

**Court of Appeals, State of Michigan**

**ORDER**

Sidney Frank Importing Company Inc v Department of Treasury

Docket No. 306742

LC No. 00-383623

Amy Ronayne Krause  
Presiding Judge

William C. Whitbeck

Patrick M. Meter  
Judges

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The Court orders that the motion to supplement the record is GRANTED.

Ronayne Krause, P.J., would deny the motion to supplement the record for the following reasons: In paragraph 2, on page 2, of petitioners motion, it states that "In its appellate brief, and for the first time in this case, Respondent acknowledges that Sidney Frank could have petitioned the Department of Treasury for "Section 69 relief" ...at an informal conference following the Respondent's audit, but before Sidney Frank filed a petition with the Michigan Tax Tribunal." This is directly contradicted by the statements made by respondent's lawyer on page 26 of the 7/7/11 transcript from the tribunal: "Regarding the apportionment relief Section 69, and the arguments why it is not applicable, when Sidney Frank became aware and was notified that Treasury was not allowing it to include that transaction in the denominator of the sales factor, he could have easily filed a Petition with Treasury seeking Section 69 relief. He didn't. He came to the Tribunal instead." There is no legal reason to supplement this record particularly with a document that introduces new hearsay evidence without an opportunity for respondent to rebut same.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

**JUL 12 2012**

Date

  
Chief Clerk