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HEARING
OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

HARRY TAUB,

OTA Case No. 18011278

Appellant.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, NOVEMBER 27, 2018

10:00 A.M.

OFFICE OF TAX APPEALS
400 R STREET
SACRAMENTO, CALIFORNIA

Reported by AMY E. PERRY, CSR No. 11880

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BEFORE ADMINISTRATIVE LAW JUDGE

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INDEX

<u>ARGUMENTS</u>	<u>PAGE</u>
By the witness	9
By Franchise Tax Board	26
Rebuttal by the witness	39

EXHIBITS

<u>RESPONDENT'S EXHIBITS</u>	<u>PAGE</u>
Exhibits A through T admitted into evidence	8

<u>APPELLANT'S EXHIBITS</u>	
Exhibits 1 through 3 admitted into evidence	8

(Exhibits premarked, described
and retained by Administrative
Law Judge.)

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TUESDAY, NOVEMBER 27, 2018 - 10:10 A.M.

ADMINISTRATIVE LAW JUDGE ANGEJA: We are now on the record in the Office of Tax Appeals, Oral Hearing for the Appeal of Harry Taub, Case No. 18011278. We are in Sacramento, California, and the date is Tuesday, November 27, 2018. The time is approximately 10:10.

My name is Jeff Angeja, and I'll be the lead Administrative Law Judge for this morning. My co-panelists today are Linda Cheng and Michael Geary.

Franchise Tax Board, could you please identify yourselves for the record.

MR. COUTINHO: Yes. Brad Coutinho for the Franchise Tax Board.

MS. MOSNIER: And Marguerite Mosnier.

ADMINISTRATIVE LAW JUDGE ANGEJA: Sorry for the mispronunciation. And Mr. Taub.

THE APPELLANT: Harry Taub for Appellant.

ADMINISTRATIVE LAW JUDGE ANGEJA: All right. And as the parties agreed at the pre-hearing conference that we had, this appeal involves four issues, which are as follows:

First, whether Appellant has showed he is entitled to innocent spouse relief under Section --

1 Revenue Taxation Code Section 18533(f); two, whether
2 Appellant has shown he is entitled to court-ordered
3 relief under Section 19006, subdivision (b); third,
4 whether Appellant has shown that he's entitled to
5 relief under Section 19006, subdivision (c); and four,
6 whether the Office of Tax Appeals has jurisdiction to
7 address the statute of limitations for the collection
8 under Section 19255, and if so, whether the statute of
9 limitations for collection regarding the 1992 tax year
10 has expired.

11 MR. COUTINHO: Judge Angeja?

12 ADMINISTRATIVE LAW JUDGE ANGEJA: Sure.

13 MR. COUTINHO: Can I take a brief and clarify
14 in regards to the incident spouse, for first three
15 issues in regards to innocent spouse relief for
16 18533(f), court-ordered relief under 19006(b), and
17 relief under 19006(c), we'd just like to clarify that
18 both the 1992 and 1993 tax years are at issue in
19 regards to those issues regarding innocent spouse
20 relief.

21 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. The
22 concession regarding 1993, the statute of limitations
23 have been expired?

24 MR. COUTINHO: Correct. We are conceding
25 that for the collection statute of limitations, that

1 we will no longer pursue collection activity for those
2 years. However, Appellant would still be entitled to
3 innocent spouse relief for the 1992 and '93 tax years.
4 So I wanted to clarify if he'd still be eligible.

5 ADMINISTRATIVE LAW JUDGE ANGEJA: I
6 understand the merits are the same for both years, but
7 I thought 1993 was not in play. In other words, even
8 he were to prevail 1993, there's no consequence.

9 MS. MOSNIER: There could potentially be
10 credit issues with respect to 1993 if your office
11 determined that he were entitled to innocent spouse
12 relief for the 1993 tax year.

13 ADMINISTRATIVE LAW JUDGE ANGEJA: All right.

14 MS. MOSNIER: So that's why we need '93 from
15 our perspective to be an issue as well [sic].

16 ADMINISTRATIVE LAW JUDGE ANGEJA: Mr. Taub,
17 do you understand what they are --

18 THE APPELLANT: I understand what they are
19 saying. However, it was my understanding that all
20 issues with regard to the 1993 alleged liability had
21 been abandoned entirely, and any positions with regard
22 to the Franchise Tax Board vis-à-vis either collection
23 period or innocent spouse permission, if you will, on
24 my behalf were abandoned and granted, if you will, by
25 the Franchise Tax Board. It was not my understanding

1 that that issue was extant, whatsoever.

2 ADMINISTRATIVE LAW JUDGE ANGEJA: So it
3 wouldn't be granted if they were saying it was no
4 longer at issue. We're going -- the merits for both
5 years are identical on the facts, as I understand it.
6 So addressing the one, we implicitly address the both.

7 If we were to not address 1993 at all, it
8 would be an open question as to whether there was a
9 possibility to file a claim for refund if you were to
10 prevail. So we've got to address it. We clearly have
11 a disputed issue. Facts are identical, so we could go
12 forward with it.

13 The statute of limitations for 1993, FTB has
14 conceded that that's expired. And just for clarity, I
15 realize OTA, Office of Tax Appeals, we raised the
16 jurisdictional issue for the first time. The parties
17 gave you guys the option to brief it. Both have.

18 We haven't read Mr. Taub's brief yet because
19 we didn't get it until actually this morning
20 physically. And I didn't know that it wasn't ex
21 parte. It's not? I'm going to allow everybody to
22 argue both the jurisdictional issue, and then because
23 we haven't reached a decision on that yet, we will
24 have you address the merits of that issue as well.

25 All right. Few more preliminary housekeeping

1 matters. Parties have previously exchanged exhibits
2 and voiced no objection during our pre-hearing
3 conference. So without objection, the following
4 documents are admitted into evidence:

5 For Franchise Tax Board, Exhibits A through T
6 that were provided with Franchise Tax Board's
7 pre-hearing conference statement.

8 (Respondent's Exhibits A-T
9 admitted into evidence.)

10 For Appellant, Exhibits 1 through 3 that were
11 attached to his opening brief. Also provided copies
12 to everybody today.

13 (Appellant's Exhibits 1-3
14 admitted into evidence.)

15 It's my understanding the Franchise Tax Board
16 is not calling witnesses today. And Appellant has one
17 witness, Mr. Taub; that's still correct?

18 THE APPELLANT: Yes.

19 ADMINISTRATIVE LAW JUDGE ANGEJA: And as I
20 said during our pre-hearing conference, we've got two
21 basic parts to a hearing: The evidence and the
22 arguments. We've got the evidence in the record, so
23 now we turn to the arguments.

24 And we'll begin with Mr. Taub's testimony and
25 argument, which is we agree that the pre-hearing

1 conference statement shouldn't exceed 30 minutes.
2 Franchise Tax Board will be allowed to ask questions
3 if they wish, as will the panel of judges.

4 Franchise Tax Board will then make his
5 presentation. You had said not to exceed 15 minutes.
6 And then Mr. Taub, you can ask questions, as well as
7 the panel. Mr. Taub, we will allow you approximately
8 five minutes to respond to Franchise Tax Board's
9 arguments, if you wish.

10 And last, for the benefit of the parties in
11 the audience, I would explain that we will be swearing
12 in Mr. Taub because he's a witness. His testimony
13 will be evidence. We don't swear in Franchise Tax
14 Board's attorneys because they are not witnesses.
15 Their arguments are evidence in this matter, just
16 arguments.

17 So with that, I'd like to swear you in,
18 Mr. Taub. Please raise your right hand.

19 Do you solemnly swear to tell the truth?

20 THE WITNESS: I do.

21 (Witness sworn in.)

22 ADMINISTRATIVE LAW JUDGE ANGEJA: And when
23 you're ready, please begin.

24 THE WITNESS: If I may, please, I would like
25 to address the jurisdictional issue first. The

1 statute of limitations issue has been present in this
2 case from the inception. However, I had forgotten
3 that the State Board of Equalization sends along a
4 pamphlet calling Franchise and Personal Income Tax
5 Appeals, Publication 81, dated December 2010. At page
6 5, processing the appeal, there are specific
7 references with regard to the determination of
8 jurisdiction.

9 At the center of that page, it indicates,
10 quote, If the BOE does not have jurisdiction over your
11 appeal, comma, we will reject your appeal. Period.
12 We will send you a letter explaining the reasons for
13 the rejection. Period. Closed quote.

14 There was never a rejection of anything.
15 There was nothing indicating that there was a
16 rejection, nor that there was no jurisdiction. The
17 next paragraph below the one just quoted is
18 italicized, which says, quote, Note on disputed
19 jurisdiction: Colon. If there is a genuine dispute
20 about whether BOE has jurisdiction over your appeal,
21 comma, we will accept the appeal on the condition that
22 jurisdiction remains at issue. Period. The BOE will
23 decide whether it has jurisdiction when it decides the
24 other issues on your appeal. Period. Closed quote.

25 There were no conditions ever set on this

1 appeal, whatsoever by the BOE, nor anyone else at all.
2 There was never disputation. There was never a
3 condition. There was no notice. There was no due
4 process with regard to an issue on jurisdiction or
5 notice that the BOE had any issues with regard to
6 jurisdiction, whatsoever.

7 In addition, not only do I pose initially the
8 issue of the statute of limitations, but in the
9 opening brief of the respondents. The respondents
10 directly respond to the jurisdictional and 20-year
11 statute of limitations issue in its opening brief
12 filed in April of 2016.

13 Therefore, it appears that everyone did not
14 believe there were any conditions, whatsoever with
15 regard to the jurisdiction. As I mentioned, the first
16 issue that is posed by the respondents in the matter
17 is, has the statute of limitations for collections
18 under Revenue Taxation Code Section 19255 run on the
19 1992 or 1993 tax years making the remaining
20 liabilities non-collectable. That's from the
21 Franchise Tax Board, not from me.

22 As mentioned, there was no condition ever.
23 Jurisdiction was never an issue. Under the rules of
24 the BOE, there was never a condition with regard to
25 this appeal at all, nor a reservation of jurisdiction

1 on this appeal at all.

2 Therefore, while I appreciate that this issue
3 has been raised at this 11th hour by this board, it
4 appears that by virtue of the time, the concessions on
5 the appeal, and this was a perfected appeal without
6 any form of conditions, whatsoever, that the statute
7 of limitations issue is present, and that this board
8 has jurisdiction to determine the matters with regard
9 to the statute of limitations and its applicability.

10 With regard the statute of limitations, this
11 is a classic case of why the statute of limitations
12 applies. The matters before this panel are more than
13 two decades old. Documents with regard to this matter
14 are nonexistent. I had made regular and repeated
15 requests to the Franchise Tax Board for copies of the
16 filed tax returns which were the subject matter of the
17 disputations and the collections actions. I was told
18 that no such returns existed, as those returns would
19 have been destroyed some years ago by the Franchise
20 Tax Board. And therefore, I have no foundational
21 documentation by which to even mount an appeal because
22 I have no firsthand genesis documentation as to the
23 subject matter of the appeal.

24 I do have a number of computer printouts no
25 doubt from the Franchise Tax Board, but I have no tax

1 returns. I don't know what the income was on the tax
2 returns, nor who signed what and when from the tax
3 returns.

4 Additionally, as two decades-plus have
5 passed, recollections and memories are gone. Persons
6 who might have been able to testify would long ago not
7 remember facts of two-plus decades ago.

8 In addition, documents which could have been
9 provided were destroyed by court systems in their
10 archival systems decades ago. I have provided, and we
11 will review in a few moments, the register of actions
12 and materials available from Los Angeles County. The
13 register of actions is in handwriting as this panel
14 will see going back to 1992 on what I call my divorce
15 No. 1, which started in 1998.

16 However, almost all of the documents no
17 longer exist in Los Angeles County. I was fortunate
18 to be able to pull some of them as were available at
19 the archives division in Los Angeles. I personally
20 went there, I personally pulled the register, and I
21 personally asked for copies of anything that would
22 have been available at that time.

23 Therefore, this is, again, a classic case of
24 why statute of limitations are important. You have a
25 rather substantial brief, which I am confident all of

1 you will review with regard to the briefing of this
2 20-year statute of limitations argument, along with
3 the pre-hearing statement which was filed with regard
4 to the applicability of the statute.

5 Suffice it to say that not only because of
6 the memories, but the taxpayers are, it seems to me,
7 permitted some end time for a process to be present,
8 that the statute of limitations in this case should
9 also apply. I have provided to you the case authority
10 at the federal level to which this board and this
11 panel would take deference with regard to the need to
12 put an end to tax matters.

13 This has been going on for more than two
14 decades, and it does need to be brought to an end. On
15 again, the statute of limitations issue and the
16 20 years, I have argued with regard to the substantive
17 issue as to that which is a tax versus that which is a
18 fee. This is a fee that somehow tolled the statute of
19 limitations.

20 The payment of a fee to record a document is
21 not a tax. It's a fee. It is not revenue-raising.
22 It does not create revenue for the general public. It
23 pays a bill to either a process server, attorney
24 service or county recorder to file and record a
25 document. And that's precisely what it is.

1 Now, if one wanted to say there was a 20-year
2 statute of limitations on a tax, I would understand
3 that. But there is no 20-year statute of limitations
4 on the payment of a fee, which this is in this case.
5 And that was, as I understood, the reason for the
6 Franchise Tax Board's position that this fee somehow
7 tolled and could forever tole this statute because the
8 Franchise Tax Board could, it would seem to me, decide
9 to pay this fee on an annual basis to rerecord a
10 document.

11 That was never the intent of the statute.
12 The statute was geared to revenue-raising money. It
13 was not with regard to fees. Those are the issues
14 with regard to, it seems to me, at this time: The
15 jurisdictional matter and statute of limitations
16 matter.

17 ADMINISTRATIVE LAW JUDGE GEARY: Mr. Taub,
18 would you like some water?

19 THE WITNESS: No. I have a, unfortunately a
20 regular cough from what is a cold.

21 ADMINISTRATIVE LAW JUDGE GEARY: All right.

22 THE WITNESS: As I have argued in addition, I
23 beg your pardon, this is not a stand-alone case. And
24 this is not a case which is similar to that which was
25 suggested as applicable in the, I believe, Couchman

1 case [sic]. This panel suggested that the statute of
2 limitations issue had been heard and determined had
3 the Couchman case. I have provided a copy of the case
4 for this panel, although I'm certain it is available
5 to you all.

6 The Couchman case has nothing to do with
7 statute of limitations. It never did. The reference
8 to jurisdiction, as this panel will see, is in
9 Footnote No. 6. It is, at best, dictum, and, at
10 worst, just a passing reference as to what procedure
11 that panel meant. And it related to some dealings.

12 It may have been that the taxpayers in that
13 case were not pleased with the way in which they were
14 treated by the Franchise Tax Board. But it is not a
15 statute of limitations issue, whatsoever. It is not
16 the due process issue of a statute of limitations.
17 That is not what this case discusses.

18 Now, if the Franchise Tax Board can correct
19 me and show me where in that case the statute of
20 limitations was appropriate, referenced, and of merit,
21 I will say I was incorrect in my citation, but I don't
22 think I am.

23 Also, this board had suggested the review of
24 the Block case [sic]. The Block case was an amendment
25 to a petition, and whether or not the court would

1 permit an amendment to a petition. However, my appeal
2 was not an amended anything. It was a moving
3 ambulatory document to which the Franchise Tax Board
4 then did plea. It was a stand-alone document in that
5 it raised a variety of issues, not only as innocent in
6 spouse issues.

7 In the Block case, there was the issue, it
8 appeared, of innocent spouse. The issue of statute of
9 limitations had not been raised. And yet, the court
10 suggests that maybe you want to do this at another
11 time, but you're not going to be doing this through an
12 amendment process.

13 If one wanted to argue procedure, then that
14 court said, procedurally, you should have raised this
15 issue at the inception of this proceeding and not now
16 in trying to do a Rule 41 amendment, which is what the
17 taxpayer in that proceeding tried to do and lost.

18 I didn't do that. I raised all of the issues
19 at the inception and the Franchise Tax Board pled to
20 all of those issues from the inception. And
21 therefore, that case appears to be inapplicable. I
22 leave it to this panel to go through the rest of the
23 briefing, as it would seem to me. Not spending the
24 time arguing it before the panel has read the briefing
25 is not in the best interest of all.

1 Now, rather than touch on particular
2 subsections, I wanted to give an overview of the
3 innocent spouse items as raised in the various
4 protocols, procedures and benchmarks. I want to start
5 with one of the last ones, and that was the Franchise
6 Tax Board says, we're not so sure you can ask for any
7 of this because you owe taxes to the Franchise Tax
8 Board.

9 I owe nothing to the Franchise Tax Board.
10 The Franchise Tax Board indeed garnished wages of mine
11 sometime ago, and I paid off the Franchise Tax Board
12 entirely. As far as I am aware, because I don't have
13 any bills from the Franchise Tax Board at this time, I
14 owe nothing for any past years of any income taxes to
15 the State of California other than that which is
16 disputed at today's hearing.

17 Again, if there is a bill that the Franchise
18 Tax Board has that says that I owe any money for those
19 years which have been heretofore either liened,
20 levied, garnished or paid off 100 percent, then I will
21 be certainly willing to see those, but I don't have
22 them.

23 The Franchise Tax Board raises issues with
24 regard to whether or not the taxpayer knew of these
25 liabilities or not. As I had mentioned in my appeal

1 and in replies, my relationship with wife No. 2, that
2 is Carrie Beth, from probably 1991 forward was at best
3 acrimonious. And Carrie got mail. She would have
4 gotten notices, levies, documentation, et cetera.

5 I was somehow consumed from 1990 -- well,
6 1991, 1992 forward in the following matters in which
7 not only my energies went, but whatever money I had
8 went.

9 If I may, you will take a look under, I
10 believe it's Exhibit 2, the long sheets, very long
11 sheets. And that is the register of actions. This is
12 the register of actions in Southern California. This
13 was divorce No. 1. These were post-judgment actions
14 which were taken against me with joinder motions
15 brought against some trusts that I had established, a
16 joinder motion against Carrie Beth, a joinder motion
17 against Baby Thoughts, her corporation, et cetera.

18 The joinder motions 1994 through 1995 were
19 denied. I can specifically recall the joinder motion
20 at which my first wife's counsel argued that those
21 were all mine and all the money in them was controlled
22 by me.

23 Judge Cardinas in Southern California, Los
24 Angeles denied those motions entirely and said those
25 all belonged to Carrie. She owned Baby Thoughts. She

1 controlled all of that money. The money that I had
2 was used in fighting on my behalf the various and
3 sundry matters, as you will see, in this register
4 going from 1988 through when you see 1992 starting on
5 page 1 through 1995.

6 Those were cases in which my counsel was
7 Howard Blumenthal, who ultimately committed suicide,
8 and then the firm of Trope and Trope, T-R-O-P-E, and
9 Trope, in which I used money I had to mount the
10 defenses I had to indicate I didn't have any money. I
11 didn't have the money to do these things, and I didn't
12 control any of these entities, again, which ultimately
13 prevailed.

14 But the suggestion was from the Franchise Tax
15 Board, well, where was the money that you saved in
16 order to pay these taxes? Well, the answer was, I
17 didn't have any money to pay these taxes. I was
18 fighting this battle, but the money of Carrie's and
19 Baby Thoughts was all in her accounts. And we'll get
20 to that in a moment.

21 In addition, and as you may or may have done
22 a historical review but I have made clear in my
23 appeal, from 1991 through 1994, I was in a battle with
24 the state bar. Gerald, G-E-R-A-L-D, Markle,
25 M-A-R-K-L-E, was my bar counsel. He has since passed.

1 And Gerry and I were doing all I could to try to
2 figure out how I could in some way preserve some kind
3 of licensure. And so the money that I otherwise would
4 have paid, if you will, to pay taxes went to pay Gerry
5 to try to defend myself against what I consider to be
6 a proper investigation by the state bar for my
7 conduct.

8 And I used money to settle claims of clients
9 with regard to those matters mounted against me from
10 the state bar. I was ultimately at that stage
11 suspended in 1994, but that was only after a great
12 deal of work with Mr. Markle, hearings in front of the
13 state bar in Southern California, and the payment of
14 money to clients, who, in my opinion, deserved to be
15 repaid by me for my acts.

16 Now, with regard to control of assets,
17 because the Franchise Tax Board again says, well, you
18 should have had a bunch of money to pay these taxes.
19 Well, I didn't have the money to pay the taxes because
20 they either went with regard to the matrimonial matter
21 in divorce No. 1, or for the state bar matter at
22 paying clients moneys to which they were entitled.
23 And they would have been entitled, as you know, at all
24 times.

25 However, at the end of behind the long

1 sheets, I have provided to you some transcripts and
2 ultimately the order from Judge Cardinas releasing
3 money. And that order was March 8, 1995. And this is
4 after tumultuous and constant hearings and trials
5 before Judge Cardinas.

6 Indeed, there was a four-day, full-day trial
7 in front of Judge Cardinas with regard to the joinder
8 motions. And ultimately, and my first wife brings
9 actions to enjoin everyone, including Carrie and Baby
10 Thoughts, Carrie's separate property because there was
11 a prenuptial agreement by which this was her property,
12 not mine, by which the court, commencing at page 2 of
13 that order, permits Carrie to use her money to pay
14 bills.

15 Indeed, the court permits Carrie to pay the
16 Franchise Tax Board minimum franchise taxes, but
17 Carrie, who, as far as I am aware had all of the
18 notices from the Franchise Tax Board did not make
19 application to Judge Cardinas to pay those bills. And
20 that would have been the far on [sic] because I didn't
21 have any money on it. She would have received all the
22 notices indeed.

23 And yet, the court permits Carrie to pay
24 money, to pay family expense \$8,000 a month. Carrie
25 and Baby Thoughts shall have the power to disburse

1 funds for all ordinary and necessarily living expenses
2 for herself, Petitioner, who was me, and Carrie's two
3 minor children.

4 When the Franchise Tax Board suggests and
5 says, where was the money, Mr. Taub, you were going to
6 use to pay us? Mr. Taub was relying on money from his
7 spouse's separate property for living expenses to get
8 released by the court. And there is the evidence of
9 that. This goes on for the payment of those items,
10 but that is evidence of -- or the addressing of the
11 issue of Mr. Taub, where was the money? Where were
12 you going to pay the money? Well, the answer was I
13 didn't have it. Carrie and Baby Thoughts had it.

14 When we speak about, you had the dominion and
15 control over access of the assets, no, I did not.
16 Clearly, the court recognized that I did not. I never
17 had dominion and control over any of those assets,
18 whatsoever. Indeed, had I had dominion and control
19 over any of those assets which should have been used
20 to pay the Franchise Tax Board by Carrie and/or Baby
21 Thoughts, Judge Cardinas would never have denied the
22 joinder motions because Judge Cardinas would have
23 said, Mr. Taub, you control those. You are the altar
24 ego of those. You are in some way manipulating those.

25 Again, there were four court days of trial on

1 this issue. And yet, the court does not find I had
2 any money to do that, whatsoever. Now, going beyond
3 that period of time of what money I had, again, the
4 Franchise Tax Board has suggested between 1991 and
5 1994, you must have been doing law work and creating
6 lots of money.

7 No. I was doing lots of work to try to fight
8 an incredibly acrimonious matrimonial matter
9 post-judgment and to try to do what I could to keep my
10 license alive. Was I doing lots and lots of work for
11 clients which was generated generating billable time
12 and money, no, there wasn't the time to do that. I
13 was trying to survive it.

14 Thereafter, as a suspended lawyer, one's
15 ability to generate money is dramatically reduced.
16 And so the notion that, well, thereafter, although
17 this is not even addressed by the Franchise Tax Board,
18 you should have been able to generate the money.
19 Well, I couldn't have. There was no way I could have.
20 And thus, when raising the issue, showed the economic
21 hardship, again, one of the factors, I didn't have any
22 money.

23 I was either trying to fight an acrimonious
24 divorce case, trying to survive a state bar attack,
25 trying to figure out what work I could do as a

1 suspended lawyer, and thereafter, talking about
2 economic hardship, as you have seen, I was
3 incarcerated. I didn't make any money. There was
4 nothing.

5 And when I got out, again, to suggest
6 economic hardship, well, you come out as someone who's
7 been through that and you are thankful within ten days
8 to find a minimum wage job, which I was. And that's
9 from where I moved from that point forward. The
10 economic hardship when you're making minimum wage,
11 that's what you've got. That's what you're fighting.

12 And so the economic hardship was present for
13 years and years and years. It wasn't just one year or
14 two years, it went on for two decades, which is not
15 seeming. Now, we talked about no control.

16 ADMINISTRATIVE LAW JUDGE ANGEJA: Let me
17 quickly remind you we had allotted about 30 minutes,
18 and you've got about five, six. If you need more
19 time, we can try to allow it. I want to keep us
20 moving and focused.

21 THE WITNESS: Thank you. I'm sorry. Just
22 one second. I had on a regular, consistent basis
23 requested records, because we talked about records, so
24 I could figure out what this entire proceeding was
25 about from Carrie, wife No. 2, who, again, in the

1 records, you will see another level of acrimony. In
2 that divorce case, what went on for many years, it is
3 printed on computerized sheets, your Honor, that you
4 will see in those records from Santa Cruz County,
5 again, another fight that went on.

6 I asked for records so I could figure out
7 what this appeal would be about and what its genesis
8 was about. I asked Carrie in which I had no
9 conversations in years. I had requested her lawyer,
10 Patricia Liberty, to provide me records. I received
11 nothing, ever. And so fighting this has been in the
12 dark on a regular basis.

13 Now, I think at this point, let me just take
14 a look as to other items. I think I'm going to
15 conclude me for now.

16 ADMINISTRATIVE LAW JUDGE ANGEJA: All right.
17 Franchise Tax Board, do you have any questions at this
18 point?

19 MR. COUTINHO: We do not.

20 ADMINISTRATIVE LAW JUDGE ANGEJA: Panelists?

21 ADMINISTRATIVE LAW JUDGE GEARY: Nothing for
22 me at this time.

23 ADMINISTRATIVE LAW JUDGE ANGEJA: Franchise
24 Tax Board, go ahead.

25 MR. COUTINHO: Good morning. I have four

1 points to make on appeal. The first is that Appellant
2 is not entitled to equitable innocent spouse relief
3 from the 1992 and 1993 tax years under Revenue and
4 Taxation Code Section 18533(f).

5 Second, Appellant is not entitled
6 court-ordered relief under Revenue Taxation Code
7 Section 19006(b).

8 Third, Appellant is not entitled to relief
9 from joint liability pursuant to Revenue and Taxation
10 Code Section 19006(c).

11 And fourth, the Office of Tax Appeals does
12 not have jurisdiction to determine whether the
13 20-years collection statute of limitations remains
14 open.

15 To my first point, Appellant and his former
16 spouse filed a joint California tax return reporting
17 self-assessed tax liability for the years at issue.
18 When a joint return is filed, each spouse is jointly
19 and severally liable for the entire tax due.

20 Under Revenue and Taxation Code Section
21 18533, a requesting spouse may seek relief from joint
22 and several liability if he can establish that he's
23 entitled to innocent spouse relief. There are three
24 forms of innocent spouse relief. However, because the
25 joint liability in this case is self-assessed, the

1 only form of innocent spouse relief available able to
2 Appellant is equitable innocent spouse relief under
3 Section 18533(f).

4 Under Revenue and Taxation Code Section
5 18533(g)(2), the California legislature intended that
6 any federal regulation regarding innocent spouse will
7 apply to the extent they do not conflict with
8 Respondent's regulations. The IRS' Revenue Procedure
9 2013-34 provides guidance to a taxpayer seeking
10 equitable innocent spouse relief.

11 The IRS' revenue procedure sets forth seven
12 threshold factors a taxpayer must satisfy to be
13 eligible for equitable innocent spousal relief -- to
14 be considered for innocent spouse relief.

15 The seventh threshold factor is that a
16 taxpayer must establish that the tax liability is
17 attributable either in full or in part to an item of
18 the non-requesting spouse. Appellant has not met this
19 burden.

20 Appellant asserts that the tax liability is
21 attributable to his former spouse due to a business
22 she allegedly owned. However, aside from the
23 assertion, Appellant has not provided any documents
24 showing that his former spouse owned a business during
25 the years at issue, and more importantly, that the

1 business was the reason Appellant and his former
2 spouse incurred tax liability.

3 Without any evidence to corroborate his
4 position, Appellant has not shown that the tax
5 liability is attributable, either in part or in full,
6 to his former spouse. Accordingly, Appellant cannot
7 be considered for equitable innocent spouse relief
8 because he does not satisfy all of the threshold
9 factors.

10 However, even if your office were to find
11 that Appellant meets all of the threshold factors, the
12 balance of the facts and circumstances of this case
13 weigh against granting Appellant equitable innocent
14 spouse relief.

15 IRS Revenue Procedure 2013-34 provides a
16 non-inclusive list of factors to be considered when
17 whether relief should be granted. Most of the factors
18 at issue are neutral. However, two factors point in
19 favor of denying innocent spouse relief: The
20 knowledge factor and the compliance with tax laws
21 factor.

22 In regards to the knowledge factor, Appellant
23 has not shown that it was reasonable for him to
24 believe that his former spouse would or could pay the
25 couple's tax liability within a reasonable period of

1 time after the tax return was filed -- tax returns
2 were filed.

3 In regards to Appellant's compliance with tax
4 laws -- in regards to Appellant's compliance with tax
5 laws, Respondent has taken filing important action
6 against Appellant for at least four separate tax
7 years, and Appellant has failed to timely pay all of
8 his tax liabilities for at least six separate tax
9 years.

10 Based on the information, Appellant has not
11 established that he is in compliance with tax laws.

12 MS. MOSNIER: Just as a point of
13 clarification on that issue. At the time FTB filed
14 its opening brief, there were some unpaid liabilities
15 for other tax years, but they have since been paid.
16 FTB's records show that other than tax years at issue
17 in this appeal, that Mr. Taub does not have a current
18 outstanding liability to FTB.

19 And however, with respect to determining
20 whether he was in compliance at the time FTB evaluated
21 his innocent spouse request and denied it, FTB
22 properly determined that he was not compliant with
23 this specific numerated factor in Revenue Procedure
24 2013-34.

25 ADMINISTRATIVE LAW JUDGE ANGEJA: That's new

1 to me. Which four years were they? Can you let us
2 know?

3 MS. MOSNIER: Yes. 2007, '9, '11, '12, '13
4 and '14, he had not paid his tax liabilities in full
5 by the speculative original payment date for those
6 statutes.

7 MR. COUTINHO: Based on the two factors, the
8 knowledge factor and compliance with tax laws factor,
9 the equitable innocence spouse relief should be denied
10 for years at issue.

11 To my second point, Appellant is not entitled
12 to relief under Section 19006(b). Section 19006(b)
13 provides that a court may revise the joint tax
14 liability in a divorce proceedings.

15 However, Appellant has not submitted any
16 court order from a state court with jurisdiction over
17 his divorce revising the unpaid tax liability, and
18 therefore, Appellant has not established that he's
19 entitled to relief under Section 19006(b).

20 To my third point, Appellant is not entitled
21 to relief under Section 19006(c). Under Section
22 19006(c), Respondent may revise a taxpayer's joint tax
23 liability to the extent it is unpaid and is not a tax
24 liability arising from income earned by or subject to
25 the exclusive management and control of the spouse

1 requesting relief.

2 However, the liability may not be revised,
3 only the -- the liability may only be revised if the
4 requesting spouse establishes that he or she did not
5 know of, and had no reason to know of, the nonpayment
6 at the time of the return from which the liability
7 arose was filed.

8 The knowledge factor under Section 19006(c)
9 is also an element for equitable innocent spouse
10 relief under Section 18533(f), and as discussed
11 previously, Appellant has not shown that he did not
12 know of or had no reason to know of the nonpayment at
13 the time the return was filed.

14 Accordingly, Appellant is not entitled to
15 innocent spouse relief from joint liability under
16 Section 19006(c).

17 MS. MOSNIER: In fact, with respect to the
18 knowledge factor, the Revenue Procedure 2013-34
19 specifies that the taxing authority is either to
20 determine if the requesting spouse establishes that he
21 or she did not know or have a reason to know that the
22 liability would not be paid when the return was filed,
23 that that factor would weigh in favor of relief, and
24 if the requesting spouse knew or should have known
25 that the liability would not be paid at the time the

1 returns were filed, that fact weighs against relief.

2 In this case, we have heard Mr. Taub describe
3 it at length how or why -- how and why he believes he
4 did not have the means to pay the liabilities at the
5 time his '92 return was filed, I think in '93, and his
6 '93 was filed in August of '95, which was several
7 months after, I believe, the March 1995 date, he said
8 that one of the -- that a judge in one of the divorce
9 actions had made certain determinations about who and
10 what.

11 But in any event, the evidence from
12 Mr. Taub's testimony indicates he knew, or should have
13 known, that the self-assessed liabilities would not be
14 paid when the returns were filed. And FTB properly
15 concluded that that factor weighed against relief.

16 MR. COUTINHO: To my fourth and final point,
17 Respondent submitted an additional brief on
18 November 14, 2018 to the OTA and Appellant.
19 Respondent's additional brief states that the OTA does
20 not have jurisdiction to determine whether the 20-year
21 statute of limitations for collection has expired.

22 In response to Appellant's arguments today,
23 the OTA has jurisdiction over this appeal due to
24 Respondent's notice of action denial from joint tax
25 liabilities, dated November 6, 2015 denying Appellant

1 innocent spouse relief.

2 In regards to the case cited in Respondent's
3 additional brief, Block vs. Commissioner, it stands
4 for the proposition that [inaudible] under an innocent
5 spouse statute, and that's the reason OTA has
6 jurisdiction today is because of innocent spouse
7 statute.

8 It is limited to determining whether
9 Appellant is entitled to relief from existing and
10 joint -- existing joint and several liability, and it
11 does not extend for procedural dispute such as whether
12 an assessment is timely, whether an assessment is
13 correct, or whether the collection statute of
14 limitation is expired.

15 However, even if the board -- even if the OTA
16 were to find that they have jurisdiction over the
17 20-year collections statutes of limitations,
18 Respondent's position in the 20-year statute of
19 limitations for the 1992 tax year remains open because
20 it has been suspended several times throughout the
21 time period.

22 It has been suspended under Section
23 19255(e)(1) for Appellant's bankruptcy, and has also
24 been suspended from the time when Appellant filed his
25 innocent spouse claim on October 21, 2014, and then

1 again when Appellant filed appeal to this letter. So
2 it's been suspended from October 21, 2014 to until the
3 OTA issues a final decision in this appeal.

4 I would be happy to address any questions
5 that OTA has regarding the innocent spouse issue --
6 Sorry.

7 MS. MOSNIER: And with respect to
8 jurisdiction, if your office were to determine, first,
9 that it has jurisdiction over the collection statute
10 of limitations under 19255; and secondly, that the
11 county lien fee that was posted in 1999 was not a
12 debit to the account that would begin a 20-year period
13 of statute of limitations running, although we have
14 not sent out the detail of briefs we had filed because
15 we've not been asked for this level of detail before,
16 we'll certainly put it in post-hearing briefing if
17 that would be the request to the panel.

18 If we use the November 1994 debit postings to
19 the Taub's account, there is a debit posting for the
20 tax liability, which Mr. Taub conceded during his
21 argument would absolutely trigger the 20-year statute
22 of limitations for collection, and on the same day FTB
23 posted it in the filing penalty, using either of those
24 same dates or either of those events as a triggering
25 event started 20-year statute of limitations for

1 collection running.

2 As Mr. Coutinho just described, there was a
3 statutory total under 19255 for Mr. Taub's bankruptcy,
4 and statute of limitations has been tolled
5 continuously since October -- October 21, 2014 when
6 Mr. Taub submitted his innocent spouse request. And
7 it will continue to be tolled until the determination
8 from on the innocent spouse request is final, so
9 through any determination through any petition for
10 hearing.

11 And by our calculations, that even if there
12 were a final determination from which no appeal could
13 be issued today, so that it was ultimately even a
14 finalize of today to start the statute running again,
15 there would still be approximately 16 months left on
16 the 20-year statute that would have been based on the
17 November 1994 debit postings for the 1992 tax
18 liability and delinquent filing penalty.

19 ADMINISTRATIVE LAW JUDGE ANGEJA: I don't
20 have it in my notes because I'm slower with my hand
21 than my ears are. Do you have a specific date,
22 November 1994, what day?

23 MR. COUTINHO: Sorry.

24 ADMINISTRATIVE LAW JUDGE ANGEJA: It may not
25 be particularly -- but I get your point.

1 MR. COUTINHO: In regards to November 21,
2 1994.

3 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. And
4 you said there were debits that included tax, not just
5 a fee, or was the filing -- I have filing penalty
6 written, but I couldn't get the detail. I'm sorry.

7 MR. COUTINHO: Give us one second.

8 ADMINISTRATIVE LAW JUDGE ANGEJA: Sure.

9 MS. MOSNIER: FTB filed an additional brief
10 on December 27, 2016. And on page 2 -- pages 2 and 3
11 of that brief, we discussed specifically the debits
12 and the dates that were posted to the 1992 account.
13 November 21, 1994 was the date the tax liability and
14 the delinquent filing penalty were posted to the
15 Taub's account.

16 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay.
17 Perfect. Thank you. That concluded your
18 presentation?

19 MR. COUTINHO: Yes. That concluded.

20 ADMINISTRATIVE LAW JUDGE ANGEJA: Do the
21 panelists have any questions?

22 ADMINISTRATIVE LAW JUDGE GEARY: No.

23 ADMINISTRATIVE LAW JUDGE ANGEJA: Mr. Taub,
24 I'll turn it over to you to reply. I wanted to
25 interject one quick question because perhaps you can

1 address it in your reply as well.

2 Before I start that, did you have questions
3 for the Franchise Tax Board?

4 THE WITNESS: I do not. Thank you.

5 ADMINISTRATIVE LAW JUDGE ANGEJA: You had
6 mentioned a prenuptial agreement?

7 THE WITNESS: Yes, sir.

8 ADMINISTRATIVE LAW JUDGE ANGEJA: In
9 connection with, I believe it's --

10 THE WITNESS: Carrie.

11 ADMINISTRATIVE LAW JUDGE ANGEJA: Carrie. I
12 may have missed it in the file, but that's new to me.
13 Do we have that in your evidence?

14 THE WITNESS: No, because it would have been
15 in the court file which is gone. I didn't have it
16 because I was not at the home, whatsoever. And so
17 prenuptial agreement would have been in the possession
18 and control of Carrie, Ms. Liberty, with the court.

19 And since court files had been destroyed and
20 I had made requests for records from Carrie and
21 Ms. Liberty, I will tell you that Elizabeth Vogt,
22 V-O-G-T, was Carrie's independent counsel. And
23 Counsel is nodding indicating that Counsel knows this.

24 MR. COUTINHO: Oh, sorry.

25 THE WITNESS: So they're aware of this. And

1 that was the document by which Baby Thoughts, et
2 cetera, was made and confirmed as her sole and
3 separate property.

4 ADMINISTRATIVE LAW JUDGE ANGEJA: Okay. So I
5 didn't miss it. All right. So you've got the
6 opportunity to provide any rebuttal to Franchise Tax
7 Board.

8 THE WITNESS: Counsel discusses the fact that
9 the matter is relative to any assessment or time was
10 tolled by virtue of the bankruptcy has been conceded.
11 The bankruptcy had no impact with regard to the
12 Franchise Tax Board's taking any form of actions,
13 whatsoever, was not within the time period, and
14 therefore, there was no applicable stay with regard to
15 any bankruptcy filings done back in 1994, I believe,
16 Counsel may correct me, I'm not clear on the date.
17 But again, there was no stay, and there was no
18 suspension of any statute.

19 I had forgotten to mention that Carrie was
20 served with the pleadings with regard to this matter
21 and did not respond, whatsoever. And therefore, it
22 appears that the notion of adoptive admissions is
23 applicable; that is, that Carrie agrees with
24 everything I have indicated in adoptive admissions.

25 She could have made a response. She could

1 have said something as a non-requesting spouse. She
2 said nothing. But we do know that she received all of
3 the pleadings in this matter, but failed to respond at
4 all.

5 Counsel indicates that there was no evidence
6 with regard to Baby Thoughts at all being Carrie's
7 sole and separate property. If that was the case,
8 Judge Cardinas would not have issued an order by which
9 that property was deemed to be the sole and separate
10 property of Carrie.

11 And therefore, Counsel is perhaps in error by
12 not taking a look at that documentation, which Counsel
13 has had in Counsel's possession for many, many, many
14 months, that I would have expected that she would have
15 omitted payments.

16 To the extent I would have known that
17 payments were due to the Franchise Tax Board is
18 confirmed by the tens of thousands, if not hundreds of
19 thousands of dollars within the accounts of Baby
20 Thoughts, and in the tens of thousands of dollars
21 which were released by Judge Cardinas.

22 Even in his order, one suspects there may
23 have been a great deal more. Again, I have no idea as
24 to the nature and extent of all of the money in Baby
25 Thoughts. I have requested the tax returns which may

1 have been appropriate to determine the income that was
2 generated out of this entity, but none of them are
3 available. Apparently, they may have been destroyed
4 years ago, and there is no way I can then reconstruct
5 to know what the income would have been and the income
6 available, nor the principle available.

7 I end this by indicating that Carrie never
8 filed in the family law matter in Santa Cruz any
9 income and expense declarations or preliminary or
10 final disclosure documents which would have set forth
11 the assets within Baby Thoughts.

12 And therefore, when Counsel suggests that I
13 knew or should have known of assets, there would be no
14 way I would have known about those because none of
15 those were disclosed as part of the matrimonial
16 process. And therefore, I would have been totally
17 cuckold with the notion that I could have discovered
18 any of that information.

19 I believe, finally, with regard to the
20 payment of the state income taxes, I went through a
21 litany of employment, if you will, and ability to pay.
22 The Franchise Tax Board was paid when I had the
23 ability to pay, because other bills such as living
24 expenses, paying rent and food, fortunately or
25 unfortunately had to take precedence over paying the

1 Franchise Tax Board bill.

2 But when the money was available beyond the
3 ordinary and necessary needs of life, the Franchise
4 Tax Board was paid 100 percent. I believe I probably
5 used up my five minutes, your Honor.

6 ADMINISTRATIVE LAW JUDGE ANGEJA: All right.
7 If you've got anything?

8 THE WITNESS: Thank you.

9 ADMINISTRATIVE LAW JUDGE GEARY: Yes. I do
10 have some questions.

11 Mr. Taub, when did you first become aware
12 that Franchise Tax Board was seeking from you payment
13 of the taxes for the years in question?

14 THE WITNESS: Your Honor, I have no
15 recollection, whatsoever. I do not know it was in the
16 1990s. I don't know if I may have received a notice
17 in an institution. I simply don't know. I have no
18 recollection.

19 ADMINISTRATIVE LAW JUDGE GEARY: Can the
20 Franchise Tax Board provide any information about when
21 Mr. Taub might first have been notified regarding an
22 amount that the board was seeking from him?

23 MR. COUTINHO: Yes. Exhibit G of
24 Respondent's opening brief, our collection documents
25 that we took. And our first collection document is --

1 one of the many is from December 18, 2000. Looks like
2 we sent a letter of account status July 25, 2001. And
3 that's Exhibit G of Respondent's opening brief.

4 ADMINISTRATIVE LAW JUDGE GEARY: So
5 December 2001, is that what you said?

6 MR. COUTINHO: Yes.

7 THE WITNESS: I beg your pardon, I'm sorry?

8 ADMINISTRATIVE LAW JUDGE GEARY: Give me the
9 date, Mr. Coutinho.

10 MR. COUTINHO: The date of our notice of
11 state tax lien is October 18, 2000 is when it's dated.

12 ADMINISTRATIVE LAW JUDGE GEARY: 2001?

13 MR. COUTINHO: Sorry, 2000.

14 ADMINISTRATIVE LAW JUDGE GEARY: 2000.

15 THE WITNESS: And if I may inquire, to where
16 was that sent?

17 MR. COUTINHO: That was Exhibit G.

18 THE WITNESS: No. To where was it sent? I'm
19 sorry.

20 MS. MOSNIER: It's page 1 of Exhibit G to
21 FTB's opening brief. And it indicates an address on
22 Camino Elmar in La Salvo Beach, California. Exhibit G
23 is probably not a complete set of the FTB's collection
24 documents because it would be -- the standard practice
25 would have been that when the returns were processed

1 and there were liabilities owed, FTB's system would
2 automatically start generating billing notices.

3 And since, as you know, actually at this
4 point decades have passed since these returns were
5 filed and processed. We would have voluminous copies.
6 And I'm not sure simply because of our systems that
7 would hold and print these documents, I'm not sure
8 that we would be able today to go back and tell you
9 with certainty which were the first collection
10 documents we issued for these tax years.

11 But we processed the '92 return in '93, the
12 '93 return in late '95. And just as a matter of
13 course, we would at that time have started sending
14 billing notices that begin with, hey, you owe us, you
15 know, we impose penalties and tax interest, so here
16 you go. Please get us paid now.

17 THE WITNESS: If I may, if it was in 2000,
18 your Honor, and it was to La Salvo Beach, California,
19 Carrie may have been living there. I was in a state
20 institution.

21 ADMINISTRATIVE LAW JUDGE GEARY: Prison?

22 THE WITNESS: Yes. And so I didn't get it.
23 Carrie would have received it because she was not in
24 an institution.

25 ADMINISTRATIVE LAW JUDGE GEARY: What are

1 the -- for what period of time, during what years were
2 you incarcerated?

3 THE WITNESS: Approximately 1999 through
4 2002. So if a notice was sent to the two of us, it
5 would have been sent to Carrie. During the entire
6 period of time, I received no correspondence or any
7 other documentation from Carrie or her counsel ever.

8 ADMINISTRATIVE LAW JUDGE GEARY: But you have
9 no recollection of when you first received notice from
10 FTB?

11 THE WITNESS: Well, I was responding to the
12 Franchise Tax Board when you queried as to when they
13 sent something. I said I did not know. With respect
14 to a specific date, I know exactly where I was as of
15 that date, and I do know that Carrie was living in the
16 Santa Cruz County area. That she never sent me
17 anything would therefore indicate I was never charged
18 with knowledge of anything. I never got anything.

19 ADMINISTRATIVE LAW JUDGE GEARY: Back to your
20 imprisonment, your incarceration, what charge were you
21 convicted?

22 THE WITNESS: Grand theft.

23 ADMINISTRATIVE LAW JUDGE GEARY: From
24 clients?

25 THE WITNESS: Yes.

1 ADMINISTRATIVE LAW JUDGE GEARY: Felonies?

2 THE WITNESS: Yes, sir.

3 ADMINISTRATIVE LAW JUDGE GEARY: How many, if
4 you know?

5 THE WITNESS: I believe there were two.

6 ADMINISTRATIVE LAW JUDGE GEARY: I think you
7 filed your request for relief in 2014; is that right?

8 THE WITNESS: If that's what the records are,
9 I have no reason to dispute the Franchise Tax Board.

10 ADMINISTRATIVE LAW JUDGE GEARY: Do you
11 recall how long before then you had last received a
12 collection notice, of any type of notice from FTB?

13 THE WITNESS: I do not. I have no
14 independent recollection, whatsoever.

15 ADMINISTRATIVE LAW JUDGE GEARY: Did you earn
16 income in 1992?

17 THE WITNESS: Now going back 26 years, I
18 simply don't recall. I may have earned income and
19 paid everything earned to lawyers with regard to
20 ongoing matrimonial and bar matters, in addition to
21 repaying clients.

22 ADMINISTRATIVE LAW JUDGE GEARY: You said you
23 may have, you're speculating?

24 THE WITNESS: That's correct because, as I
25 said, after 26 years, this gets to the preface to this

1 presentation, and that is after two decades, one's
2 recollection fades.

3 ADMINISTRATIVE LAW JUDGE GEARY: You
4 indicated that your relationship with your first wife
5 was acrimonious from approximately 1991 forward; is
6 that correct?

7 THE WITNESS: Probably 1988 forward.

8 ADMINISTRATIVE LAW JUDGE GEARY: All right.
9 But you were still filing joint returns; is that
10 right?

11 THE WITNESS: Yes.

12 ADMINISTRATIVE LAW JUDGE GEARY: Okay. Who
13 prepared your returns from 1992 and 1993?

14 THE WITNESS: I don't recall.

15 ADMINISTRATIVE LAW JUDGE GEARY: Do you
16 recall whether you and your then wife had arrangements
17 about who would pay taxes due, if any, for those
18 years?

19 THE WITNESS: I have no recollection of any
20 of those conversations or agreements.

21 ADMINISTRATIVE LAW JUDGE GEARY: Do you even
22 know whether you signed those returns from '92 and
23 '93?

24 THE WITNESS: I don't, and which is why,
25 again, going to the preface of this, I did ask for

1 those returns and have never been supplied them. So I
2 don't know.

3 ADMINISTRATIVE LAW JUDGE GEARY: That's all I
4 have. Thank you, Mr. Taub.

5 THE WITNESS: Thank you, your Honor.

6 ADMINISTRATIVE LAW JUDGE CHENG: I don't.
7 Thank you.

8 ADMINISTRATIVE LAW JUDGE ANGEJA: Do any of
9 the parties have additional questions? I think that
10 would conclude -- go ahead.

11 MR. COUTINHO: Yes. Sorry. We have one more
12 comment to make. In response to Judge Geary's
13 question regarding notices sent to the taxpayer, our
14 electronic records, Exhibit O, line -- Exhibit O to
15 our opening brief, line 6 has a -- sorry. Exhibit O
16 of our opening brief -- that's our additional --
17 that's our Exhibit T.

18 MS. MOSNIER: We have more information
19 regarding the first dates we sent collection documents
20 for both the 1992 and '93 tax years. Exhibit T, which
21 is attached to the brief we filed December 27, 2016,
22 page 1, line 2 has the entry STD Notice, 11/21/94.
23 STD Notice stands for Statement of Tax Due Notice.

24 So the '92 tax year, the first collection and
25 billing notice we sent was in November of '94.

1 ADMINISTRATIVE LAW JUDGE GEARY: Is there an
2 address indicated?

3 MS. MOSNIER: No. It's just a line -- it's
4 just a line item, and information for 1993, same
5 entry.

6 MR. COUTINHO: Yes. It's the same type of
7 entry is reflected on Exhibit O, line 6 of
8 Respondent's -- that is attached to Respondent's
9 opening brief. And it states that we sent the
10 Statement of Tax Due Notice on September 22, 1995.

11 ADMINISTRATIVE LAW JUDGE GEARY: For what
12 year was that notice, Mr. Coutinho?

13 MR. COUTINHO: That was for the 1993 tax
14 year.

15 ADMINISTRATIVE LAW JUDGE GEARY: And for the
16 prior notice that you made reference to in 1994, what
17 year was that for?

18 MS. MOSNIER: '92.

19 ADMINISTRATIVE LAW JUDGE GEARY: Mr. Taub,
20 did you have anything further as to thoughts of my
21 question?

22 THE WITNESS: I have taken a look at Exhibit
23 O, and I don't see an address on any of this. So
24 there is no way I could respond as to what or where it
25 was, nor has the Franchise Tax Board provided any

1 evidence as to where it was sent other than by a
2 computer document with some numbers.

3 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

4 ADMINISTRATIVE LAW JUDGE ANGEJA: So if no
5 one else has any questions or comments, I will close
6 the record and conclude the hearing. I'd like to
7 thank everybody for coming today.

8 Following this hearing, the panel will
9 discuss the evidence and the argument, and we will
10 issue a written opinion within 100 days. So thank you
11 to both parties. This matter is now closed.

12 (Whereupon the proceedings were
13 concluded at 11:15 a.m.)

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REPORTER'S CERTIFICATE

I, Amy E. Perry, a Certified Shorthand Reporter in and for the State of California, duly appointed and commissioned to administer oaths, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing in the matter of HARRY TAUB was reported in shorthand by me, Amy E. Perry, a duly qualified Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewritten form by means of computer-aided transcription.

I further certify that I am not of counsel or attorney for any of the parties to said hearing or in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of December, 2018.

AMY E. PERRY
Certified Shorthand Reporter
License No. 11880