


**ROBERT DURKIN**  
**Lead Applicant, Ross Charter School,**  
**FIRED by Chancellor Ramon Cortines**  
**for passing 19 failing students!**

## New Scandals Add To Barrage Of School Woes

 New York Beacon, The; 7/12/1995; David Morris

New York Beacon, The

07-12-1995

New Scandals Add To Barrage Of School Woes.

Two new scandals at city schools came to light during graduation week: an anti-Semitic ad in a yearbook and a school where flunking students got passing grades.

Schools Chancellor Ramon Cortines on Tuesday fired Robert Durkin as principal of Washington Irving High School and revoked 19 diplomas from seniors he said didn't deserve to graduate, newspapers reported today.

"The decision to certify students who were not qualified... shows not only extremely poor professional judgment," Cortines said, "but also a willingness to degrade the meaning of a New York City high school diploma for all the thousands of other seniors across the city."

He vowed to block the graduation of any student who didn't meet school standards as the investigation continued today.

The chancellor also is faced with the embarrassment of two students at Midwood High School in Brooklyn who placed an ad advocating "Kill All J - s" in the back of their yearbook. The two were barred from Tuesday's graduation at their school.

The controversies were the latest to jolt New York's 1 - million-student system, capping off a string of problems that included school employees charged with having sex with underage students; cafeterias serving spoiled food; and a teacher allegedly asking a student for money in exchange for a passing grade.

At Washington Irving High School, some teachers charged the principal had used strong-arm tactics to force them to change failing students' grades or to give students easy independent study projects to boost their low grades.

The chancellor asked the superintendent of Manhattan high schools to review the students' files.

Efforts to reach Durkin for comment were unsuccessful. There was no answer late Tuesday at either the school or the office of the union that represents principals, nor could a home number be obtained for him.

STATE OF NEW YORK  
DIVISION OF TAX APPEALS

In the Matter of the Petition  
of

COURTNEY ROSS HOLST F/K/A  
COURTNEY SALE ROSS

DETERMINATION  
DTA NO. 818274

for Redetermination of a Deficiency or for Refund of New  
York City Personal Income Tax under the Administrative  
Code of the City of New York for the Years 1993 and 1994.

Petitioner, Courtney Ross Holst, formerly known as Courtney Sale Ross, 26 West End Road, East Hampton, New York 11937, filed a petition for redetermination of a deficiency or for refund of New York City personal income tax under the Administrative Code of the City of New York for the years 1993 and 1994.

A hearing was held before Gary R. Palmer, Administrative Law Judge, at the offices of the Division of Tax Appeals, 500 Federal Street, Troy, New York on December 20, 2001 at 10:30 A.M., with all briefs to be submitted by June 24, 2002, which date commenced the six-month period for the issuance of this determination.

Petitioner appeared by Paul, Weiss, Rifkind, Wharton & Garrison, Esqs., (Jeffrey B. Samuels, Esq., and Matias C. Millet, Esq., of counsel). The Division of Taxation appeared by Barbara G. Billet, Esq., (Peter B. Ostwald, Esq., of counsel).

ISSUES

- I. Whether petitioner was a domiciliary of the City of New York during 1993 or 1994.
- II. Whether petitioner was a statutory resident of the City of New York during 1993 or 1994.

FINDINGS OF FACT

1. Pursuant to an audit of petitioner's City of New York nonresident earnings tax returns for 1993 and 1994, the Division of Taxation ("Division") issued to petitioner a statement of personal income tax audit changes dated December 16, 1997 for each year at issue. For 1993, the Division asserted additional City of New York personal income tax in the sum of \$124,572.57 plus penalty and interest, and for 1994, the Division asserted additional City of New York personal income tax in the sum of \$396,029.01 plus penalty and interest. An explanatory memo from the Division was attached to each statement which reads as follows:

As you have not established by clear and convincing evidence that you did not change your domicile from 71 East 71<sup>st</sup> Street, New York City to West End Road, East Hampton, you are considered to be a New York City resident for income tax purposes. As a resident you are

she did business.

7. There is little detail in the record respecting the physical attributes of petitioner's two residences. The record includes a copy of the Federal estate tax return of Steven J. Ross, which includes an inventory of the estate assets. The inventory of assets states the appraised value of a cooperative apartment located at 71 East 71<sup>st</sup> Street, New York City, designated as "old" to be \$8,770,000.00; and a second cooperative apartment at the same address, listed as jointly owned and designated as "new" with an appraised value of \$7,600,000.00. The record does not indicate which apartment is petitioner's apartment 12D at 71 East 71<sup>st</sup> Street. The inventory of assets states the appraised value of real property in East Hampton, New York, designated as "main" to be \$3,700,000.00. This property was purchased by petitioner and her husband in 1980 for \$950,000.00.

8. Petitioner maintains some pieces of her valuable and cherished works of art at both the Cody House in East Hampton and her New York City apartment. Insurance documents included in the record establish that petitioner maintains fine arts coverage on paintings, antique furniture and antique carpets appraised at \$68,310,720.00. Schedule "D" to her 1993 Form 1040 indicates that on July 16, 1993 petitioner purchased assorted artwork valued at \$3,465,000.00 which she sold on October 6, 1993 at a loss.

9. Petitioner's nearest living relative during the years under examination was and remains her daughter, Nicole, born June 27, 1983. Nicole attended the Ross School from its founding in 1991 until she graduated in 2001. At its inception in the 1991-1992 school year, the Ross School was a "traveling school" with three students including Nicole. During that year, the students and two teachers would accompany petitioner and her husband on his business trips where the students were exposed to and learned of other cultures. I.D. Magazine (March/April 1999) described the Ross School as an "idea that grew out of an ambitious home-schooling experiment the Rosses conducted . . ." When Mr. Ross became seriously ill in 1992 and his business travel ceased, the school, at some point, became based in a small studio in East Hampton. During the 1992-1993 school year, the student body had grown to six students who were served by three full-time teachers and five part-time specialists. On January 17, 1993, petitioner, the students and staff, at petitioner's expense, traveled to Paris, Berlin and London, returning on February 6, 1993. Petitioner then accompanied the Ross School students and staff on a trip to the Galapagos Islands, departing on April 20, 1993, and returning on May 1, 1993. Petitioner chartered a yacht in Ecuador for this trip.

10. On July 23, 1993, the Board of Regents of the New York State Education Department granted to petitioner and others as first trustees, a provisional charter incorporating the Ross School as an education corporation located in East Hampton, New York. The charter was for a period of three years and stated the corporate purpose to be the operation and maintenance of a kindergarten and grade one through eight elementary school. By the 2001-2002 school year, the Ross School had grown to where it had 252 students in grades 5 through 12 at its campus in East Hampton. All students lived at home and commuted daily to the campus. During 1993 and 1994 petitioner's daughter lived at the Cody House in East Hampton and attended the Ross School.

11. During 1993 and 1994, in addition to her parental responsibilities at the Ross School, petitioner was actively involved in hiring high-level staff, consulting with educational experts, and attending meetings with staff, parents and others regarding school business in East Hampton and New York City. During 1993 she had meetings or attended functions relating to Ross School business or activities, as reflected in petitioner's diaries, in East Hampton on 15 different days, and meetings in New York City relating to the Ross School on 4 different days. In addition, during 1993 petitioner spent 24 days traveling outside the United States

subject to tax on all income, regardless of the source.

Alternatively, if it is decided that you are not domiciled in New York City, you are being held as a statutory resident of New York City based upon the following: 1. You continue to maintain a permanent place of abode located at 71 East 71<sup>st</sup> Street, New York City. 2. You have not established through adequate records that you did not spend more than 183 days of the tax year 1993-1994 within New York City.

2. During the audit the Division requested the production of certain records, including telephone bills, homeowner's insurance policies, bank statements, credit card statements, limousine statements and helicopter logs. Petitioner's present representatives were retained on or about October 7, 2001, or soon and one-half months before the hearing. The prior representatives produced very few records pursuant to Division's request. At the hearing petitioner's representatives placed in evidence a substantial quantity of documents that included airline statements and aircraft charter statements; chiropractor, cosmetology, massage therapy statements. Also produced were credit card statements and receipts, limousine statement and petitioner's computerized diaries covering most, but not all of the 24 months of the audit period.

At the hearing the record was kept open for the receipt of additional documents from petitioner. Additional records were timely received which included two loose leaf ring binders (one marked "Tabs A to E" and one marked "Tabs F to H") as well as two Ross School publications and an issue of I.D. magazine. To a whole, the records produced are sufficient to show where petitioner was, on a day-to-day basis, throughout the audit period.

3. On June 8, 1998, the Division issued a Notice of Deficiency to petitioner imposing New York City personal income tax plus penalty and interest, as follows:

Tax Year	Tax Amount	Interest	Penalty	Total
1993	\$124,572.57	\$47,496.29	\$44,555.45	\$216,624.31
1994	\$396,967.01	\$112,134.75	\$121,392.31	\$630,494.07
Totals	\$521,539.58	\$159,631.04	\$165,947.76	\$847,118.38

4. Petitioner requested a conciliation conference with the Division's Bureau of Conciliation and Mediation Services, and a conciliation conference was held on April 29, 1999. On July 14, 2000 a conciliation order was issued sustaining the notice of deficiency.

5. Petitioner is the widow of Steven J. Ross, who, until his death on December 20, 1992, was the CEO of Time Warner, Inc. For 1992 and for a period of years prior to 1992 that is not reflected in the record, petitioner and her late husband filed their New York State and New York City personal income tax returns as residents of New York City.

6. During the years at issue petitioner owned and maintained a residence at 71 East 71<sup>st</sup> Street, Apartment 12D, New York City, and another residence at Cody House, 26 West End Road, East Hampton, New York. Other than the hearing testimony of her attorney, Mr. Samuels, petitioner presented no witnesses in support of her petition, relying instead on her own affidavit and the affidavits of her butler/executive assistant, an attorney and founding trustee of the Ross School, her chiropractor and a Florida yacht broker with whom

Q. The petition of Courtney Ross Holst F/K/a Courtney Sale Ross is denied and the Notice of Deficiency dated June 8, 1998 is sustained.

DATED: Troy, New York  
December 19, 2002

/s/ Gary R. Palmer  
ADMINISTRATIVE LAW JUDGE

1. New York City Personal Income Tax Regulations § 295.3 (a) incorporates the definitions of 20 NYCRR 105.20 for use in determining whether an individual is a resident of the City of New York.

**COURTNEY ROSS RENTS  
PUBLIC SCHOOL BUILDING FOR  
ONE DOLLAR A YEAR!**

**AND... DID NOT PAY  
NEW YORK CITY TAXES!**

**WHO'S HER REAL ESTATE  
AGENT?**