

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

THEODORE ZEITLIN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the ~~XXXXXX~~ Period (x) :
April 1, 1972 through September 30, 1972.

State of New York
County of Albany

John Huhn , 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 22nd day of March , 1978, ~~he~~ served the within
Notice of Decision by (certified) mail upon Theodore Zeitlin

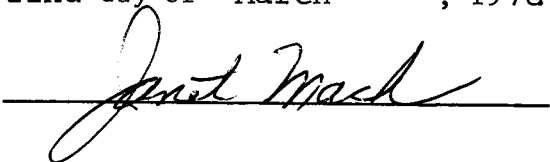
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Theodore Zeitlin
29 Herold Drive
Glen Rock, New Jersey 07452

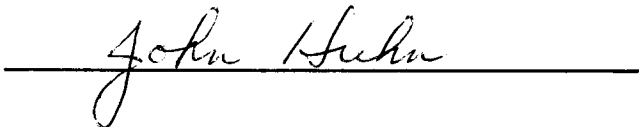
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

22nd day of March , 1978







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

March 22, 1978

**Mr. Theodore Zeitlin
29 Herold Drive
Glen Rock, New Jersey 07452**

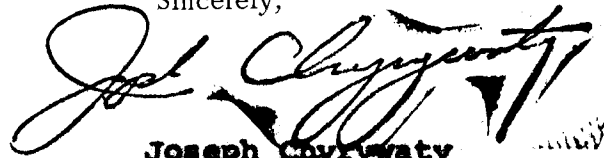
Dear Mr. Zeitlin:

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

You have now exhausted your right of review at the administrative level. Pursuant to section **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


**Joseph Chyrywat
Hearing Examiner**

cc: ~~Rational's Representation~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
THEODORE ZEITLIN	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Period	:	
April 1, 1972 through September 30, 1972.	:	

Petitioner, Theodore Zeitlin, residing at 29 Herold Drive, Glen Rock, New Jersey 07452, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the period April 1, 1972 through September 30, 1972 (File No. 13484).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 2, 1977 at 9:15 A.M. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether petitioner was subject to a penalty in accordance with section 685(g) of the Tax Law, as a person who willfully failed to collect, truthfully account for and pay over income taxes withheld

for Editors Pad, Inc. during the period April 1, 1972 through September 30, 1972.

FINDINGS OF FACT

1. Petitioner, Theodore Zeitlin, was a self-employed accountant conducting business under the partnership name of "Cogan and Zeitlin." During the period at issue, he was retained by Editors Pad, Inc., for whom he rendered accounting services for a fee on a monthly basis.

2. For purposes of fulfilling state requirements, Editors Pad, Inc. originally listed petitioner as the treasurer of the corporation.

3. Petitioner, Theodore Zeitlin, was listed as the treasurer of Editors Pad, Inc. and signed its tax returns. However, he had no authority to sign checks and had no control over any corporate funds. Petitioner had no authority over the managerial, operational and financial functions of the corporation, except as an independent advisor in his capacity as an accountant to a client.

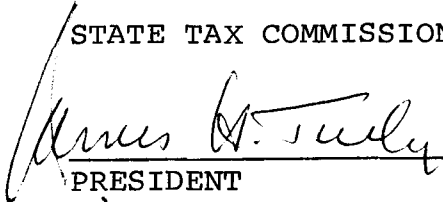
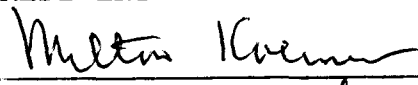
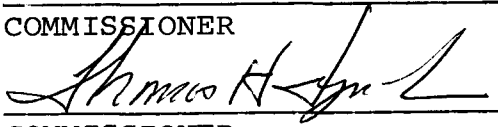
CONCLUSIONS OF LAW

A. That petitioner, Theodore Zeitlin, was not subject to a penalty as a person who willfully failed to collect, truthfully account for and pay over income taxes withheld for Editors Pad, Inc.

during the period April 1, 1972 through September 30, 1972, in accordance with the meaning and intent of section 685(n) and section 685(g) of the Tax Law.

B. That the petition of Theodore Zeitlin is granted and the Notice of Deficiency issued May 20, 1974 is cancelled.

DATED: Albany, New York
March 22, 1978

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER