorney for Petitioner
JONES, KREEGER & COMPANY

TA-18.1 (3/76)

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition of	:	
JONES, KREEGER & COMPANY	:	
(PARTNERSHIP IN DISSOLUTION)	:	<u>MEMORANDUM OF POINTS AND</u>
	:	
For Redetermination of Deficiency	:	<u>AUTHORITIES IN SUPPORT OF</u>
or for Refund of Unincorporated	:	
Business	:	<u>PETITION</u>
	:	
Taxes under Article 23 of the Tax	:	
Law for the f/y/e July 31, 1970.	:	

The facts in support of petitioner's request that the Default Order be vacated are as follows:

(1) The sole basis for the entry of the default order was the failure of petitioner or petitioner's representative to appear at a November 16, 1976 hearing.

(2) In fact, neither the petitioner nor petitioner's representative received actual notice of that hearing. (The notice to petitioner was mailed to an obsolete post office box and returned "addressee unknown". The notice to petitioner's representative was mailed to an old address and returned as not forwardable. See copies attached.).

(3) Instead, as late as November 15, 1976, petitioner's representative was advised that the petition was still under consideration in the Tax Compliance Bureau and that when a formal hearing was scheduled, petitioner will be given ample notice. (See attached letter sent to proper address for petitioner's representative).

(4) Petitioner's representative first learned of the default order on November 2, 1977 but was assured at that time that it would be vacated by the Commission. (See attached memorandum to file).

(5) However, on December 11, 1979, the below-signed counsel learned that the default order had not been vacated and that a formal petition to vacate the default order would have to be filed.

(6) Counsel learned of the continued existence of the default order during a discussion in which counsel was attempting to cause the consolidation and settlement of all claims against Jones, Kreeger & Company and its partners.

(7) Counsel was advised that the consolidation and settlement could not go forward until the default order was vacated.

Accordingly, it is respectfully requested that this petition be granted so that the partnership's petition for redetermination of default can be consolidated with ongoing proceedings involving individual members of the petitioning partnership and hopefully settled to everyone's satisfaction.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas B. Carr". The signature is written in a cursive, slightly slanted style.

Thomas B. Carr

MILLER, CASSIDY, LARROCA & LEWIN
2555 M Street, N.W., Suite 500
Washington, D.C. 20037
(202) 293-6400

Attorney for Petitioner
Jones, Kreeger and Company