

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of

Neil R. Golin :

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 3rd day of October, 1980, he served the within notice of Decision by certified mail upon Neil R. Golin, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Neil R. Golin  
1440 Veteran Ave.  
Westwood, CA 90024

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  
3rd day of October, 1980.

Eudice Brink

J. Vredenburg

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

October 3, 1980

Neil R. Golin  
1440 Veteran Ave.  
Westwood, CA 90024

Dear Mr. Golin:

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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
NEIL R. GOLIN	:	DECISION
	:	
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.	:	

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Petitioner, Neil R. Golin, 1440 Veteran Avenue, Westwood, California 90024, 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. 12546).

A formal hearing was held before Edward L. Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 15, 1977 at 11:30 A.M. Petitioners in two associates cases appeared by counsel. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

In accordance with an administrative recommendation made prior to the formal hearing, the entire matter was submitted to the State Tax Commission for a decision based on consideration of all the material in the file.

#### ISSUE

Whether petitioner should be held liable for a penalty for unpaid New York State income taxes withheld by Mantle Men and Namath Girls, Inc. and M.M.N.G. Temporaries, Inc. for 1970 and 1971 in accordance with section 685(g) of the Tax Law.

#### FINDINGS OF FACT

1. On May 19, 1975, the Income Tax Bureau issued a Notice of Deficiency against petitioner, Neil R. Golin, for \$2,277.32 as a penalty under section

685(g) of the Tax Law, for the nonpayment of New York State withholding taxes due from Mantle Men and Namath Girls, Inc. (hereinafter "Mantle Men") for 1971.

2. On May 19, 1975, another Notice of Deficiency was issued by the Income Tax Bureau against petitioner, Neil R. Golin, for \$31,612.34 as a penalty under section 685(g) of the Tax Law, for the nonpayment of New York State withholding taxes due from M.M.N.G. Temporaries, Inc. (hereinafter "MMNG") for 1970 and 1971.

3. Mantle Men was a corporation wholly-owned by Lois Holland Callaway, Inc., an advertising agency. This subsidiary was engaged in the placement of permanent personnel. In June, 1970, MMNG was formed as a wholly-owned subsidiary of Mantle Men, as an agency for the recruiting and placement of temporary personnel. Petitioner, Neil R. Golin, was an internal accountant on the Mantle Men payroll, taking orders from Edgar Rohan, the comptroller of the parent corporation, Lois Holland Callaway, Inc.

4. By corporate policy and directive, all checks for disbursements were required to be signed by Edgar Rohan, and could have a second signature affixed by any one of several corporate officers.

5. At no time was petitioner, Neil R. Golin, in a position to pay over income taxes withheld by Mantle Men or MMNG. Petitioner claimed he had been excluded from corporate discussions concerning the failure to pay such taxes.

#### CONCLUSIONS OF LAW

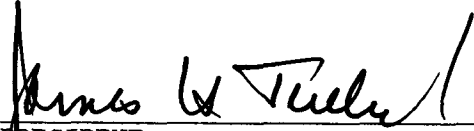
A. That petitioner, Neil R. Golin, was not a person required to collect, truthfully account for and pay over New York State withholding taxes due from Mantle Men or MMNG within the meaning and intent of section 685(n) of the Tax Law. Therefore, the penalties equal to the unpaid withholding taxes should not have been imposed against him under section 685(g) of the Tax Law.

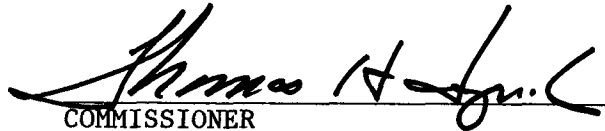
B. That the petition of Neil R. Golin is granted and the notices of deficiency dated May 19, 1975 are cancelled.

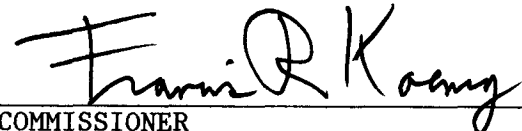
DATED: Albany, New York

OCT 03 1980

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER