

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JERRY CANTOR

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1970 and 1971.

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 21st day of December, 1976, ~~he~~ served the within  
Notice of Decision by (certified) mail upon Jerry Cantor  
~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Jerry Cantor  
8200 Boulevard East  
North Bergen, New Jersey 07047  
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)~~  
~~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

21st day of December, 1976.

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

December 21, 1976

TELEPHONE: (518) **457-3850**

Mr. Jerry Cantor  
8200 Boulevard East  
North Bergen, New Jersey 07047

Dear Mr. Cantor:

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

Please take further notice that pursuant to  
Section **(x) 690** 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,

**Frank J. Puccia**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: ~~Decision is Represented~~

Taxing Bureau's Representative:

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
JERRY CANTOR	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Years	:	
1970 and 1971.	:	

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Petitioner, Jerry Cantor, residing at 8200 Boulevard East, North Bergen, New Jersey 07047, has filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1970 and 1971. (File No. 0-60855246).

A small claims hearing was held before Joseph Marcus, Hearing Officer, on June 7, 1976 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq. of counsel).

ISSUE

Whether petitioner, Jerry Cantor, is a responsible person who willfully failed to pay over withholding tax?

FINDINGS OF FACT

1. Petitioner, Jerry Cantor, also known as Jeremiah Cantor, was an officer of Cantor Associate Systems Consultants, Inc. in the year 1970. On December 15, 1970, petitioner entered into a "Pre-Incorporation Agreement" with Jacob Landis and John Sacheli. The agreement stated, among other things, that a corporation known as Lanca Management Services, Inc. was to be formed in which the aforementioned persons were to be stockholders. The agreement also mentioned details as to the assignment of assets, stock ownership and salaries. The effective date of said agreement was October 1, 1970. The agreement also provided that one, John Sacheli, was to become an employee of said corporation as of October 1, 1970.

2. The operation of Lanca Management Services, Inc. started on March 1, 1971. In the interim (period from October 1, 1970 through February 28, 1971), Cantor Associates Systems Consultants, Inc. continued in existence and was responsible for the payroll tax liability for its employees.

3. On July 29, 1974, the Income Tax Bureau issued a Notice of Deficiency against Jerry Cantor as a person required to collect, truthfully account for, and pay over the tax imposed by the Income Tax Law under section 685(g) of said law.

4. Petitioner, Jerry Cantor, testified that he recognized the liability for tax on all of the employees during the period October 1, 1970 through February 28, 1971

except for one, John Sacheli. It was petitioner's contention that Mr. Sacheli was relieved of his duties as of September 30, 1970 and was therefore not the responsibility of the petitioner for the period under review.

5. Petitioner stated that Mr. Sacheli continued functioning in Cantor Associates Systems Consultants, Inc. as a director and although Mr. Sacheli was not denied his check making rights, he was to receive no compensation. Petitioner referred to the "Pre-Incorporation Agreement" of December 15, 1970 and agreement dated February 26, 1971 between Lanca Management Services, Inc. and Cantor Associates Systems Consultants, Inc. as the basis for his allegations that Mr. Sacheli was not entitled to compensation.

6. It was also alleged by petitioner that John Sacheli, in taking compensation from Cantor Associates Systems Consultants, Inc., was, in fact, taking funds illegally. Petitioner stated that no legal action was instituted against Mr. Sacheli for embezzlement.

7. The evidence indicates that the successor corporation, Lanca Management Services, Inc., gave Cantor Associates Systems Consultants, Inc. a check in the amount of \$2,228.00 "for 4th quarter Federal taxes and state, N.Y. October 1, through February 28, 1971" which was deposited in March of 1971 by Jerry Cantor. No payments to the Income Tax Bureau for any withholding taxes were made from these funds.

CONCLUSIONS OF LAW

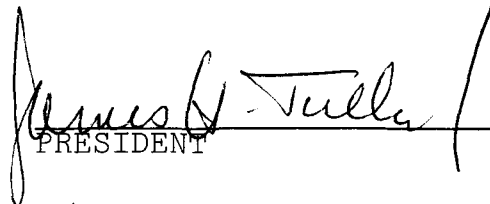
A. That petitioner, Jerry Cantor, was a responsible officer of Cantor Associates Systems Consultants, Inc. and willfully failed to pay over funds, received for the payment of withholding tax, from successor corporation, Lanca Management Services, Inc., on behalf of Cantor Associates Systems Consultants, Inc.

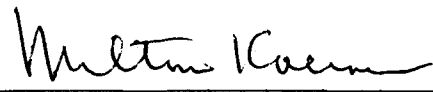
B. That monies received by the secretary of Cantor Associate Systems Consultants, Inc., John Sacheli, was compensation subject to withholding tax for which petitioner was responsible.

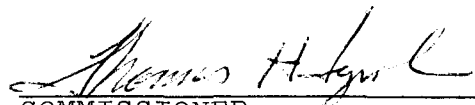
C. That the Notice of Deficiency dated July 29, 1974 is sustained and petition denied.

DATED: ALBANY, NEW YORK  
December 21, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER