

STATE OF NEW YORK  
TAX APPEALS TRIBUNAL

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In the Matter of the Petition :  
of :  
**LINCOLN APPLIANCES, INC.** :  
for Revision of Determinations or for Refund :  
of Sales and Use Taxes under Articles 28 and 29 :  
of the Tax Law for the Period June 1, 1984 :  
through November 30, 1985. :

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In the Matter of the Petition :  
of :  
**STU-GLEN CORP.** :  
for Revision of Determinations or for Refund :  
of Sales and Use Taxes under Articles 28 and 29 :  
of the Tax Law for the Period June 1, 1984 :  
through June 30, 1988. :

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In the Matter of the Petition :  
of :  
**STUART A. KAUFER, OFFICER OF** :  
**LINCOLN APPLIANCES, INC.** :  
for Revision of Determinations or for Refund :  
of Sales and Use Taxes under Articles 28 and 29 :  
of the Tax Law for the Period June 1, 1984 :  
through November 30, 1985. :

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In the Matter of the Petition :  
of :  
**STUART A. KAUFER,** :  
**OFFICER OF STU-GLEN CORP.** :  
for Revision of Determinations or for Refund :  
of Sales and Use Taxes under Articles 28 and 29 :  
of the Tax Law for the Period June 1, 1984 :  
through June 30, 1988. :

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DECISION  
DTA NOS. 807641,  
807646, 807639  
807640, 807642  
and 807643

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In the Matter of the Petition  
of  
**GLEN LIQUORI, OFFICER OF  
LINCOLN APPLIANCES, INC.**

for Revision of Determinations or for Refund  
of Sales and Use Taxes under Articles 28 and 29  
of the Tax Law for the Period June 1, 1984  
through November 30, 1985.

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In the Matter of the Petition  
of  
**GLEN LIQUORI,  
OFFICER OF STU-GLEN CORP.**

for Revision of Determinations or for Refund  
of Sales and Use Taxes under Articles 28 and 29  
of the Tax Law for the Period June 1, 1984  
through June 30, 1988.

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The Division of Taxation filed an exception to the determination of the Administrative Law Judge issued on September 10, 1992 with respect to the petitions of Lincoln Appliances, Inc., Stu-Glen Corp., Glen Liquori, officer of Lincoln Appliances, Inc. and Glen Liquori, officer of Stu-Glen Corp. Petitioner Stuart A. Kaufer, as officer of both Lincoln Appliances, Inc. and Stu-Glen Corp., 21 Bedford Avenue, Rockville Centre, New York 11570, also filed an exception to the September 10, 1992 determination of the Administrative Law Judge. The Division of Taxation appeared by William F. Collins, Esq. (Robert J. Jarvis, Esq., of counsel). Petitioner Stuart A. Kaufer appeared pro se. Petitioner Glen Liquori did not appear.

The Division of Taxation and petitioner Stuart A. Kaufer filed briefs in support of their exceptions. The Division of Taxation also filed a brief in opposition to petitioner Stuart A. Kaufer's exception. The Division of Taxation's reply brief was received on July 21, 1994, which date began the six-month period for the issuance of this decision. Petitioner Stuart A.

Kaufer did not request oral argument. The Division of Taxation's request for oral argument was denied.

The Tax Appeals Tribunal renders the following decision per curiam.

***ISSUES***

I. Whether the Division of Taxation properly disallowed nontaxable sales claimed by Lincoln Appliances, Inc. and Stu-Glen Corp.

II. Whether it was improper for the Administrative Law Judge to deem petitioner Stuart A. Kaufer and William Mlotok<sup>1</sup> as having appeared on behalf of Lincoln Appliances, Inc. and Stu-Glen Corp and, if so, should said corporations be held in default and the petitions dismissed.

III. Whether Lincoln Appliances, Inc. and Stu-Glen Corp. were in bankruptcy at the time of these proceedings thereby placing an automatic stay on all proceedings except the bankruptcy proceeding.

IV. Whether petitioner Glen Liquori was in default at the hearing before the Administrative Law Judge and, if so, should his petitions be dismissed.

***FINDINGS OF FACT***

We find the facts as determined by the Administrative Law Judge except for findings of fact "24" through "36" which have been deleted since they pertain solely to Mr. William Mlotok, an individual who is not a party to the exception. We also make additional findings of fact. The Administrative Law Judge's findings of fact relevant to the parties on exception and the additional findings of fact are set forth below.

The assessments in this case arose from the audit of two related corporations, Lincoln Appliances, Inc. ("Lincoln") and Stu-Glen Corp. ("Stu-Glen"), which operated a chain of retail and wholesale appliance and electronics stores on Long Island.

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<sup>1</sup>William Mlotok filed petitions contesting his personal liability for any taxes due from Lincoln Appliances, Inc. and Stu-Glen Corp. In the Administrative Law Judge's determination, it was concluded that Mr. Mlotok was not a person required to collect tax on behalf of these two corporations and, therefore, all notices issued to him were cancelled. The Division of Taxation did not take exception to that portion of the Administrative Law Judge's determination which cancelled the notices issued to Mr. Mlotok. Accordingly, although Mr. Mlotok was a party in the proceeding held before the Administrative Law Judge, he is not a party on exception.

Lincoln was incorporated on November 5, 1975, while Stu-Glen was incorporated on October 1, 1976. The chain's first store was a Lincoln Appliance store in Oceanside, New York. At the beginning of the audit period, the chain operated four stores. Two more stores were added in 1986. Stuart A. Kaufer, who was president of Lincoln and secretary-treasurer of Stu-Glen,<sup>2</sup> testified that the stores opened after the Oceanside store were under the Stu-Glen name. He stated that Lincoln was merged with Stu-Glen at some point, but he did not know exactly

when that took place. The auditor determined that Lincoln was a wholly-owned subsidiary of Stu-Glen at the time of the audit.<sup>3</sup>

The corporations filed separate sales and use tax returns for the periods up to and including the quarter ending November 30, 1985 when Lincoln reported that it was "inactive". The auditor noted that Stu-Glen began reporting all sales after said date.<sup>4</sup>

#### ***THE LINCOLN AUDIT***

Upon audit, Lincoln's purchase records were found to be adequate and in substantial agreement with purchases per the Federal income tax returns. Gross sales per records were found to be in substantial agreement with sales reported on the Federal income tax returns and on the sales tax returns. Sales records were found to be inadequate, however, because Lincoln kept no record of actual nontaxable sales made or tax collected. The auditor found that Lincoln's accountant had prepared the sales tax returns from bank statements in conjunction with monthly summary sheets from each store, showing total taxable sales, nontaxable sales and tax due.

The test month of April 1985 was originally chosen, at random, as a test month for Lincoln's nontaxable sales claimed on its sales tax returns.

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<sup>2</sup>The corporation franchise tax reports for the years in issue, however, list Stuart Kaufer as president of Stu-Glen.

<sup>3</sup>Exhibit "O," page 8.

<sup>4</sup>Exhibit "O," page 8.

Lincoln presented a "stack" of invoices with a tape totalling \$122,982.21, the approximate amount of nontaxable sales claimed for April 1985. The auditor noted that Lincoln kept no record of nontaxable sales other than original invoices. Lincoln's accountant stated that no sales journal or accounts receivable ledger was maintained. An analysis of the invoices disclosed that the invoice dates ranged from January 1985 through April 1985. The accountant explained that Lincoln reported on a cash basis and that all of said invoices must have been paid in April. The accountant was given an opportunity to obtain copies of Lincoln's deposited checks for nontaxable sales from its bank. Six months later, the auditor received checks for four days' deposits, with the explanation that it would be too expensive to obtain copies for the full month.

At this point, the auditor learned that Lincoln and Stu-Glen shared the same bank accounts and could not be tested separately. The accountant was notified that a detailed audit would be performed.

The accountant and an attorney representing the corporation advised the auditor that a detailed audit could not be performed, since all other invoices had been destroyed in floods at the Oceanside store in September 1986 and July 1987 and any records not destroyed in the floods were stolen on July 13, 1987 while they were in a truck which was stolen from a lot at the Melville warehouse. The auditor noted that the accountant had told him on April 21, 1987 that all records were kept in a warehouse in Melville and that is where the records for the April 1985 test had been. Accordingly, on May 18, 1988 a subpoena was issued to Lincoln directing the production of all records; however, no additional records were produced.

On June 21, 1988, the auditor was advised that the business was closed and had been taken over by the bank and creditors.

On June 22, 1987, Lincoln's representative executed a consent extending the period of limitation for assessment of sales and use taxes for the period June 1, 1984 through May 31, 1985 to September 20, 1988.

Lincoln was placed in an involuntary Chapter 7 bankruptcy proceeding on or about June 30, 1988.

Lincoln was given credit for proven nontaxable sales and the balance of the claimed nontaxable sales were disallowed. Taxable sales were increased from \$2,566,973.00 to \$6,052,172.00, resulting in a tax deficiency of \$287,528.92.

On July 20, 1988, the Division of Taxation (hereinafter the "Division") issued notices of determination and demands for payment of sales and use taxes due to Lincoln and to William Mlotok, Stuart A. Kaufer and Glen Liquori, as officers, for the period June 1, 1984 through November 30, 1985, for tax due of \$287,528.92, penalty of \$75,832.43 and interest of \$139,619.12, for a total due of \$502,980.47. On the same date the Division issued separate notices of determination and demands for payment of sales and use taxes due for omnibus penalty of \$7,900.39 for the period June 1, 1985 through November 30, 1985, to Lincoln and the same officers.

#### ***THE STU-GLEN AUDIT***

Upon audit, Stu-Glen's purchases per records were found to be in substantial agreement with purchases per the Federal income tax returns. Gross sales per records were found to be in substantial agreement with sales reported on the Federal income tax returns and on the sales tax returns. Also, bank statements were reconciled to sales tax returns for the quarter ending August 31, 1987.

Stu-Glen's accountant refused to present any records until February 24, 1988, claiming that the Lincoln audit would have to be completed before he would do so. When records were eventually produced, the accountant claimed that Stu-Glen did not maintain sales journals, accounts receivable ledgers or any source documents other than copies of invoices. He claimed that Stu-Glen reported sales on a cash basis.

The accountant was given the opportunity to substantiate nontaxable receipts by obtaining photocopies of checks deposited from the bank; however, he declined, claiming it would be too costly.

A subpoena duces tecum was issued to Stu-Glen on May 18, 1988; however, nothing additional was presented pursuant to the subpoena. Stu-Glen claimed that all invoices for all six stores for the first three years of the audit were destroyed in a flood at the Oceanside store and in a subsequent truck theft.

The auditor noted that Stu-Glen's reported taxable ratio for the first quarter of the audit period was 22% and that this increased to 90% during the course of the audit with no explanation as to the corresponding gradual reduction in nontaxable sales claimed.

The auditor also noted that all six stores had been closed and that it appeared that all inventory had been taken back by the creditors supplying the floorplan financing.

On June 22, 1987, Stu-Glen executed a consent extending the period of limitation for assessment of sales and use taxes due for the period June 1, 1984 through May 31, 1985 to September 20, 1988.

Stu-Glen, like Lincoln, was forced into an involuntary Chapter 7 bankruptcy on or about June 30, 1988.

Reported gross sales were increased from \$76,150,817.00 to \$77,510,133.00, an increase of \$1,359,316.00. There is nothing in the record, however, to explain the basis for this increase. From Exhibit "Q", a schedule of returns filed, it appears that no returns were filed for May and June 1988 and that the sum of \$1,359,315.00 was reported for March and April. It is noted that the increase in gross sales is \$1.00 more than the amount of the gross sales reported for March and April. In the absence of substantiation of sales for resale, all sales were deemed to be taxable. Accordingly, taxable sales were increased from \$45,403,682.00 to \$77,510,133.00. Tax on increased gross sales was calculated at \$112,143.57 and tax on unsubstantiated exempt sales at \$2,534,939.49, for a total of \$2,647,083.06.

On June 28, 1988 and July 20, 1988, the Division issued notices of determination and demands for payment of sales and use taxes due to Stu-Glen and to William Mlotok, Stuart A. Kaufer and Glen Liquori, as officers, for \$2,490,902.86 in tax due, \$673,055.39 in penalty and \$868,244.48 in interest, for a total due of \$4,032,202.73 for the period June 1, 1984 through

November 30, 1987.<sup>5</sup> On July 20, 1988, the Division issued notices of determination and demands for payment of sales and use taxes due to Stu-Glen and to the three officers for \$156,180.20 in tax, \$11,305.61 in penalty and \$2,184.36 in interest, for a total of \$169,670.17 for the period December 1, 1987 through June 30, 1988. On the same date, additional notices of determination and demands for payment of sales and use taxes due were issued to Stu-Glen and the three officers for \$172,141.82 in omnibus penalty for the period June 1, 1985 through June 30, 1988.

In addition to the facts found by the Administrative Law Judge, we find the following:

On September 16, 1991, separate notices of hearing were sent to Lincoln Appliances, Inc., Stu-Glen Corp., William Mlotok, Stuart A. Kaufer and Glen Liquori setting down October 22, 1991 at 1:15 p.m. as the date and time for the hearing. Copies of the notices of hearing were also sent to Edwin A. Bernstein, Esq., the individual representing all five petitioners. On September 25, 1991, Mr. Bernstein notified the Division of Tax Appeals as follows:

"[p]lease be advised that Lincoln Appliances, Inc. and Stu-Glen Corporation have gone through bankruptcy and no longer exist. The corporate funds were insufficient to pay the creditors. Therefore, based on the insolvency of the corporations and inability of the individuals to pay our past bills despite repeated requests, we must withdraw as counsel to all of the parties."

At the hearing held on October 22, 1991, the Administrative Law Judge called to hearing all five petitioners to address the eight petitions which had been filed. The hearing transcript, at pages 8 through 10, reveals the following exchange:

"JUDGE MULLIGAN: . . . Mr. Jarvis, I'll note that Mr. Kaufer and Mr. Mlotok are present and I understand they no longer are represented by Mr. Bernstein. I also see a notice of hearing to Glen Liquori, who's not present. Have you had any communication from him?"

"MR. JARVIS: I've not had any communication with him at all.

"JUDGE MULLIGAN: I take it you're looking for a default as far as he's concerned?"

"MR. JARVIS: Yes. I would like to move for a default against actually three Petitioners. First, Stu-Glen Corporation; second, Lincoln Appliances Incorporated; third, Glen Liquori, as officer of Lincoln; and fourth, Glen Liquori, as officer of Stu-Glen Corporation, based on the Petitioner's failure to appear at the hearing and also their failure to give any reason for not being here.

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<sup>5</sup>The notice to Mr Mlotok is dated June 28, 1988 while the others are dated July 20, 1988.

"JUDGE MULLIGAN: You mentioned the corporations. Mr. Kaufer, as an officer of the corporation, are you appearing on behalf of the corporation today?

"MR. KAUFER: I'm appearing on behalf of myself. I'm not appearing on behalf of Mr. Liquori.

"JUDGE MULLIGAN: I understand that. You're not technically appearing for the corporation? Let's go off the record a minute.:

"(Discussion off the record.)

"JUDGE MULLIGAN: We went off the record for a minute to clear up whether or not either of these gentlemen was appearing on behalf of the two corporations that we mentioned. And Mr. Kaufer pointed out he's appearing here for himself, and Mr. Mlotok, that you are both appearing for yourself, but you're challenging the audit. Mr. Kaufer you're challenging the audit against the corporation?

"MR. KAUFER: The figure, yes.

"JUDGE MULLIGAN: All right. But with respect to the assessment as it applies to you?

"MR. KAUFER: Yes.

"JUDGE MULLIGAN: All right. Mr. Mlotok, I understand you're contesting the assessment with respect to the fact that you are not a person required to collect tax on behalf of the corporation. Is that why you're here?

"MR. MLOTOK: That's correct.

"JUDGE MULLIGAN: All right. So, technically, nobody is here appearing for the corporation so the audit will be considered, of course, because the assessment against these Petitioners reflects what was performed in the audit. So the audit will be examined. All right. Why don't you start with jurisdictional documents" (Hearing Tr., pp. 8-10).

Following this exchange, the Division proceeded to introduce all of the relevant jurisdictional documents applicable to William Mlotok and Stuart A. Kaufer as officers of both Lincoln and Stu-Glen. No jurisdictional documents were offered for Lincoln, Stu-Glen or Glen Liquori, as officer of both corporations, and none of the parties present at the hearing objected to proceeding in this manner.

### ***OPINION***

In his determination, the Administrative Law Judge concluded that the records provided for audit were inadequate, that little evidence was offered to substantiate nontaxable sales and that it was proper for the Division to disallow all of the claimed nontaxable sales which were unsubstantiated. The Administrative Law Judge did, however, reduce the audit findings with

respect to Stu-Glen by deleting the \$1,359,316.00 increase to gross sales since the record did not show the Division's reason for such increase. The Administrative Law Judge found that petitioner Stuart A. Kaufer did not adduce any evidence to refute his status as a person required to collect tax on behalf of the two corporations. Next, the Administrative Law Judge concluded that petitioner Glen Liquori was in default. As relevant to this proceeding, the Administrative Law Judge granted the petitions of Lincoln Appliances, Inc., Stu-Glen Corp., Stuart A. Kaufer and Glen Liquori as officers of both corporations to the extent of deleting the \$1,359,316.00 increase in gross sales as asserted against Stu-Glen and said petitions were in all other respects denied.

On exception, petitioner Stuart A. Kaufer asserts that records were unavailable due to various reasons, including two floods that destroyed some records, a theft of other records and the bankruptcies of the corporations and the alleged incarceration of the attorney for the trustee. Mr. Kaufer maintains that to disallow all nontaxable sales is impermissible since it is not in the interest of substantial justice.

The Division takes exception to several aspects of the Administrative Law Judge's determination. First, the Division contends that the record clearly shows that Messrs. Kaufer and Mlotok were not appearing at the hearing for either Lincoln or Stu-Glen and that it was improper for the Administrative Law Judge to deem them as appearing on behalf of said corporations. The Division asserts that both Lincoln and Stu-Glen were in default and that its motion for a default determination should have been granted.

Second, the Division alleges that since Lincoln and Stu-Glen were in bankruptcy at the time of the hearing, it was improper for the Division of Tax Appeals to proceed against the corporations due to the automatic stay provisions of 11 USC § 362.

Third, the Division asserts that Glen Liquori was in default and his petitions should, therefore, be dismissed in their entirety.

Fourth, although the Division does not take exception to that part of the Administrative Law Judge's determination which deletes the \$1,359,316.00 increase in gross sales from the assessments issued to Stuart A. Kaufer as an officer of Stu-Glen, it does assert that the Administrative Law Judge improperly carried this adjustment over to the assessments issued to Lincoln, Stu-Glen and Glen Liquori. The Division argues that both corporations and Glen Liquori defaulted at the hearing held before the Administrative Law Judge and that the petitions filed by said petitioners should be dismissed without any adjustments.

We will first address the issues raised in the exception filed by petitioner Stuart A. Kaufer. Essentially, Mr. Kaufer asserts on exception that all records that were available were provided for audit and that it is unjust to disallow all nontaxable sales as unsubstantiated. This argument is rejected for several reasons. First, petitioner has failed to prove that records were, in fact, destroyed, stolen and/or made unavailable as the result of the bankruptcy of Lincoln and Stu-Glen. Second, even if all records maintained by the corporation were made available, it appears that no records were maintained by the corporations which would allow the Division to reconcile claimed nontaxable sales to the sales tax returns. Third, with respect to the audit of Lincoln, the Division afforded said corporation the opportunity to provide copies of checks deposited for the test month of April 1985, however, it declined to do so on the basis that it would be too expensive to obtain the documents. Finally, it is alleged that records were destroyed by floods and stolen, however, the last of these purported events occurred in July 1987. There is no apparent reason why all records from July 1987 through the end of the audit period, i.e., June 30, 1988, could not have been provided. Although it is asserted that records were not available due to the bankruptcy of both corporations, it must be noted that said bankruptcies did not occur until on or about June 30, 1988. The Division's auditor made all of his requests for records prior to the involuntary bankruptcies and we see no reason why the records could not have been provided at the time of the auditor's requests for the 11-month period of July 1987 through June 30, 1988.

To summarize, we are not persuaded by Mr. Kaufer's arguments and, given these circumstances, we conclude that it was proper for the Division to rely on the presumption of taxability contained in Tax Law § 1132(c) with respect to the unsubstantiated exempt sales (Matter of Academy Beer Distribs., Tax Appeals Tribunal, January 21, 1993, affd 202 AD2d 815, 609 NYS2d 108, lv denied 83 NY2d 759, 616 NYS2d 14).

Turning next to the issues raised in the exception filed by the Division, we will first address whether it was proper for the Administrative Law Judge to deem that Messrs. Mlotok and Kaufer were appearing at the hearing for both Lincoln and Stu-Glen. Examination of the hearing transcript (pp. 8-10) clearly shows that neither Mr. Mlotok nor Mr. Kaufer were appearing at the hearing for the corporations. This conclusion is further bolstered by the fact that only the jurisdictional documents relevant to Messrs. Mlotok and Kaufer were offered in evidence and no jurisdictional documents were submitted for the corporations.<sup>6</sup> None of the parties present at the hearing objected to proceeding only with respect to the petitions filed by Messrs. Mlotok and Kaufer as officers of both Lincoln and Stu-Glen and, indeed, it seems clear that it was the parties' intention and desire to proceed in this fashion. Accordingly, we reverse the Administrative Law Judge and find that Messrs. Mlotok and Kaufer were not appearing on behalf of Lincoln and Stu-Glen at the hearing held before the Administrative Law Judge.

Having concluded that Messrs. Mlotok and Kaufer were not appearing on behalf of the corporations, we next deal with whether the petitions filed by the corporations should be dismissed due to default. Since no one appeared on behalf of Lincoln or Stu-Glen, we conclude that the Division properly made a motion for default determinations pursuant to 20 NYCRR 3000.10(b)(2) and we hereby grant said motion. The petitions filed by Lincoln<sup>7</sup> and Stu-Glen are dismissed with prejudice by reason of default.

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<sup>6</sup>Our own records, of which we take official notice under section 306(4) of the State Administrative Procedure Act, include a petition for each of the corporations and copies of the notices of determination issued to each corporation.

<sup>7</sup>We note that the Administrative Law Judge's determination made no reduction to the assessments issued against Lincoln and, therefore, the same result is reached whether the petition filed by Lincoln is dismissed due to default or denied in its entirety as determined by the Administrative Law Judge.

We reach the same result with respect to the petitions filed by Glen Liquori as officer of both corporations. Mr. Liquori did not appear at the hearing held before the Administrative Law Judge nor did a duly authorized representative appear on his behalf. Accordingly, the petitions filed by Glen Liquori as an officer of Lincoln and Stu-Glen are also dismissed with prejudice by reason of default.

Finally, we will address whether the proceedings held herein with respect to Lincoln and Stu-Glen should have been stayed as the result of each corporation's involuntary bankruptcy. Initially, we note that this issue was first raised by the Division on exception and that the record contains little detail regarding the bankruptcies. There is no dispute that both Lincoln and Stu-Glen were forced into involuntary bankruptcy on or about June 30, 1988. Pursuant to a letter dated September 25, 1991, Mr. Bernstein, petitioners' former representative, indicated that both corporations "[h]ave gone through bankruptcy and no longer exist." There is no documentary or other credible evidence in the record before us which in any way contradicts Mr. Bernstein's letter of September 25, 1991, or which would support the finding that the bankruptcy proceedings were still ongoing. Absent any objection from petitioners or the former representative that the proceedings held herein with respect to Lincoln and Stu-Glen should be stayed pending bankruptcy proceedings, we conclude, on this record, that the proceedings held herein were not stayed.

Accordingly, it is ORDERED, ADJUDGED and DECREED that:

1. The exception of Stuart A. Kaufer as officer of Lincoln Appliances, Inc. and as officer of Stu-Glen Corp. is denied;
2. The exception of the Division of Taxation is granted to the extent that this decision dismisses the petitions of Lincoln Appliances, Inc., Stu-Glen Corp., Glen Liquori as officer of Lincoln Appliances, Inc. and Glen Liquori as officer of Stu-Glen Corp. by reason of default, but is otherwise denied.
3. The determination of the Administrative Law Judge is modified to the extent indicated in paragraph "2," above, but is otherwise affirmed;

4. The petition of Stuart A. Kaufer as officer of Lincoln Appliances, Inc. is denied and the petition of Stuart A. Kaufer as officer of Stu-Glen Corp. is granted to the extent indicated in the Administrative Law Judge's conclusions of law "C" and "G";

5. The petitions of Lincoln Appliances, Inc., Stu-Glen Corp., Glen Liquori as officer of Lincoln Appliances, Inc. and Glen Liquori as officer of Stu-Glen Corp. are dismissed by reason of default;

6. The two notices of determination and demand for payment of sales and use taxes due issued on July 20, 1988 to petitioner Stuart A. Kaufer for taxes due from Lincoln Appliances, Inc. are sustained and the three notices of determination and demand for payment of sales and use taxes due issued on July 20, 1988 to petitioner Stuart A. Kaufer for taxes due from Stu-Glen Corp. are, as modified, sustained; and

7. All notices of determination and demand for payment of sales and use taxes due dated July 20, 1988 issued to Lincoln Appliances, Inc., Stu-Glen Corp., Glen Liquori as officer of Lincoln Appliances, Inc. and Glen Liquori as officer of Stu-Glen Corp. are sustained.

DATED: Troy, New York  
December 15, 1994

/s/John P. Dugan  
John P. Dugan  
President

/s/Francis R. Koenig  
Francis R. Koenig  
Commissioner