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BEFORE THE OFFICE OF TAX APPEALS

MICHAEL GEARY, PANEL LEAD

KENNY GAST AND LINDA CHENG, PANEL MEMBERS

In the Matter of:)	
)	
WILLIAM BLAINE RIGGLE,)	
)	
Appellant,)	
)	Nos. 18011906,
OFFICE OF TAX APPEALS)	18011907
STATE OF CALIFORNIA,)	
)	
Respondent.)	
<hr/>)	

TRANSCRIPT OF PROCEEDINGS

Van Nuys, California

Tuesday, October 23, 2018

Reported by:
SUSAN GALLAGHER
Hearing Reporter

BEFORE THE OFFICE OF TAX APPEALS

MICHAEL GEARY, PANEL LEAD

KENNY GAST AND LINDA CHENG, PANEL MEMBERS

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In the Matter of:)	
)	
WILLIAM BLAINE RIGGLE,)	
)	
Appellant,)	
)	Nos. 18011906,
OFFICE OF TAX APPEALS)	18011907
STATE OF CALIFORNIA,)	
)	
Respondent.)	
_____)	

TRANSCRIPT OF PROCEEDINGS, taken at
California State Building Offices,
6150 Van Nuys Boulevard, Van Nuys, California,
commencing at 10:07 a.m. and concluding at
11:25 a.m. on Tuesday, October 23, 2018,
heard before MICHAEL GEARY, Panel Lead,
KENNY GAST, Panel Member, and LINDA CHENG,
Panel Member, reported by SUSAN GALLAGHER,
Hearing Reporter.

1 APPEARANCES:

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For the DEPARTMENT OF KEVIN SMITH, SCOTT CLAREMON,
TAX AND FEE and KEVIN HANKS
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1 Van Nuys, California, Tuesday, October 23, 2018

2 10:07 a.m.

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5 JUDGE GEARY: Good morning, ladies and gentlemen. We are
6 here to convene the hearing in the matter of the appeal of
7 William Blaine, B-L-A-I-N-E, Riggle, R-I-G-G-L-E, OTA Case Nos.
8 18011906 and 18011907. Today's date is October 23rd, and the
9 time is approximately 10:07 a.m. My name is Michael Geary. I am
10 lead judge for the panel for this hearing. I am joined on the
11 dais with my copanelists, Judges Gast and Cheng, who will
12 participate with me and deliberate with me in considering and
13 deciding the issues in this case.

14 Let me ask the parties to state their appearances for the
15 record beginning with the appellant, please.

16 MR. DUBICK: Good morning, Your Honors. My name is Mitchell
17 Dubick, D-U-B-I-C-K. With me is my client, William Riggle, and
18 my cocounsel, Joshua Katz.

19 JUDGE GEARY: Thank you. And the California Department
20 of Tax and Fee Administration, which I will later refer to as
21 "the department" for simplicity, would you please state your
22 appearances.

23 MR. SMITH: Good morning. I'm Kevin Smith, and with me is
24 Scott Claremon and Kevin Hanks.

25 JUDGE GEARY: Good morning, everybody. Prior to going on

1 the record, we talked about the procedures that we're excepted to
2 follow today, and Mr. Dubick indicated that he is going to have
3 his client testify. And he's indicated he also would like to
4 make a brief opening statement, which we will, of course, allow.

5 We also talked about the evidence at after or shortly after
6 the prehearing conference in this case. The parties identified
7 evidence that they expected to offer, and they were instructed to
8 file written objections by a date certain that's now passed.

9 The department submitted Exhibits A through, I think, Y; is
10 that right, Mr. Smith?

11 MR. SMITH: Yes, correct.

12 JUDGE GEARY: And the appellant submitted Exhibits 1 through
13 4 initially, although I see the most recent package that was
14 delivered to me is actually 1 through 5, the difference being
15 that the package that the appellant actually provided to me
16 includes an April 24, 2012, declaration of Mr. Riggle. It looks
17 like the documents previously provided did not include that, but
18 all of those documents are going to be admitted.

19 But before I do, I'm going to give Mr. Dubick a brief
20 opportunity the state his -- whatever he wants to state about the
21 department's exhibits. Go ahead.

22 MR. DUBICK: Thank you, Your Honor. Our concern, and it may
23 develop to an objection depending on how the department intends
24 to utilize its exhibits is this: We object to the department's
25 use of these documents to the extent that they are used to

1 attempt to support the assertion that Mr. Riggle possessed the
2 authority to determine whether sales tax would be paid at any
3 time prior to Mr. Zures's death. To the extent that they are
4 used to support the assertion that Mr. Riggle had any such
5 authority following Mr. Zures's death, which is to say the issue
6 before us today, we believe that they are technically admissible,
7 but largely irrelevant or not of any probative value. Put
8 another way, any documents or statements referring to events
9 occurring up to the time of Mr. Zures's death should not be
10 admitted unless they bear directly on the issue of Mr. Riggle's
11 authority after Mr. Zures's death.

12 JUDGE GEARY: Does that conclude your comments?

13 MR. DUBICK: Yes.

14 JUDGE GEARY: Thank you.

15 Mr. Smith, do you want to respond?

16 MR. SMITH: I don't think we need to respond.

17 JUDGE GEARY: All right. All of the exhibits are admitted.

18 The judges will give the documents appropriate weight, but
19 all of the exhibits are admitted, and I do want to add an
20 addition, I believe, shortly after receiving the department's
21 exhibits, it occurred to me that it would help everybody if we
22 had a list of the payments that were due after the death of the
23 former president of the corporation, I believe. Was that his
24 position, Mr. Dubick?

25 MR. DUBICK: CEO.

1 JUDGE GEARY: Okay. And the department provided that, and
2 copies were provided to Mr. Dubick's office. I've given copies
3 to my copanelists. You have not had an opportunity to state an
4 objection as to this document. Do you have any objection to this
5 document, Mr. Dubick?

6 MR. DUBICK: No, Your Honor. We take it at faith -- on
7 faith that what the department provided is correct. We don't
8 have any knowledge of them.

9 JUDGE GEARY: Thank you. The department -- my intent is to
10 mark this as your Exhibit Z and admit it. Is that all right?

11 MR. SMITH: That's fine with us.

12 JUDGE GEARY: All right. So that's what we'll do. The
13 appellant's exhibits, 1 through 5, now, and I'm not going to
14 identify them. They are identified in the record, and they were
15 the five exhibits that Mr. Dubick's office served on me and that
16 I distributed to my copanelists are admitted, and the
17 department's Exhibits A through Z are admitted.

18 (Appellant's Exhibits 1 through 5 admitted into
19 evidence.)

20 (Department's Exhibits A through Z admitted into
21 evidence.)

22 JUDGE GEARY: Unless there's a question from somebody, I'm
23 ready to proceed and allow Mr. Dubick to give his brief opening
24 statement. No questions?

25 Mr. Dubick, the floor is yours.

1 MR. SMITH: Excuse me.

2 JUDGE GEARY: Yes, Mr. Smith.

3 MR. SMITH: We have an opening statement.

4 JUDGE GEARY: Excuse me. You're absolutely correct. We're
5 so used to doing the other way. Department has the burden of
6 proof. Department will go first with an opening.

7 Mr. Dubick, you will follow.

8 And then the department will be presenting no live
9 witnesses, but it'll indicate that it's going to rely on the
10 documents, I expect.

11 MR. DUBICK: May I assume, Your Honors, that we can stay
12 seated for questioning and argument?

13 JUDGE GEARY: Absolutely. And when you -- it comes point
14 for you to offer testimony from your client, after administering
15 the oath or affirmation, he will just remain in his chair as long
16 as the court reporter can hear him. Well, I'd ask you to share
17 the microphone so the court reporter has a better chance of
18 hearing what Mr. Riggle has to say. All right.

19 MR. DUBICK: Thank you.

20 JUDGE GEARY: Mr. Smith, you're going to give the opening?

21 MR. SMITH: Yes. Thank you.

22 JUDGE GEARY: Go ahead.

23 MR. SMITH: Good morning. Kevin Smith from CTDFFA legal
24 department. I'm with Scott Claremon and Kevin Smith.

25 We continue to assert that appellant should be held liable

1 for the unpaid taxes of 21st Century Oil, Incorporated, and 21st
2 Century Oil front company doing business as Arco. The issue here
3 is whether Mr. Riggle is responsible for the unpaid liability of
4 21st Century Corporation and Arco.

5 The requirements for holding taxpayers personally liable as
6 a responsible person under Revenue and Taxation Code Section 6829
7 are, first, the corporation was terminated. Second, the
8 corporation collected sales tax reimbursement. Third, appellant
9 was the responsible, and, fourth, appellant's failure to pay the
10 tax was willful.

11 Appellant has previously conceded the first three elements
12 of a responsible person for 21st Century Oil and Arco, and only
13 contends that he was not willful in failure to pay the tax. The
14 first requirement for willfulness is knowledge. The person must
15 have known that taxes were due and not being paid on or after the
16 due date for those taxes.

17 Here the exhibits submitted show that appellant knew tax was
18 due for both 21st Century Oil and Arco during the liability
19 periods. Primarily, appellant signed the nonremittance returns
20 for both corporations the second quarter of 2004 as chief
21 financial officer. In addition, Department records indicate that
22 appellant met the department on September 1st, 2004, to discuss
23 21st Century's tax liability, and those same records show
24 multiple other discussions between appellant and the board
25 regarding 21st Century's tax liability from January 2004 to

1 September 2004 and regarding Arco's liability from May 2005
2 through May 2007.

3 The second element for willfulness is whether appellant had
4 the authority to pay taxes or cause them to be paid. For 21st
5 Century Oil, appellant signed a business check for 21st Century
6 dated August 24th, 2004, made payable to the Board of
7 Equalization. In addition, department records from July 9th,
8 2003, and July 16th, 2003, indicate that appellant informed the
9 department he would replace checks that were returned for
10 nonsufficient funds, and he discussed the payment of liability in
11 January and September of 2004 with the department.

12 Turning to Arco, as stated above, appellant signed the
13 second quarter 2004 tax returns as CFO. Further, appellant
14 discussed the payment of Arco's liability on May 20, 2005,
15 May 21st, 2005, and May 31st, 2007. Throughout the liability
16 period, appellant was listed as CFO, officer, treasurer,
17 treasurer, and secretary on various filings. When the taxes at
18 issue came due, he was the only officer of the corporation.

19 In sum, the evidence submitted establishes that appellant
20 had the authority to pay the taxes or cause them to be paid for
21 both companies.

22 Finally, the third element for willfulness is whether funds
23 were available to pay the liability on or after the date they
24 became due, but the responsible person choose not to do so. For
25 21st Century Oil, Employment Development Department records

1 showed that 21st Century paid wages through the second quarter of
2 2004. In addition, transcripts of 21st Century Oil Corporation's
3 tax returns show sales tax was prepaid to 21st Century Oil
4 Corporation's field distributors throughout the third quarter of
5 2004.

6 Arco's Employee Development Department records show that
7 wages were paid to employees during the fourth quarter of 2004
8 and the first quarter of 2005. In addition, transcripts of
9 Arco's tax returns show sales tax was prepaid to Arco field
10 distributors during the second and third quarter of 2004.

11 This evidence indicates funds were available to pay the
12 liability for both corporations, but appellant chose not to do
13 so. Thus, we conclude that all conditions have been satisfied
14 for imposing personal liability on appellant under Section 6829
15 for the outstanding tax liabilities of 21st Century Oil and 21st
16 Century Oil's front company that was doing business as Arco.

17 Thank you.

18 JUDGE GEARY: Thank you, Mr. Smith.

19 Mr. Dubick.

20 MR. DUBICK: Thank you, Your Honor. I'm Mitch Dubick,
21 counsel for appellant.

22 We have a very narrow issue to be decided this morning, that
23 is whether some event occurred after May 25th, 2004, that
24 suddenly transformed Bill Riggle from a person lacking authority
25 to someone in control of the affairs of 21st Century Oil Corp.,

1 and 21st Century Oil Front Company. I will use those names
2 interchangeably because I don't believe that the real issues are
3 any different for either company. So for ease, we'll refer to
4 them largely just as 21st Century.

5 We submit that all the facts prove just the opposite. That
6 is, instead of being instructed by only one person, the late
7 William Zures, Mr. Riggle was now directed by three people:
8 Maggie Zures, the new owner; William Rathbone,
9 Ms. Zures's attorney; and Richard Kipperman, an experienced
10 receiver.

11 Mr. Riggle was told to delay paying sales taxes in an effort
12 to save these companies and keep them in business. In short, it
13 has always been our position that Mr. Riggle, despite having
14 certain titles, did not have the authority to decide whether
15 these taxes would be paid. We believe his testimony and those of
16 all the other witness was who have testified through their
17 declarations will support this.

18 Thank you.

19 JUDGE GEARY: Thank you, Mr. Dubick.

20 Does the department have any witnesses?

21 MR. SMITH: No, we don't.

22 Judge Geary: Your documents have already been admitted.

23 You have no other documents to offer today, right?

24 MR. SMITH: Right, correct.

25 THE COURT: Thank you.

1 Mr. Dubick, if you'd like to call your witness, I will have
2 him sworn or take an oath or affirmation. Are you ready?

3 MR. DUBICK: We are, Your Honor. In addition to the
4 declarations that I believe are now in evidence, including
5 Mr. Riggle's, we would now like to have him testify.

6 Judge Geary: All right. Mr. Riggle, if you wouldn't mind
7 standing. Raise you right hand.

8

9 WILLIAM BLAINE RIGGLE,
10 called as a witness, and having been first duly sworn by the
11 Hearing Officer, was examined and testified as follows:

12 JUDGE GEARY: Thank you. You can make yourself comfortable,
13 and Mr. Dubick, if you would try to make sure the microphone
14 picks up your voices. Thank you.

15 Excuse me. Ms. Gallagher, you let us know if we're not
16 coming through, okay? All right.

17 COURT REPORTER: Thank you.

18 JUDGE GEARY: Proceed.

19

20 DIRECT EXAMINATION

21 BY MR. DUBICK:

22 Q Mr. Riggle, have you had an opportunity to review the
23 declaration that was submitted on your behalf?

24 A I have.

25 Q And is there anything that is incorrect in that

1 declaration?

2 A No.

3 Q And have you had an opportunity to review the
4 declarations of Ms. Zures, Mr. Kipperman, and Mr. Rathbone?

5 A Yes.

6 Q And is there anything in their declarations that you
7 believe to be incorrect?

8 A No.

9 Q Mr. Riggle, I would like to turn your attention to the
10 times immediately after May 25th, 2004. That is the date of
11 Mr. Zures's death.

12 A Okay.

13 Q Do you recall the events that occurred at that time with
14 respect to your dealings with first Mrs. Zures and then
15 Mssrs. Kipperman and Rathbone?

16 A Yes.

17 Q Did you know Mrs. Zures? I'll also refer to her as
18 Maggie. Did you know Mrs. Zures prior to the death of Mr. Zures?

19 A Yeah. She was Bill's wife; so I you met her, yes.

20 Q And Mr. Zures died on the 25th of May, 2004. Do you
21 recall approximately when you first spoke to Mrs. Zures following
22 Mr. Zures's death?

23 A After the initial finding of Mr. Zures being dead, I
24 probably didn't talk with her. I might have talked with her
25 before the funeral or at the time of the funeral.

1 Q And that funeral occurred within a couple of days of
2 Mr. Zures's death?

3 A That's correct.

4 Q And did there come a time when you had an occasion
5 following the funeral, then, to sit down and discuss matters
6 with -- business matters with Mrs. Zures?

7 A Yes, I do.

8 Q During that meeting what did you discuss?

9 A Our financial situation mainly. I also suggested that I
10 knew an attorney that would be useful in the case here -- in
11 helping her. I didn't have any experience with this situation.

12 Q And at that time as part of the discussion of the
13 financial conditions of the companies, did you discuss -- did you
14 specifically discuss the sales-tax situation?

15 A I discussed, you know, our total financial situation,
16 the sales tax or everything else that was due or payable.

17 Q At that time did Mrs. Zures give you any direct
18 instructions as to how to proceed?

19 A She just said to keep doing whatever Bill directed you
20 to do.

21 Q And what did you understand that directive to be as it
22 applied to sales taxes?

23 A At that time we weren't paying the taxes, that he was
24 raising money to do that.

25 Q And did you follow her instructions?

1 A Yes, I did.

2 Q Did Mrs. Zures tell you anything else about either
3 hiring or not hiring other people to aid her with respect to
4 handling the business operations of the companies?

5 A Yes. I suggested to her -- she needed an attorney she
6 said. I suggested that I knew an attorney, Mr. Rathbone. I knew
7 him from the gym is how I knew him and that he might help with
8 the situation and help her.

9 Q What was your understanding of Mr. Rathbone's area of
10 expertise?

11 A I knew that he did bankruptcy, and that was basically
12 what I knew.

13 Q And at that time did you know Mr. Kipperman?

14 A I did not.

15 Q Did there come a time when you met Mr. Kipperman?

16 A Yes. Mr. Rathbone suggested that we also introduce or
17 talk with Mr. Kipperman because he was a receiver and had
18 experience working with financial problems.

19 Q So is it fair to say that following the first business
20 meeting -- and I'm just going to mention "business meeting" for
21 anything concerning Mr. Zures's death and the funeral -- at the
22 time of the first business meeting or following the first
23 business meeting, did you understand that your directions were to
24 continue doing what you had been doing with respect to sales
25 taxes?

1 A Yes.

2 Q By the time -- sorry. Strike that, please.

3 To the best of your recollection, were there any
4 prepayments or current payments due to the State Board of
5 Equalization immediately following Mr. Zures's death?

6 A Not -- not -- no, I was not aware of any.

7 Q And by the time the next payment was due, which I think
8 would have been sometime in the latter half of the month of June,
9 had you met with Mrs. Zures, Mr. Kipperman, and Mr. Rathbone?

10 A Yes.

11 Q And what instructions, if any, had been -- were you
12 given at that time?

13 A Just to continue what we were doing and that Rathbone
14 and Kipperman were working with Maggie to decide how to save the
15 company or what to do with the company.

16 Q And did they advise you about what to do with any and
17 all available funds?

18 A Yes, they did.

19 Q What did they tell you?

20 A To make out a list and go through with them what needed
21 to be paid.

22 Q And then who would make the decision as to what would be
23 paid?

24 A They would.

25 Q Is it fair to say, then, that Mr. Kipperman and

1 Mr. Rathbone and Mrs. Zures were not giving you advice as to what
2 you should do, but rather directing what should happen?

3 A Yes.

4 MR. DUBICK: That's all, Your Honor.

5 JUDGE GEARY: Thank you.

6 I'm going to let the department ask questions if they choose
7 to before I open up to copanelists.

8 Mr. Smith?

9 MR. SMITH: Can you give me a few minutes to confer?

10 JUDGE GEARY: Do you need more than two?

11 MR. SMITH: Yeah, that's fine.

12 JUDGE GEARY: Off the record, Ms. Gallagher.

13 (Pause in the proceedings)

14 THE COURT: Ms. Gallagher, back on the record.

15 Department, do you wish to ask any questions?

16 MR. SMITH: No, we don't.

17 Judge Geary: I'm going to open it up to my copanelists who
18 may also have questions for the department.

19 First, Ms. Cheng -- Judge Cheng, do you have anything?

20 JUDGE CHENG: Yes.

21 Looking at appellant's Exhibit 1 -- or, no, actually
22 before -- right before Exhibit 1, there's a list of payments due
23 and payments made.

24 JUDGE GEARY: Actually, those are the Department's Exhibit

25 Z.

1 JUDGE CHENG: Okay.

2 JUDGE GEARY: I attached them to the package because I
3 didn't have anything else to attach them to at the time.

4 JUDGE CHENG: Okay.

5 Mr. Smith, do you see that?

6 MR. SMITH: Yes, I do.

7 MS. CHENG: Okay. So the payments that were made
8 October 1st, 2004, for 21st Century Oil and then for Arco, two
9 payments made -- two or three payments made, do you know who
10 signed those checks or?

11 MR. SMITH: No, we don't.

12 JUDGE CHENG: No.

13 Mr. Riggle, do you know who made those -- or who signed
14 those checks?

15 MR. DUBICK: I'm not sure if he has seen this; so if I could
16 show it to him.

17 THE WITNESS: They could have been -- Maggie could have been
18 signing on the account, but I don't know. I would think that
19 that's fine. If it was checks, it would have been my signature.

20 MR. DUBICK: Could I have just a moment, please?

21 JUDGE GEARY: Yes.

22 Do you need time too --

23 MR. DUBICK: Well, Your Honor, I think part of the problem
24 is that by the time some of these payments came in, the company
25 may have been in bankruptcy, and so I think when Mr. Riggle says,

1 "I could have been doing that," that may or may not have been
2 true once they went into bankruptcy.

3 I was just trying to ask him whether he had any knowledge
4 that he had, in fact, signed any of these checks. Some of these
5 also are not listed as checks, and I would just draw the Court's
6 attention to that because those could have been effectively, I
7 believe, prepayments by -- not 21st Century, but by the
8 sellers -- by the oil company -- companies. Mr. Riggle knows a
9 good deal more.

10 You all may be aware of that already, but with gasoline, the
11 significant amount of the payments are made by the -- or
12 collected at the time the gasoline is sold from the oil company
13 to a company like 21st Century. So there may have been some
14 payments, but they wouldn't have been made by 21st Century.

15 JUDGE GEARY: Before you go any further, let me ask
16 Mr. Smith with the department if they can shed any light on that
17 particular question.

18 MR. SMITH: So these are just prepayment returns, the
19 corporation's prepayment returns. They wouldn't be the
20 suppliers, you know, the payment to the suppliers on it, the
21 sales as it applies to the suppliers. These would be 21st
22 Century's prepayment returns for the sales-tax write-offs.

23 MR. DUBICK: Could I have just a moment, please?

24 JUDGE GEARY: Okay.

25 MR. DUBICK: Your Honor, I apologize, but I think

1 Mr. Riggle's understanding of what's -- whether payments by the
2 oil company are included in the prepayments or not, I don't have
3 any personal knowledge, but if I understood Counsel, what he
4 said, and what Mr. Riggle tells me his understanding is quite
5 different, and I'm happy to ask Mr. Riggle if that will help.

6 What we're talking about is whether payments -- prepayments
7 made by the oil company would be reflected on the return.

8 JUDGE GEARY: Well, let me just indicate that Mr. Smith has
9 already stated the Department's view of what these payments are,
10 and you are free to ask your client about what his understanding
11 is.

12 MR. DUBICK: Would you like me to wait or do that now?

13 JUDGE GEARY: Mr. Smith, do you have any preference?

14 MR. SMITH: He just wants to state his opinion, that's fine.

15 JUDGE GEARY: Go ahead.

16 MR. DUBICK: Mr. Riggle, you've heard counsel state that it
17 is his understanding that payments by the oil company to a
18 company like 21st Century would not have been reflected as a
19 payment on the quarterly return. Is that what you understood him
20 to say?

21 THE WITNESS: Yes.

22 MR. DUBICK: Is that your understanding?

23 THE WITNESS: They are reflected as part of the -- you look
24 at a calculation of what the amount is due, and then you subtract
25 the various prepayments that the oil companies make, and then you

1 calculate what is due after their prepayment. So it's all
2 reflected on the tax return.

3 MR. DUBICK: And so is it your understanding that a payment
4 reflected on the second or third quarter return in 2004 could
5 have included the prepayment made by the oil company at the time
6 that 21st Century purchased the gasoline?

7 THE WITNESS: Correct.

8 MR. DUBICK: Thank you.

9 JUDGE GEARY: Any further clarification from the department
10 on that issue?

11 MR. SMITH: We would just say that what's listed is
12 prepayments of sales tax by -- on his liability. What he's
13 talking about are prepayment credits that you can take for taxes
14 already been paid to your field suppliers, and that would be just
15 a credit listed on the return. These are prepayments on his --
16 that are on 21st Century's liability.

17 JUDGE GEARY: Okay.

18 Judge Cheng?

19 JUDGE CHENG: So -- go ahead.

20 THE WITNESS: Just in looking at the dates, I'm looking here
21 at the first list. It looks like there were one, two, three,
22 four, five, six, seven, eight, nine checks made on September 22nd
23 of -- and I'm just confused as to why there would be so many
24 checks listed that way if it wasn't...

25 JUDGE GEARY: Where are you looking?

1 THE WITNESS: Look on the right side, the effect.

2 JUDGE GEARY: All right. So you're looking at the second
3 and third pages. We're looking at the first page under the cover
4 letter, and I'm not sure if those -- I'm pretty sure those
5 reflect different things.

6 MR. DUBICK: Your Honor, if I may, if you look at the bottom
7 of the second page, unless it's a coincidence, the sum of the
8 checks on the second page equal the second item of the first
9 page.

10 JUDGE GEARY: I do see that now. And the same -- and it's
11 the same sum reflected at the bottom of the third.

12 Mr. Smith, could you just clarify for us what these three
13 pages purportedly reflect?

14 MR. SMITH: I think what this shows is the deposited date of
15 the checks and the effective date of the checks, not necessarily
16 the date that the check was written or received.

17 JUDGE GEARY: Page 1 does that --

18 MR. SMITH: Page 2 and 3 list, like, deposited effect and
19 the other one is posted effective -- because I see that they're
20 all the same effective date, but we don't think that's reflective
21 that checks were written on that date. That's just when the
22 checks were deposited by the department.

23 JUDGE GEARY: Okay. And these are all third quarter of '04
24 only, whereas the first page has a payment listed for second
25 quarter for the 21st Century Oil Corporation and has payments

1 listed for the second and third quarter for the front company; is
2 that correct?

3 MR. SMITH: Correct.

4 JUDGE GEARY: All right.

5 MR. DUBICK: Your Honor, so we're clear, if I could just
6 follow up with one question.

7 Mr. Riggle, you see all the checks that are listed on pages
8 two and three of the -- of Exhibit Z, do you not?

9 THE WITNESS: Yes.

10 MR. DUBICK: Do you recall signing any of these checks?

11 THE WITNESS: I do not.

12 MR. DUBICK: If you had signed any of the these checks,
13 would it have been of your own accord or only at the direction or
14 Ms. Zures and/or Mr. Rathbone and/or Mr. Kipperman.

15 THE WITNESS: It would have been with their have directions.

16 MR. DUBICK: Thank you.

17 JUDGE GEARY: Judge, Cheng, anything further?

18 JUDGE CHENG: No.

19 JUDGE GEARY: Judge Gast, do you have any questions?

20 JUDGE GAST: Yeah. So just a basic question for the
21 taxpayer.

22 If you weren't the responsible person, are you saying
23 Mrs. Zures was responsible during -- after the May 25th, 2004,
24 period?

25 MR. DUBICK: Should I respond?

1 JUDGE GAST: Yes.

2 MR. DUBICK: Yes, that was exactly right. The Department
3 had the ability and failed to go after Mr. Zures's estate, to go
4 after Mrs. Zures, to go after Mr. Rathbone, to go after
5 Mr. Kipperman. I think the record is fairly clear that like law
6 enforcement people do from time to time, they decided that it was
7 Mr. Riggle and just dropped the ball, and by the time they
8 discovered that it was probably too late -- I think this was
9 discussed at the last hearing -- at that time they discovered,
10 which was -- they had the information, and there are some
11 discussions I think they had while the statutes of limitations
12 were open, at least as to the three people that were then living
13 other than Mr. Riggle. They simply never went after them.

14 So Mr. Riggle was the only person they could go after, and
15 so they have gone after him for the last 14 years with a
16 vengeance that somehow he had this apparent authority because of
17 his job title, and therefore, no matter what the evidence is,
18 they maintain steadfastly that he must be liable rather than the
19 people who, by all the evidence -- you've heard none today.
20 There was none at the last hearing, and I don't believe there's
21 any anywhere.

22 There is no evidence that Mr. Riggle, either before
23 Mr. Zures's death or after, ever had the authority to make the
24 decisions to pay or not pay. He followed directions. He was
25 told first by Mrs. Zures what to do. The board found that he was

1 not responsible or not -- that he lacked authority up to the date
2 of death, and we are here today simply to argue that after the
3 death of Mr. Zures, He was told first by Mrs. Zures, the new
4 owner, and then by the other two gentlemen, Mr. Kipperman and Mr.
5 Rathbone, that they wanted to try the leave the doors open to try
6 to rescue it.

7 That fell apart fairly quickly. The company was in
8 bankruptcy, if not by September, then I believe by October, and
9 things were -- things were over. But there was never a time
10 where there was a payment due that Mr. Riggle had not already
11 received instructions of what to pay, and more importantly, what
12 not to pay, including the sales tax.

13 JUDGE GAST: Is there any evidence in the record that
14 Mrs. Zures or Mr. Rathbone or Kipperman had the authority other
15 than the declarations that were submitted?

16 MR. DUBICK: Sorry, Your Honor. At the risk of posing a
17 question to Your Honor, which I learned a long time ago was not
18 the smartest thing to do, the only part of the record that we
19 have control over would be the testimony, and we've got
20 declarations under penalty of perjury for Mrs. Zures, for
21 Mr. Kipperman, and for Mr. Riggle.

22 And I think collectively one can only come -- and we also
23 have Mr. Riggle's declaration, of course, -- one can only come to
24 the conclusion reading this that they were calling the shots.
25 They directed him what to do. Why the department didn't go after

1 them, I don't know. Anything else in the record would be some of
2 the comments, and there is at least one or later, but within the
3 statutory period still where Mr. Riggle I think said, "I'm not
4 your guy. I wasn't making the decisions."

5 Now, there is evidence in the record, for example, that he
6 met with people from the board. I meet with people from the IRS.
7 I meet with people from the state boards all the time. I never
8 dreamt in my worst nightmares that meeting with them would make
9 me a responsible person if I was not the person having the
10 authority over what to do.

11 JUDGE GEARY: Mr. Dubick, let me just stop you right there.
12 I don't want you to give your entire closing argument right now.

13 MR. DUBICK: Thank you. You're right, Your Honor.

14 JUDGE GEARY: I think you've answered his question.
15 Anything else?

16 JUDGE GAST: That's all for now.

17 JUDGE GEARY: I have some questions for Mr. Riggle.

18 When did you become -- you were the CFO for the companies,
19 correct?

20 THE WITNESS: Yes.

21 JUDGE GEARY: When did you become the CFO?

22 THE WITNESS: I'm not sure of the exact time. I was hired
23 in 1999, and I was hired as the -- I'm assuming controller of --
24 the position name is moved around. I was hired in '99. If it
25 was changed to CFO, it was during the period of '99 through, say,

1 2002 or something like that.

2 JUDGE GEARY: Did your duties change much between --

3 THE WITNESS: No.

4 JUDGE GEARY: -- with the change in titles?

5 THE WITNESS: No.

6 JUDGE GEARY: Make sure you wait until my question is
7 finished before you answer.

8 Had you had prior experience as a CFO or controller or other
9 financial management position with other companies?

10 THE WITNESS: Yes.

11 JUDGE GEARY: How many years prior to 1999 had you
12 functioned in the capacity of a CFO or controller for companies?

13 THE WITNESS: 20 years.

14 JUDGE GEARY: Lots of experience.

15 THE WITNESS: Correct.

16 JUDGE GEARY: All right. What -- what how would you
17 describe in general the overall responsibilities of the chief
18 financial officer?

19 THE WITNESS: The main thing is keeping track of the
20 accounting records.

21 JUDGE GEARY: Does the chief financial officer typically
22 decide -- handle accounts receivable and accounts payable in a
23 supervisory capacity?

24 THE WITNESS: In a supervisory capacity.

25 JUDGE GEARY: Obviously, there is the accounting staff

1 working under that person in most large companies, correct?

2 THE WITNESS: Correct.

3 JUDGE GEARY: All right. When a CFO is has supervisory
4 responsibility for the financial health of a corporation, does
5 that CFO's responsibilities -- or does that CFO typically answer
6 to some higher executive in the corporate structure?

7 THE WITNESS: Yes.

8 JUDGE GEARY: And who would that typically be, or what
9 position would that typically be?

10 THE WITNESS: The president or CEO or owner depending on
11 the --

12 JUDGE GEARY: The structure?

13 THE WITNESS: -- the structure.

14 JUDGE GEARY: Okay. Was -- I'm sorry. What is Maggie's
15 last name?

16 MR. DUBICK: Zures.

17 JUDGE GEARY: Zuret?

18 MR. DUBICK: Z-U-R-E-S, Zures.

19 JUDGE GEARY: Zures. Excuse me.

20 MR. DUBICK: She's remarried, but yes.

21 JUDGE GEARY: For our purposes, Ms. Zures, was she an
22 officer of the corporation for either of them?

23 THE WITNESS: I don't know. I don't know.

24 JUDGE GEARY: Was Mr. Kipperman an officer of the
25 corporations or either of them?

1 THE WITNESS: No.

2 JUDGE GEARY: Was Mr. Rathbone?

3 THE WITNESS: No.

4 JUDGE GEARY: Do you know the details of the disposition of
5 Mr. Zures's estate in terms of what directions he left for that
6 disposition?

7 THE WITNESS: I do not.

8 JUDGE GEARY: You indicated when Mr. Dubick was asking you
9 questions, he was talking about your discussion of the financial
10 situation of these corporations following Mr. Zures's death. The
11 first discussion that you had with Ms. Zures -- and you said -- I
12 think you said that you had no experience with this situation.
13 What situation were you referring to?

14 THE WITNESS: The death of an owner and what to do.

15 JUDGE GEARY: Okay. Did you meet with Ms. Zures
16 specifically to discuss the financial condition of these
17 corporations just with her, before you met with her,
18 Mr. Rathbone, and Mr. Kipperman?

19 THE WITNESS: Yes.

20 JUDGE GEARY: How many times did you meet just with her for
21 the purpose of discussing business before the meeting that
22 involved the other two gentlemen?

23 THE WITNESS: I would say at least twice.

24 JUDGE GEARY: And in either of those meetings, did she give
25 you any specific directions regarding how to proceed?

1 THE WITNESS: She said, "Just keep doing what -- just keep
2 doing what you're doing." That's as far as I can -- I'm trying
3 to think back to the time of what, you know, the things that
4 occurred in a short period of time.

5 Just to continue what you're doing, and we have to get
6 together with -- and I said -- I suggested Rathbone and
7 Kipperman.

8 JUDGE GEARY: Was that in the second meeting that you had
9 with her or the first?

10 THE WITNESS: I think it was the first. They were -- they
11 were close. I'm not...

12 JUDGE GEARY: Did Ms. Zures ever give you any written
13 direction as to how to proceed as the CFO of these corporations?

14 THE WITNESS: No.

15 JUDGE GEARY: Did Mr. Rathbone ever give you any written
16 direction?

17 THE WITNESS: No.

18 JUDGE GEARY: Did Mr. Kipperman?

19 THE WITNESS: No.

20 JUDGE GEARY: At any time before Mr. Zures's death, had
21 you -- were you aware of the potential liability of an owner or
22 officer of a corporation for unpaid taxes under Revenue and
23 Taxation Code Section 6829?

24 THE WITNESS: Yes.

25 JUDGE GEARY: Did it concern you during this period of time

1 that you were being directed by Ms. Zures and subsequently by
2 these other individuals to not pay taxes?

3 THE WITNESS: Yes.

4 JUDGE GEARY: Did you ever write and did you ever issue any
5 written communications, whether it's a letter or an e-mail, memo,
6 anything else, to either Mr. Zures, Ms. Zures, or Mr. Kipperman
7 or Mr. Rathbone about your concern and about the need to pay the
8 taxes that were due?

9 THE WITNESS: Nothing in writing.

10 JUDGE GEARY: Did you tell them verbally that these payments
11 should be made?

12 THE WITNESS: Yes.

13 JUDGE GEARY: And what was -- let me ask who you said that
14 to specifically.

15 THE WITNESS: I would say it was to Kipperman, Rathbone, and
16 Zures were in the meeting together.

17 JUDGE GEARY: Was there more than one meeting with the three
18 of them and you?

19 THE WITNESS: Yes.

20 JUDGE GEARY: Was there any fifth or more people in
21 attendance? In other words, did anyone attend these meetings
22 other than you and the three that you've identified?

23 THE WITNESS: No.

24 JUDGE GEARY: You indicated that you were asked to make a
25 list of the accounts or the -- of the bills that had to be paid,

1 I think, is what you responded to one of Mr. Dubick's questions.
2 Do you recall that?

3 THE WITNESS: Yes.

4 JUDGE GEARY: So you did make such a list.

5 THE WITNESS: Yes.

6 JUDGE GEARY: And that was at the request of whom?

7 THE WITNESS: I'm not sure what you're asking.

8 JUDGE GEARY: Who asked you to make that list, or did you do
9 it on your own simply because you felt it would be good
10 information?

11 THE WITNESS: I'm not sure when because -- I made the list
12 for -- through the years I've always provided the accounting, the
13 lists of what was due and payable. So I've also made that into
14 a -- how do we process that.

15 JUDGE GEARY: So this was an ongoing thing you did for
16 Mr. Zures?

17 THE WITNESS: Correct.

18 JUDGE GEARY: And you also did it for Ms. Zures,
19 Mr. Rathbone, and Mr. Kipperman?

20 THE WITNESS: Yes.

21 JUDGE GEARY: Okay. So when did you first provide the list
22 to either of those last three people, if you can recall?

23 THE WITNESS: It would have been early after meeting with
24 Maggie.

25 JUDGE GEARY: And were the payments due to the California --

1 well, the Board of Equalization or the California Department of
2 Tax and Fees Administration on that list?

3 THE WITNESS: Yes.

4 JUDGE GEARY: Has that list been provided to either CTDFFA or
5 the department or to your attorney or to the judges? Is that
6 anywhere in the documents?

7 Let me ask you that, Mr. Dubick.

8 MR. DUBICK: I was not aware at the time that I began
9 representing Mr. Riggle that any such list was in existence. So
10 I'm not aware that any -- that such a list has been around at
11 least for the last seven or eight years.

12 JUDGE GEARY: Okay. Those are the only questions I have.
13 Let me ask Mr. Smith, does the department have any other
14 questions?

15 MR. SMITH: No, we don't.

16 THE COURT: Judge Cheng, anything?

17 JUDGE CHENG: No.

18 JUDGE GEARY: Judge Gast?

19 JUDGE GAST: No.

20 JUDGE GEARY: Do you have any follow-up questions,
21 Mr. Dubick?

22 MR. DUBICK: Yes, Your Honor.

23 JUDGE GEARY: Okay.

24 ///

25 ///

1 Q And did you ever receive different instructions from
2 her?

3 A No.

4 Q Did you ever receive different instructions from
5 Mr. Kipperman or Mr. Rathbone?

6 A I have a question. Are you talking about when after
7 they stated making decisions or telling me what to do, and they
8 were obviously during the -- their time, there would have been
9 payments made. So they would have told me to make those payments
10 if there were payments made in August or September or whatever it
11 is.

12 Q Let me rephrase the questions. Did you at all times
13 follow the instructions of Mrs. Zures, Mr. Kipperman, and
14 Mr. Rathbone to the best of your ability?

15 A Yes.

16 Q So to the extent they advised that payments were not to
17 be made, you followed those instructions; is that correct?

18 A Correct.

19 Q And did you at all times understand that
20 Mr. Kipperman -- that any instructions you received from
21 Mr. Kipperman and Mr. Rathbone, even if not technically made in
22 the presence of Mrs. Zures, had her blessing?

23 A Yes.

24 MR. DUBICK: That's all I have, Your Honor.

25 JUDGE GEARY: Thank you.

1 Department, anything else?

2 MR. SMITH: No.

3 JUDGE GEARY: Judge Cheng?

4 JUDGE CHENG: No.

5 JUDGE GEARY: Judge Gast?

6 JUDGE GAST: I do have one question to the taxpayer.

7 Can you clarify, in Maggie Zures's declaration in
8 Paragraph 4 -- this is one of your exhibits, I believe -- it's
9 EXHIBIT 4. You got it? Okay. Paragraph 4, the second sentence
10 where Mrs. Zures says, "After Mr. Rathbone and Mr. Kipperman took
11 over the business, I had no financial control over any part of
12 the business. They are the ones who made the final decisions to
13 ultimately close the business down."

14 When exactly did that happen, or what's your understanding,
15 I guess, initially of what she means by that, and when did that
16 happen?

17 THE WITNESS: I would think that was probably late July,
18 August, I would say.

19 JUDGE GAST: 2004?

20 THE WITNESS: Correct.

21 MR. DUBICK: To the best of my recollection, I think the --
22 they were in bankruptcy by -- and I could be mistaken, but I
23 believe there were in bankruptcy by fall of 2004. So from
24 May 25th -- we're talking now about roughly a three-month --
25 excuse me -- a three- to four-month period between the time that

1 Mrs. Zures died and the time that they went into bankruptcy. If
2 it's later, I stand corrected, but it's my recollection that it
3 was sometime in the early fall that it went into bankruptcy. And
4 I believe that that is the period that as soon as Kipperman and
5 Rathbone got their arms around things that they made the
6 decisions and got the approval of Mrs. Zures and directed
7 Mr. Riggle.

8 JUDGE GAST: Thank you.

9 JUDGE GEARY: Mr. Riggle, is it your understanding that this
10 event that Ms. Zures refers to in her declaration -- that is the
11 time at which, to use her words, "Mr. Rathbone and Mr. Kipperman
12 took over the business" -- is it your understanding that that
13 occurred coincident with the filing of the bankruptcy petition,
14 at the same time?

15 THE WITNESS: My thought is on this that it occurred
16 probably a bit before. They were negotiating with the oil
17 companies, with the banks, with the BOE, and everybody else that
18 was -- they would have individual meetings with them. So they
19 were -- and I was attending a lot of those. But that's when they
20 were trying to go through and negotiate the financial position of
21 the company. So it might have been -- I would think that was
22 actually before, and then when that didn't work, then they filed
23 bankruptcy.

24 JUDGE GEARY: Did Mr. -- was Mr. Rathbone counsel for the
25 bankrupt estate? Did he file the petition?

1 THE WITNESS: I'm trying to remember. I think he did.

2 JUDGE GEARY: Okay. Was Mr. Kipperman the trustee of the
3 bankrupt estate?

4 THE WITNESS: Yes.

5 JUDGE GEARY: That's all I have.

6 Any follow up, Mr. Dubick?

7 MR. DUBICK: Just so we're clear, Mr. Zures dies in May.
8 You meet with Maggie. Then you meet with Kipperman and Rathbone
9 sometime in the next 30 days or so; is that correct?

10 THE WITNESS: No. Within the 5 or 6 days.

11 MR. DUBICK: Once Kipperman -- sorry. Strike that please.

12 We've had testimony about the instruction Maggie gave you to
13 do what you've been doing until she can talk with these other
14 gentlemen. Once they come on board -- is it fair to say that
15 once they came on board that you had no financial control over
16 payment decisions? Or put another way, was there any time after
17 Mr. Zures's Death that you had control or authority over who got
18 paid?

19 THE WITNESS: No.

20 MR. DUBICK: Thank you.

21 JUDGE GEARY: That's it, Mr. Dubick? You're done?

22 MR. DUBICK: I am, Your Honor.

23 Judge Geary: Department?

24 MR. SMITH: Nothing further.

25 JUDGE GEARY: Judges?

1 All right. I think we are ready for closing. Does anybody
2 want to take a few minutes? You would? Let's take -- is five
3 minutes going to be enough? Let's take a five-minute recess.

4 (Recess)

5 JUDGE GEARY: Back on the record. The department has the
6 burden. The department can give their closing, their first
7 closing. Please try to keep it under 15 minutes for the first
8 closing. Then we'll have Mr. Dubick give his closing, and the
9 department will have about, roughly, a five-minute rebuttal
10 available to them. All right.

11 MR. SMITH: Okay.

12 JUDGE GEARY: You may proceed, Mr. Smith.

13 MR. SMITH: In closing, we just wanted to reemphasizes that
14 appellant has produced no evidence, particularly contemporaneous
15 documentary evidence showing that his ability to direct payments
16 was limited in general or that after Mr. Zures's death was
17 limited by Maggie Zures or any other person. In fact, he has
18 produced no evidence of anyone's authority over him as the sole
19 officer.

20 Appellant, as a sole officer of the corporation with the
21 authority to sign returns, write checks, and discuss payments
22 with the department, attended a meeting with a person who is not
23 an officer, who does not take clear control of the corporation by
24 her own testimony, who makes a vague suggestion to keep operating
25 as before, and this simply is not sufficient evidence to outweigh

1 the evidence that appellant did have the authority to pay.

2 We also wanted to point out that in Ms. Zures's declaration,
3 she said specifically that she had no financial control over any
4 part of the business, and if anything, this shows -- the evidence
5 shows that it was appellant that made a decision to every day
6 collect tax reimbursement from customers with no intention of
7 paying it to the board, who had personally filed and signed the
8 tax returns accordingly.

9 We ask that you deny the appeal. Thank you.

10 THE COURT: Thank you. We appreciate your brevity.

11 Mr. Dubick?

12 MR. DUBICK: Yes, Your Honor. I appreciate your having
13 given five minutes. As Your Honor aptly noticed and admonished
14 me, I have used up much of my closing arguments in response to
15 one of -- Judge Gast's questions. So I will also be very brief.

16 The State has the burden. Not only have they not met it,
17 they haven't presented, really, any evidence. Instead they have
18 suggested that we didn't have any evidence. That's simply
19 untrue. We have presented, and you have read, declarations from
20 every single person who was involved in this.

21 The State had the ability -- they had great ability to go
22 and do an investigation in a timely fashion and to have assessed
23 the correct person. They didn't. They certainly had enough to
24 investigate Mr. Riggle's activities with respect to these
25 corporations, but had they done so, they would have discovered

1 exactly what we have discovered over the last decade, that he was
2 not the person in charge, as we know, either before or after
3 Mr. Zures's death.

4 Let me comment, if I may, on Counsel -- I think either
5 misunderstood or misrepresented what Mrs. Zures said, and I'll
6 read that sentence from Paragraph 4. She says, and I quote,
7 "After Mr. Rathbone and Mr. Kipperman took over the business, I
8 had no financial control over any part of the business. They are
9 the ones who made the final decisions to ultimately close the
10 business down," end quote.

11 I read that declaration then, and I'm reading it now. And I
12 understood at all times that all that meant was that Kipperman
13 and Rathbone made the decision once they were there. This has no
14 reference to suggest or there is no reference to suggest that
15 Mr. Riggle suddenly became in charge.

16 Let me also recall that Your Honor asked, I think, before
17 the hearing, would there be any comments about the earlier
18 hearing, and let me just mention two things. One is, obviously,
19 it sets the stage for what happened, and I want to point
20 particularly to a comment by Counsel for the State of California,
21 who said, "If you believe Mr. Riggle, you should find for him."
22 That was true then, and that's true now.

23 JUDGE GEARY: Let me just interrupt and say, that was a
24 comment made at the prior hearing, correct?

25 MR. DUBICK: At the prior hearing.

1 JUDGE GEARY: All right.

2 MR. DUBICK: I'm quoting from page 38.

3 JUDGE GEARY: David Levine made the comment?

4 MR. DUBICK: "If you believe him, I think that shows he
5 didn't have authority."

6 Now, you can say he only meant up to the date of death.
7 There was brief, but there was testimony concerning afterwards,
8 but, yes, Mr. Levine made that comment, and I think it was true
9 then, and I think it's true now.

10 And, finally, I understood Your Honor's questions about
11 Ms. Zures's role, Mr. Rathbone's role and capacity, and
12 Mr. Kipperman's. I think we established that Mr. Riggle is not a
13 corporate lawyer. In fact, I must admit until Your Honor raised
14 the question this morning, I don't know that I had ever thought
15 about the fact that Mrs. Zures, who would be the remaining
16 shareholder or would have inherited pursuant to California
17 community property rules, technically probably should have held a
18 shareholders' meeting and elected directors, had a directors
19 meeting, and elected officers. I'm not aware that those things
20 happened immediately following Mr. Zures's Death. I don't know
21 that, but I rather doubt that they did.

22 But that should not be the deciding factor for Mr. Riggle.
23 What should be the deciding factor is whether he honestly
24 believed during this period that he was the person making the
25 decisions, having the authority -- not just apparent, but actual

1 authority -- to decide who got paid. And we believe that all the
2 evidence that's been presented shows that he did not.

3 Ms. Zures did, Mr. Rathbone did, Mr. Kipperman did. They
4 instructed Mr. Riggle about what he should do, and for these
5 brief couple of months, he did it so that even if there was a
6 prepayment date or a return date, the fact that he signed the
7 returns is really irrelevant to the question of whether he had
8 the authority to make the payments. He simply did not, and
9 therefore we respectfully ask the petition be granted that he be
10 relieved of liability and, frankly, that this 14-year nightmare
11 for him be over. Thank you.

12 JUDGE GEARY: Thank you.

13 Mr. Smith.

14 MR. CLAREMON: I think our earlier response that, to the
15 extent that --

16 JUDGE GEARY: Obviously, you're not Mr. Smith.

17 MR. CLAREMON: Scott Claremon for the department.

18 Our earlier response is that to the extent that counsel for
19 appellant is trying to make the standard some sort of subjective
20 standard as to the belief of the appellant as to what his
21 authority is. That is about what the evidence shows in terms of
22 the objective or legally who had the authority to pay. So,
23 again, our position is that there is sufficient evidence to show
24 that he, as the only officer of this corporation, had the
25 authority to pay, and the -- and the standard isn't whether

1 subjectively he had some -- that would be an impossible standard
2 to meet, and that's not the standard for 6829 liability. Thank
3 you.

4 JUDGE GEARY: You're welcome.

5 If I didn't indicate at the beginning of the hearing, I'll
6 indicate now that I think our regulations allow or require that
7 we issue a decision within 100 days of the date the record is
8 closed. We are closing this record today. Within 100 days you
9 will hear for us. My copanelists and I will deliberate, issue a
10 written decision, send a copy to both of you. I want to applaud
11 both sides for well presented cases and for doing it in the
12 timely fashion, and unless there's questions from anybody, then
13 I'm prepared to conclude the proceeding.

14 Nobody's raising their hand, so this hearing is concluded.
15 Thanks very much for coming in.

16 (Hearing concluded at 11:27 a.m.)

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1 REPORTER'S CERTIFICATION

2
3 I, the undersigned, a Hearing Reporter for the
4 State of California, do hereby certify:

5 That the foregoing proceedings were taken before
6 me at the time and place herein set forth; that any
7 witnesses in the foregoing proceedings, prior to
8 testifying, were duly sworn; that a record of the
9 proceedings was made by me using machine shorthand, which
10 was thereafter transcribed under my direction; that the
11 foregoing transcript is a true record of the testimony
12 given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a federal case,
15 before completion of the proceedings, review of the
16 transcript [] was [] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee of any
19 attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date subscribed
21 my name.

22 Dated: November 19, 2018

23
24 
25