

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Harry Bettman :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of the Tax Law

for the Years 1970, 1971. :

State of New York

County of Albany

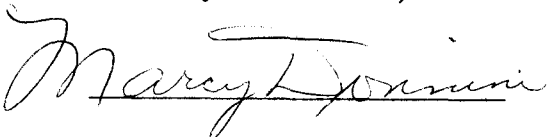
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 19th day of October, 1979, he served the within notice of Decision by certified mail upon John L. Ingoldsby, Jr. the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

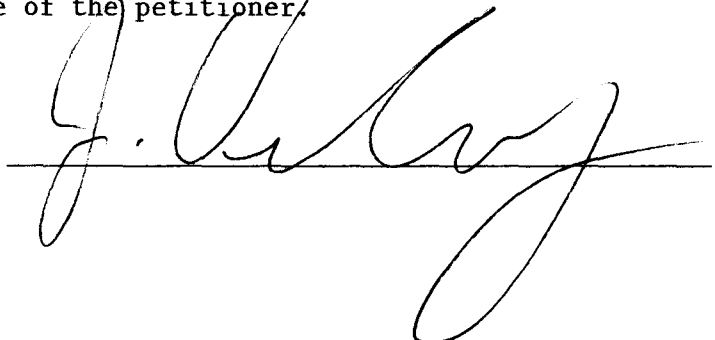
Mr. John L. Ingoldsby, Jr.  
World Center Bldg., Suite 201  
Washington, D.C. 20006

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  
19th day of October, 1979.

  
Mary L. Donini

  
Jay Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

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Harry Bettman

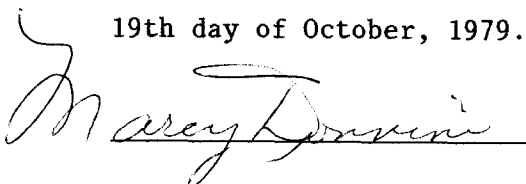
68 Severn St.

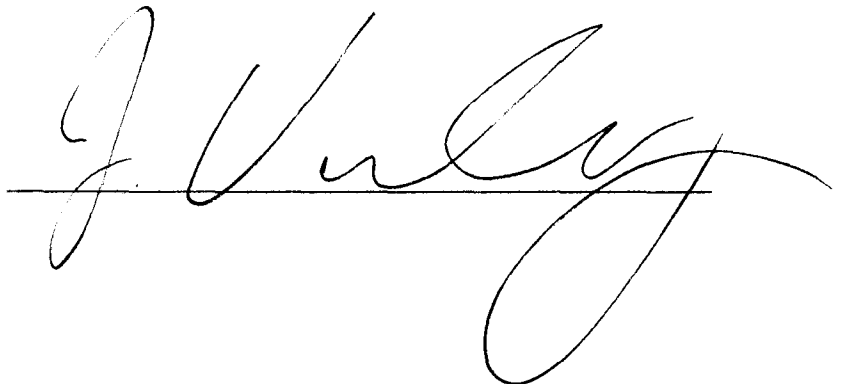
Scarsdale, NY 10583

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this  
19th day of October, 1979.

  
Mary Duvine

  
Jay Vredenburg

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

October 19, 1979

Harry Bettman  
68 Severn St.  
Scarsdale, NY 10583

Dear Mr. Bettman:

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(s) 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:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
John L. Ingoldsby, Jr.  
World Center Bldg., Suite 201  
Washington, D.C. 20006  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition  
of  
HARRY BETTMAN  
for Redetermination of a Deficiency or  
for Refund of Personal Income Tax under  
Article 22 of the Tax Law for the Years  
1969, 1970 and 1971.

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DECISION

Petitioner, Harry Bettman, 68 Severn Street, Scarsdale, New York 10583, 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 1969, 1970 and 1971 (File No. 13491).

A formal hearing was held before Harvey B. Baum, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 16, 1977 at 2:45 P.M., and was continued and concluded on September 26, 1977 at 3:20 P.M. Petitioner appeared by Hawkins, Delafield and Wood (Robert R. MacDonnell and June Grasso, Esqs., of counsel). The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt and Richard Kaufman, Esqs., of counsel).

#### ISSUE

Whether petitioner is liable for the penalty imposed against him pursuant to section 685(g) of the Tax Law, with respect to unpaid New York State withholding taxes due from Roberts, Schaefer, Denitto & Co., Inc.

#### FINDINGS OF FACT

1. Roberts, Schaefer, Denitto & Co., Inc. ("the company") failed to pay

over to the Income Tax Bureau, New York State personal income taxes withheld from the wages of its employees for 1969, 1970 and 1971.

2. On January 28, 1974, the Income Tax Bureau issued a Statement of Deficiency against petitioner, Harry Bettman, equal to the amount of New York State withholding taxes due from the company for 1969, 1970 and 1971. This was done on the grounds that petitioner was a person required to collect, truthfully account for and pay over said taxes, and that he willfully failed to do so.

Accordingly, a Notice of Deficiency was issued under the same date to petitioner in the amount of \$2,419.13 for 1969, \$5,608.10 for 1970 and \$1,375.50 for 1971, for a total due of \$9,402.73.

3. Petitioner held the nominal title of vice-president of the company at the behest of his father-in-law, Daniel Ehrlich, an active officer and director.

4. Petitioner resigned from the office of vice-president effective March 19, 1969. During that part of the period at issue in which petitioner held said office, he (a) never had bookkeeping, fiscal or financial responsibilities within the company, (b) was not a director or stockholder of the company, (c) received no income from the company and (d) never visited the business offices of the company.

#### CONCLUSIONS OF LAW

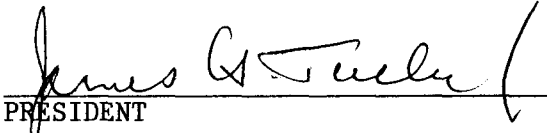
A. That petitioner, Harry Bettman, was not a person required to collect, truthfully account for and pay over the personal income taxes withheld from the employees of Roberts, Schaefer, Denitto & Co., Inc., within the meaning and intent of sections 685(g) and 685(n) of the Tax Law.

B. That the petition of Harry Bettman is granted and the Notice of Deficiency issued on January 28, 1974 is cancelled.

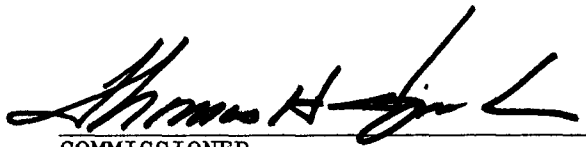
DATED: Albany, New York

STATE TAX COMMISSION

OCT 19 1979

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER