

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, )  
 )  
JEANNETTE KATZIR and OMER KATZIR, ) OTA NO. 18043046  
 )  
 APPELLANT. )  
 )  
 \_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Wednesday, June 19, 2019

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER

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Transcript of Proceedings, taken at  
355 South Grand Avenue, South Tower, 23rd Floor,  
Los Angeles, California, 91401,  
commencing at 10:09 a.m. and concluding  
at 10:45 a.m. on Wednesday, June 19, 2019,  
reported by Ernalyn M. Alonzo, Hearing Reporter,  
in and for the State of California.

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APPEARANCES:

Panel Lead: Hon. TERESA STANLEY

Panel Members: Hon. KENNY GAST  
Hon. LINDA CHENG

For the Appellant: OMER KATZIR  
JEANNETTE KATZIR

For the Respondent: State of California  
Franchise Tax Board  
By: MIRA PATEL  
MARIA BROSTERHOUS  
  
TAX COUNSEL  
Legal Division  
P.O. Box 1720  
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I N D E X

(Witness testimony begins on page 7.)

E X H I B I T S

(Appellant's Exhibits were received at page 6.)

(Department's Exhibits were received at page 6.)

CLOSING STATEMENT

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Los Angeles, California; Wednesday, June 19, 2019

10:09 a.m.

ADMINISTRATIVE LAW JUDGE STANLEY: We are going to go on the record.

I wanted to note that the taxpayers -- I'll swear in both of you so that you can both talk, and it'll be all evidence that's on the record. The tax agency we usually don't swear because they don't testify to the facts. They only argue the law.

So we'll go on the record. And this is the appeal of Omer Katzir and Jeannette Katzir. Am I pronouncing that correctly?

MRS. KATZIR: Yes.

MR. KATZIR: Yes.

ADMINISTRATIVE LAW JUDGE STANLEY: It's Case No. 18043046. The date is June 19th, 2019. The time is 10:16 a.m., and we're in Los Angeles, California. I am Teresa Stanley, and I have to my left Judge Kenneth Gast, and to my right Judge Linda Cheng.

And we'll have the Appellant's identify themselves for the record one more time.

MRS. KATZIR: Jeannette Katzir.

MR. KATZIR: Omer Katzir.

ADMINISTRATIVE LAW JUDGE STANLEY: Thank you.

1 And Franchise Tax Board?

2 MS. PATEL: Mira Patel for Franchise Tax Board.

3 MS. BROSTERHOUS: Maria Brosterhous for Franchise  
4 Tax Board.

5 ADMINISTRATIVE LAW JUDGE STANLEY: Okay. And  
6 I'll let you know also to go ahead and ask if you have any  
7 questions as we go along.

8 The Appellants' Exhibits 1 through 12 will be  
9 admitted as modified by replacing the two-page Exhibit 8  
10 with a complete 22 page IRS Notice of Deficiency. And  
11 Franchise Tax Board's Exhibits A through K will be  
12 admitted into evidence without objection.

13 (Appellant's Exhibits 1-12 were received  
14 in evidence by the Administrative Law Judge.)

15 (Department's Exhibits A-K were received  
16 in evidence by the Administrative Law Judge.)

17 ADMINISTRATIVE LAW JUDGE STANLEY: Restating the  
18 issue, it's whether Appellants can show that the Franchise  
19 Tax Board made an error in assessing additional tax that  
20 they took -- that they did from information from an IRS  
21 determination.

22 We're going to skip opening statements today and  
23 just go straight into testimony to be more efficient.

24 Will you both rise, please.

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JEANNETTE KATZIR,

produced as a witness by and on behalf of herself, and  
having been first duly sworn by the Administrative Law  
Judge, was examined and testified as follows:

OMER KATZIR,

produced as a witness by and on behalf of himself, and  
having been first duly sworn by the Administrative Law  
Judge, was examined and testified as follows:

MRS. KATZIR: I do.

MR. KATZIR: I do.

ADMINISTRATIVE LAW JUDGE STANLEY: Thank you.

Okay. We discussed at the prehearing conference that you  
anticipated about 15 minutes per witness, and I'll let you  
decide who wants to go first.

MRS. KATZIR: I was going to go first.

ADMINISTRATIVE LAW JUDGE STANLEY: Okay.

Proceed.

WITNESS TESTIMONY

MRS. KATZIR: Okay. Again, as we discussed a few  
moments ago, this is not a black and white issue of money  
that is owed to the Franchise Tax Board. Although, I do  
understand that the tax appeal hearing is for that matter.

1 But what we are here for is for the interest and the  
2 penalties, which we would like to have removed.

3 And I'm going to read from you this, which was  
4 attached to the packet. We would like to present our case  
5 proving that AIG duped us, assuring us that this product  
6 VEBA or ERISA as it's called, was sanctioned by the  
7 government. They tricked us out of a great deal of money  
8 on a product they touted would provide our children with  
9 money long after we've gone. We were never to see this  
10 money. Never.

11 In regards to the California taxable income, the  
12 proposed assessment relies on federal adjustments which  
13 were revised during our negotiations with the IRS. After  
14 reading everything we've already sent you and are  
15 providing you with now, we ask you to forgive the  
16 penalties and interest accrued.

17 Please see the first three stapled information  
18 packets which were supplied. They guarantee the strength  
19 of AIG and the VEBA and ERISA product. It talked about  
20 the product's validity and the manner in which the money  
21 would accrue. The next stapled packet involves our  
22 accountant, whom we used for well over 10 years. He  
23 supplied us with material assuring us that this was a  
24 valid manner in which to deal with our money.

25 We strongly dispute our liability for the -- and



1 we had the number of \$78,542.80 accrue accuracy related  
2 penalty because we did not merely take Michael Frank and  
3 Keith Offel's promises that the VEBA ERISA was good. We  
4 saw three individual attorneys for their professional  
5 opinions, and all said it was good. It was good -- a good  
6 product for us to invest in.

7 We searched the Internet and found Keith Offel  
8 was -- who worked at the -- who owned at the time Money  
9 Concepts, was a retired Air Force Lieutenant Colonel,  
10 trustworthy, honest, and true. However in reality he was  
11 none of the above. We were presented with a no-change  
12 letter, which is very important in the assessments that at  
13 the time guaranteeing the VEBA and ERISA program was  
14 sanctioned.

15 Then as everything began to sour, we discovered  
16 that AIG's ERISA and VEBA was a scheme; one in which other  
17 complaints and lawsuits had been filed. I understand you  
18 state it's in another -- in another state, but the fact  
19 remains this was a scheme. We contacted Keith Offel  
20 asking him for assurances that what we saw on the news was  
21 not true, and he either wouldn't respond or gave us double  
22 talk.

23 We discovered that Michael Frank, our accountant  
24 of many, many years was in on the scheme. We found this  
25 when we found a business card with his wife's name on it.

1 We never saw this before. We turned him over to the  
2 Department of Consumer Affairs California Board of  
3 Accountancy.

4 Comerica, who was the trustee for the Southern  
5 California Retail Merchants League Voluntary Employment  
6 Beneficiary, which was the trust name, began their own  
7 lawsuit against Keith Offel and AIG. Finally, please find  
8 just a few of the e-mails that we wrote to Keith Offel  
9 informing him that we had been tricked and wanted their  
10 help, but we got no help.

11 We hope this presents to you verification of  
12 proof that we are the victims. We suffered financially  
13 and emotionally at the hand of people we trusted. Your  
14 IRS and FTB tax forms are hundreds of pages long. Normal  
15 people cannot figure this out. So we sought out  
16 professionals, and to chagrin, we were tricked by them  
17 also.

18 After a long and financially ugly lawsuit, we did  
19 recoup some of our money. I say some because we took a  
20 large financial hit. Not to mention the amount of money  
21 we lost in paying lawyers and forensic accountants.  
22 Please find our legal protest by our then attorney, Steven  
23 Pikelen. It was filed in a court in October 30th, 2014.

24 We were good people, good business owners, and  
25 good contributors to society, something we cannot say

1 about Michael Frank and Keith Offel. However, they're  
2 walking around now having business, living life on our  
3 money, on the money they tricked us out of. The IRS has  
4 seen fit to understand that we're innocent and have  
5 forgiven us. And we ask the Franchise Tax Board and the  
6 Office of Appeals to do likewise. Victims should not be  
7 victimized twice.

8 Go ahead.

9 MR. KATZIR: Okay. Jeannette say about most of  
10 the things, but I'd like to mention a couple of other  
11 things. First of all, the investment, initially  
12 investment \$1,250,000 will receive approximately \$900,000.  
13 Nobody give us give us a break on the \$350,000 losses,  
14 which we actually did lose, black and white.

15 The second thing, I remember very clearly went to  
16 Van Nuys with the paper with a note changed to the IRS.  
17 And I don't remember the name because it was a long line,  
18 by the time my time, it was almost over. AIG say yes.  
19 VEBA say yes. Everybody say yes. And all of a sudden,  
20 like I said and Jeannette say, it's hundreds of page to  
21 read through that average person cannot read.

22 The IRS I blame directly to this particular  
23 scheme. Why did not make it clear to the average person  
24 that hate to pay the tax and be so vague. You telling me  
25 that you have one, two, three lawyers dance like hell to

1 give us their blessing. They say okay. AIG is the  
2 largest company that get bailed out with \$800,000,000.  
3 They said this is false.

4 So who is right? Is IRS right, or those people  
5 are right? But we stand between in a mill. And what make  
6 me upset about -- the most upset about it, everybody got  
7 away from nothing. Keith Offel got a quarter of a million  
8 dollars. And him -- one time he took -- sent us a picture  
9 of his big yacht that he sent it to us. At least  
10 \$1,000,000 yacht according to my calculation. He's free.  
11 Michael Frank retired. All those lawyer living with the  
12 money that took it all.

13 AIG is the largest company of insurance in the  
14 world. Go to Singapore. Go to Malaysia. Go to Hong  
15 Kong. Go to China and they got bailed. Despite all the  
16 money they have and the biggest buildings of all, they got  
17 bailed by the government. They got bailed with  
18 \$800,000,000. It's in the news. It's documented.  
19 Everything is clear but we zero. We clearly discriminate  
20 on this particular thing. I want us to leave us alone.  
21 Let us be free.

22 Go after the people that have the money, and give  
23 us the same right to get bailed out by the government. We  
24 are tiny little people. And I have evidence, hundreds of  
25 small businessperson go bankruptcy. The government --

1 small business is like washed up. There are no more small  
2 business because we work as hard as we can, and we get  
3 bombarded with document.

4 Take a look at it. Just one thing on the page  
5 like this. 110 pages to read. How can I read these  
6 pages? How do I know it? I have to have a professional  
7 person. And when the professionally person read it, the  
8 IRS say no. So what is it? Joke between the two people.  
9 I want to know who is right. I want to bring the IRS and  
10 talk to those three people, the three professional lawyer  
11 specialized with -- with at least a meal. They bless it,  
12 and then all of a sudden they say no. Who is right?

13 Again, three professional people, are they not  
14 qualified to say yes or no? Who should we trust? So  
15 discrimination. Who should we trust? The IRS have to  
16 clear from now and from today. They have to clear what  
17 they have to say about taxation that we are the small  
18 businessperson can read it, can understand it without to  
19 hire those untrustworthy people.

20 Keith Offel, a colonel, show us picture of Air  
21 Force on his wall and Army and had been in wars and  
22 everything like that. I'm an Army man. I can trust Army  
23 man head to ahead because I know the dignity and the  
24 respect we have as people that serve the country. Here we  
25 are fighting what? That we owe them? No. This will be

1 100 percent discrimination if you ask me for a penny.

2 Otherwise I want to go to the AIG, give me money  
3 back. Why they took 3 or \$4,000? Why? They got bailed  
4 out. So what is all about? What is all about? What do  
5 you want from us that we honest people work as hard as  
6 can; 15 to 16 hours a day, sometime through the weekend.  
7 They have no more small businesspeople because of it. We  
8 have up here maybe upper-lower class. But that's what you  
9 guys create because nobody understand anything.

10 You have almost 10,000 regulations from the IRS.  
11 What, are you making the joke out of us? I'm asking you.  
12 Seriously, are you making a joke out of us to read it to  
13 understand what's going on? If I'm upset about it. And  
14 if you take penny from me, I will call discrimination.  
15 Thank you.

16 ADMINISTRATIVE LAW JUDGE STANLEY: Thank you.  
17 First of all, thank you for your service.

18 Ms. Patel, do you have any questions of either of  
19 the witnesses?

20 MS. PATEL: No questions.

21 ADMINISTRATIVE LAW JUDGE STANLEY: Judge Gast, do  
22 you have any questions?

23 ADMINISTRATIVE LAW JUDGE GAST: No questions.

24 ADMINISTRATIVE LAW JUDGE STANLEY: Judge Cheng?

25 ADMINISTRATIVE LAW JUDGE CHENG: No questions.

1 ADMINISTRATIVE LAW JUDGE STANLEY: I would like  
2 to ask the Franchise Tax Board a few questions that I  
3 think might help the appellant's to understand what's  
4 happening. Ms. Patel, would you mind explaining how this  
5 tax liability came about.

6 MS. PATEL: Sure. So the IRS assessed additional  
7 taxes. And based off of that IRS assessment, the IRS told  
8 Franchise Tax Board the additional tax that was assessed.  
9 The IRS initially did assess a penalty. However, they  
10 abated the penalty, and we did the same thing. So at this  
11 point there's no penalty at issue. It's just the  
12 additional taxes based off of the IRS's information.

13 The Franchise Tax Board took the IRS's  
14 information and then made our own assessment of tax, and  
15 that's currently what is at issue. It was protested and  
16 then now appealed.

17 ADMINISTRATIVE LAW JUDGE STANLEY: And can you  
18 explain to them what income was being taxed?

19 MS. PATEL: Yes. So Exhibit C of the Franchise  
20 Tax Board's opening brief goes over the federal changes  
21 that then conform to California law. Mainly, the two  
22 items of income were omitted interest income of -- the  
23 exact amount -- about \$9,300, and other income which was  
24 seen as dividend income of about \$1,122,000.

25 And based off of those additions to income, we

1 allowed for additional itemized deductions of about almost  
2 \$40,000. So that did lower the taxable income, but it was  
3 basically those two adjustments to their income.

4 ADMINISTRATIVE LAW JUDGE STANLEY: And were the  
5 ordinary dividends based on something related to this --  
6 to what the appellants are talking about?

7 MS. PATEL: I can't say for sure where the  
8 deductions stemmed from. It's my understanding that  
9 appellants have a business, and it was related to that  
10 business. So some adjustments that the IRS made at the  
11 corporate level that then came to them as shareholders as  
12 dividends. But they may be more aware of how that  
13 dividend income was distributed to them.

14 ADMINISTRATIVE LAW JUDGE STANLEY: Okay. And  
15 then the other thing that they raised -- well, actually  
16 two things that they raised that you could explain.  
17 They're talking about a \$78,000-something accuracy related  
18 penalty. Was that from the Franchise Tax Board?

19 MS. PATEL: So I believe the \$78,000  
20 accuracy-related penalty was assessed on the federal level  
21 by the IRS. Again, once the IRS looked into their case  
22 and abated that penalty, the Franchise Tax Board did the  
23 same. So at this point there is no penalty at issue. We  
24 have removed that from our assessment. It's just the  
25 additional tax and interest.



1 ADMINISTRATIVE LAW JUDGE STANLEY: Okay. And  
2 lastly they mention that they get no break on their  
3 losses, which I believe --

4 MRS. KATZIR: Is hovering around 300.

5 ADMINISTRATIVE LAW JUDGE STANLEY: Mrs. Katzir,  
6 you settled on that in 2015.

7 MR. KATZIR: Yes. \$300,000, approximately. I do  
8 not have the detail exactly. We can search to it, but  
9 it's over 300.

10 ADMINISTRATIVE LAW JUDGE STANLEY: If those are  
11 valid losses, Ms. Patel, would that effect the 2007 tax  
12 year?

13 MS. PATEL: It very possibly could if they are  
14 capital losses. They can amend their return and take  
15 those losses. However, I'm not sure exactly how those  
16 losses stem and what type of losses they are. But they're  
17 entitled to file an amended return to show those.

18 ADMINISTRATIVE LAW JUDGE STANLEY: And possibly  
19 not in that tax year?

20 MS. PATEL: Right. If they stemmed it to a  
21 different tax year, then they would file an amended return  
22 for whatever tax year that loss did occur in.

23 ADMINISTRATIVE LAW JUDGE STANLEY: Such as  
24 perhaps 2015 when they settled?

25 MS. PATEL: Yes. If the facts do allow that,

1 then that would be allowed.

2 ADMINISTRATIVE LAW JUDGE STANLEY: Okay.

3 MRS. KATZIR: Could I have some input about the  
4 one-million, one-hundred.

5 ADMINISTRATIVE LAW JUDGE STANLEY: You want to  
6 address that?

7 MRS. KATZIR: Yes.

8 ADMINISTRATIVE LAW JUDGE STANLEY: Okay. That's  
9 fine.

10 MRS. KATZIR: The one-million, two-five was an  
11 accumulation over many years. We didn't make one -- I  
12 wish. But we didn't make one-million, two-five in one  
13 year. It was all accumulated. And so if we deposited  
14 that money into the VEBA product, we emptied years and  
15 years' worth of savings. Years. And then we thought that  
16 the VEBA and ERISA plan would work. When it didn't, it  
17 hit the bank all at once, and we were taxed all at once.  
18 That's where that figure comes from. I just didn't want  
19 you to think we make a million two-five every year.

20 MR. KATZIR: I wish.

21 MRS. KATZIR: Yeah, so do I.

22 ADMINISTRATIVE LAW JUDGE STANLEY: Okay. Thank  
23 you. Do you have any other questions?

24 MR. KATZIR: Regarding to the \$300,000, so  
25 everybody, this is something everybody forgot to look over

1 it. But actually -- actually the total assessment is  
2 supposed to be less than 300 because nobody took any tax  
3 deduction for it. Nobody saw it except when they say wait  
4 a second. We did not receive some investment directly  
5 relevant to the \$300,000 there, the one we don't one, the  
6 \$300,000 because it got washed by the -- by AIG, which got  
7 bailed.

8 Again, I'd like to know how we get to the issue  
9 to discriminate us. The AIG is one of those building that  
10 bought a billion dollars that we filing over \$100,000.  
11 Why not bailing us? Did you go after them?

12 ADMINISTRATIVE LAW JUDGE STANLEY: We can't give  
13 you legal advice. We're only here to hear tax appeal,  
14 nothing related to AIG fraud. And with respect to the  
15 potential to take a tax deduction for the losses, I can't  
16 tell you if you can and how to do that. But I can tell  
17 you that you probably should talk to your tax preparer  
18 about the possible --

19 MR. KATZIR: We don't trust anybody anymore.

20 ADMINISTRATIVE LAW JUDGE STANLEY: I understand.

21 MR. KATZIR: But the \$300,000 is supposed to be  
22 part of this package because we talk about something that  
23 belong to one-million two that we receive \$900,000. So it  
24 belongs to that. Somehow this have to be a connection  
25 between the \$300,000 plus the losses. Because as a matter

1 of fact, when we talk to them right after the 2007, 2008,  
2 we start to understand about this scam. And she told me  
3 oh, the value -- this was a bad economy.

4 I said oh, we're going to give you only\$500,000  
5 at that time. And so we did not know who to go to. And  
6 then slowly, slowly came up to \$900,000. So we really --  
7 this is part of this package. Because right now who we  
8 going to go to get this \$300,000 for the form or the  
9 document. So I like -- I like to suggest to be a part of  
10 it is to try to help us because we are super victim on  
11 this particular one. Super victim.

12 They cannot see it because they are looking in  
13 their eyes money, money, money. But what about us? We  
14 are not the criminal. We did not do nothing beside trust  
15 people. And again, IRS is a big fraud because they make  
16 loophole under the table that lawyers cannot even  
17 understand it. So who will understand it? Tell me who  
18 should understand the IRS's own regulation beside a  
19 professional people. Do they need to go back to school to  
20 understand it?

21 Every Tuesday, Wednesday they're changing the  
22 rule. So the IRS is to blame. Big blame. The tax  
23 bonus -- the Franchise Tax Board also to blame because  
24 take a look, 110 pages. So I wanted to take it to  
25 consideration. I want to reduce the penalty, reduce the

1 amount that we owe, and let us lead our life as a normal  
2 people because we have too much stress in our lifetime  
3 right now because all this issue, you know, sleepless  
4 nights.

5 Why should we have it? Because everything is  
6 affect. When a common person come to my business and he  
7 buy wood floor, believe me, he come in with a smile from  
8 here to here. 450,000 clients so far from 1975 happy.  
9 You know why they happy? Because I make sure that I make  
10 it 100 percent clear. But the IRS have rights to do what  
11 they want. No. The Franchise Tax Board is supposed to do  
12 what they want. No. You try to read it and understand  
13 it.

14 You have to be -- before you become a business  
15 person, you have to go to college. You have to understand  
16 it. But a businessman you just come to become a  
17 businessman without do it is absolutely available to  
18 mistake, and we did not mistake. Even the lawyer make  
19 mistake. The IRS make them. So who to blame?

20 I want the IRS come to explain about the VEBA why  
21 no-change letter, and five minutes after, oh, no, it's not  
22 right. So this is something wrong with the system. That  
23 one trying to say right here. The IRS is the blame. They  
24 create unsettling and vague idea about everything. It's  
25 not right. Thank you.

1 ADMINISTRATIVE LAW JUDGE STANLEY: Okay. It  
2 looks like you jumped straight to closing argument, which  
3 is where I was going next. So do you have any other  
4 comments or statements that you want to make to wrap up?

5 MR. KATZIR: Very simple. I like you to forgive  
6 me. Let me live in peace. Let me live my life. And  
7 believe me, next time I will not -- I don't -- as a matter  
8 of fact, I don't even trust anybody anymore. Everybody  
9 say you can make money or this. I don't trust anybody.  
10 This is sad. This is very sad to get to this situation.

11 I want to be forgiven from the Tax Board, from  
12 the IRS. And as a matter of fact, I'm going to write a  
13 letter to the IRS to forgive me about the \$350,000 loss to  
14 give me additional money back. We had to refinance our  
15 house to pay. Until I'm 94 years old, I have to work to  
16 pay for it. This is crazy. This is absolutely crazy what  
17 I put myself into it.

18 ADMINISTRATIVE LAW JUDGE STANLEY: Okay.

19 MRS. KATZIR: I would only add that I understand  
20 the Franchise Tax Board is here. They're supposed to  
21 collect their money, and that's what they're here to do.  
22 But again, this is not a black and white issue. If it was  
23 a black and white issue, then the Office of Appeals would  
24 have no -- no reason.

25 There are other circumstance. There are issues,

1 and I -- I pray that you will consider them rather than  
2 just well, two plus two is four and that's the end it.  
3 It's a little harder than that.

4 MR. KATZIR: I'd like to mention two more  
5 sentence. In every issue wood, every root of a meadow,  
6 when the tree starting to fall apart, the root is the  
7 problem. You have to look at the root of everything that  
8 happened. Why cause? Why we are here? Why we get  
9 penalized? And take a look at it.

10 Don't look at me. Point the finger to the IRS  
11 that they cause -- that they give us a no-change letter  
12 and then change it. They are the problem. Not we are the  
13 problem here. We just follow.

14 MRS. KATZIR: It's true. Had the no-change  
15 letter held, we wouldn't be here.

16 MR. KATZIR: Why did they change it? What it is  
17 the reason? Because on Tuesday they excuse it. They  
18 change it. Wednesday they do not. Ask anybody here if  
19 does not understand the law of the IRS. I bet you even  
20 you're a judge and you don't even understand it. You have  
21 to hire a lawyer to try to explain to you. So what are we  
22 are? We are lame.

23 MRS. KATZIR: Layman.

24 MR. KATZIR: Laymen. So I'd like to be forgiven  
25 for everything. I'd like to go home and peacefully and

1 relax and enjoy my life. I'm almost 70 years old, and I  
2 still have to work until 94 years old until I pay my -- my  
3 last payment for my house.

4 MRS. KATZIR: Thank you.

5 MR. KATZIR: Thank you. Finished.

6 ADMINISTRATIVE LAW JUDGE STANLEY: Ms. Patel.

7

8 CLOSING STATEMENT

9 MS. PATEL: Good morning. Respondent properly  
10 assessed additional taxes for the 2007 tax year, and  
11 appellants have not shown error in the assessment. The  
12 Internal Revenue Service or the IRS, audited appellants'  
13 2007 account and assessed additional taxes.

14 Respondent made the corresponding adjustments and  
15 assessed additional taxes. These included increasing  
16 appellants' taxable income by interest income and  
17 unreported dividend income, while also allowing for  
18 additional itemized deductions. Respondent's adjustments  
19 that are based on a federal audit are presumed correct.  
20 And the Appellant's bear the burden of proving that these  
21 adjustments are an error.

22 Today appellants have not provided any evidence  
23 as to why the adjustments to their taxable income are  
24 incorrect. In fact, the IRS has not made any subsequent  
25 adjustments to their account, and Appellants have paid



1 federal liability. The only arguments that Appellants  
2 make is that the additional income was from an investment  
3 opportunity that was actually a tax avoidance scheme.

4 While these are unfortunate circumstances, the  
5 Revenue and Taxation Code does not provide for a remedy  
6 for this situation. Appellants have the burden of  
7 establishing why the omitted income is not taxable by  
8 California. A fraudulent investment, however, does not  
9 establish that income is not taxable.

10 With regards to the penalties and interest that  
11 appellants are arguing, I just want to make clear there is  
12 not penalty at issue. We have not assessed -- we  
13 initially did, but we've removed that penalty. And  
14 therefore, on appeal there's not penalty at issue. With  
15 regards to interest, interest accrues as a matter of law,  
16 and there are very narrow circumstances where interest can  
17 be abated.

18 It can be abated for where there is ministerial  
19 manager error on the part of FTB. However, nothing in the  
20 record shows that there was this type of error, and  
21 Appellant's not assert this either. On the facts and  
22 evidence in the record, respondent respectfully request  
23 you sustain this position. Thank you.

24 ADMINISTRATIVE LAW JUDGE STANLEY: And  
25 Mr. and Mrs. Katzir, you have the opportunity to make the

1 final statement.

2 MR. KATZIR: I'd like the \$300,000 to be  
3 considered part of the package. I know we over -- did not  
4 oversee it. We are not professional people, but it is a  
5 part of this particular package. Otherwise I have to  
6 claim it for next year and -- and what is the different.  
7 If this is part of this package, might as well do it in  
8 the same time. So forgive us for that.

9 Besides, I said already, don't even charge me a  
10 penny but at least the \$300,000 to be consider. Next year  
11 I have to file and try to get from the IRS and from them.  
12 Which, obviously, if I don't get it I will have to do it.  
13 So I might as well do it at the same time.

14 ADMINISTRATIVE LAW JUDGE STANLEY: Anything else?

15 MR. KATZIR: No.

16 ADMINISTRATIVE LAW JUDGE STANLEY: Okay. This  
17 concludes the hearing. The judges are going to meet and  
18 decide your case based on the documents and the testimony  
19 that you provided us. We will mail a written decision  
20 letter no later than a 100 days after the close of the  
21 hearing. And if Franchise Tax Board wants to have an  
22 opportunity to respond to that last package, Exhibit 12,  
23 I'll ask that you do that in writing.

24 Otherwise the record is closed, unless there's a  
25 request. And we are going to adjourn the hearing. Thank

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you for coming.

(Proceedings adjourned at 10:45 a.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 15th day of July, 2019.

\_\_\_\_\_  
ERNALYN M. ALONZO  
HEARING REPORTER