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HEARING  
OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA

In the Matter of the Business

Tax Appeals Hearing of:

OTA Case No. 18011840

JULIA ELLEN DRAPER,

Appellant.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, SEPTEMBER 24, 2019

9:59 A.M.

OFFICE OF TAX APPEALS  
1400 R STREET  
SACRAMENTO, CALIFORNIA

REPORTED BY: PEGGY A. PORTER, RDR, RMR, CRR  
CSR No. 6086

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APPEARANCES:

PANEL LEAD:

ALJ JEFF ANGEJA

PANEL MEMBERS:

ALJ MICHAEL GEARY

ALJ LINDA CHENG

APPEARING FOR TAXPAYER:

JULIA ELLEN DRAPER, TAXPAYER

BRIAN L. COGGINS, ATTORNEY

APPEARING FOR DEPARTMENT OF TAX AND FEE ADMINISTRATION:

MENGJUN HE, TAX COUNSEL

MONICA SILVA, TAX COUNSEL

KEVIN HANKS, HEARING REPRESENTATIVE

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E X H I B I T S

APPELLANT'S  
EXHIBITS 1 - 6  
  
CDTFA  
Exhibits A - J

(All exhibits marked and received prior to proceedings.)

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Tuesday, September 24, 2019, 9:59 a.m.

Sacramento, California

(The following proceedings were held outside the presence of the reporter):

ALJ ANGEJA: All right. We're a minute early, but I can't wait any longer. Is everybody here for the Julia Ellen Draper appeal?

MR. COGGINS: Yes, your Honor.

ALJ ANGEJA: Okay. And before I get started, we don't have a court reporter yet. She was ill. She'll arrive by 10:30. But we're recording this and it's livestreamed and she'll be able to make a transcript from the recording. So we will proceed without her for the time being.

We are now on the record in the office of tax appeals oral hearing for the appeal of Julia Ellen Draper, case ID 18011840.

We are in Sacramento. The date is Tuesday, September 24th. And the time is 10:00 a.m.

My name is Jeff Angjija and I will be the lead administrative law judge for this hearing. And my fellow co-panelists today are Mike Geary and Linda Chang.

1 Appellant, could you please identify  
2 yourselves for the record?

3 MR. COGGINS: Good morning, your Honor. My  
4 name is Brian Coggins. I am the attorney for  
5 Appellant Julia Draper.

6 MS. DRAPER: I'm Julia Draper.

7 ALJ ANGEJA: And for CDTFA?

8 MS. HE: Mengjun He for CDTFA.

9 MS. SILVA: Monica Silva for CDTFA.

10 MR. HANKS: And Kevin Hanks for CDTFA.

11 ALJ ANGEJA: Morning to you all and welcome.

12 This appeal involves two issues which are  
13 first whether the notice of successor liability  
14 issued to appellant was timely. And second, whether  
15 appellant is liable as a successor for the unpaid tax  
16 liabilities of Mr. Ronald Bell.

17 And during our prehearing conference the  
18 parties agreed to the admission into evidence of  
19 Appellant's Exhibits 1 through 6 and CDTFA's Exhibits  
20 A through J. Neither party had any objection to the  
21 admission of those exhibits at that time.

22 Is that still correct?

23 MR. COGGINS: Correct.

24 ALJ ANGEJA: All right. So I hereby admit  
25 those exhibits into the record.

1           And for witnesses, based on our prehearing  
2 conference, it's my understanding that neither party  
3 has any witness testimony here today.

4           Is that still the case?

5           MR. COGGINS: Other than the taxpayer  
6 testifying on her behalf.

7           ALJ ANGEJA: I'm sorry?

8           MR. COGGINS: The taxpayer, Julia Draper,  
9 will testify.

10          ALJ ANGEJA: Okay. So I will swear her in  
11 then.

12          And I'll have to ask you to speak into the  
13 microphone. I'm hoping it will be picked up by the  
14 video.

15          As we agreed during our prehearing  
16 conference, we will begin with appellant's argument  
17 which should not exceed 30 minutes. CDTFA will then  
18 be allowed to ask questions, if they wish, as will  
19 the panel of judges.

20          CDTFA will then make its presentation not to  
21 exceed 20 minutes and appellant or the judges may ask  
22 questions. And appellant will be given five minutes  
23 to rebut at the end.

24          All right. And if there's no other  
25 questions, we will --

1 MR. COGGINS: Question, your Honor.

2 ALJ ANGEJA: Sure.

3 MR. COGGINS: During our 30-minute  
4 presentation the taxpayer will be testifying during  
5 that period of time?

6 ALJ ANGEJA: Yes.

7 MR. COGGINS: Okay.

8 ALJ ANGEJA: And you could do question and  
9 answer or you could do narrative. The important  
10 distinction is we cannot make factual findings based  
11 on arguments, which the department would be making as  
12 would you. But sworn testimony allows us to make a  
13 factual finding.

14 So -- all right. So with that, Ms. Draper  
15 will you please stand up and raise your right hand.

16 JULIA DRAPER

17 was sworn by the administrative law judge to tell the  
18 truth, the whole truth, and nothing but the truth.

19 ALJ ANGEJA: All right. Thank you.

20 And whenever you're ready, you may begin. Go  
21 ahead.

22 MR. COGGINS: I appreciate it. Good morning,  
23 your Honors.

24 I want to -- first, I'm going to go into just  
25 a brief history of the case and then we'll go into

1 the testimony of Ms. Draper on the facts that are in  
2 dispute.

3 So this case originated from the purchase of  
4 the assets, which Ms. Draper used to open up her  
5 diner called Creekside Diner. This originated in  
6 March of 2012 when Ms. Draper heard as a waitress at  
7 Oak Tree Diner that they would be closing down.

8 She then took that opportunity to speak with  
9 the landlord of that facility, who then orally let  
10 her know that he'd be okay with her leasing that  
11 space after they closed.

12 She then proceeded to look for restaurant  
13 equipment. During this period of time she learned  
14 that even simple booths and chairs as well as  
15 obviously stoves and fryers and all that sort of  
16 thing are extremely expensive.

17 This is at which point her and Mr. Bell, the  
18 previous owner of Oak Tree Diner, began negotiating  
19 the purchase of his equipment, which included the  
20 bulk of the leaseholds as well as the restaurant  
21 equipment.

22 These are evidenced in Exhibit 1, the Asset  
23 Purchase and Sale Agreement. And those were the  
24 assets that Ms. Draper purchased from Mr. Bell, in  
25 addition to those that she got from other sources,



1 which were later shown on the 2012 income tax return.

2 One of the main issues or material facts is,  
3 well, how long did Mr. Bell close the diner before  
4 Ms. Draper opened up her diner. And we do -- we'll  
5 be able to add some clarity to that today through her  
6 testimony.

7 But at the end of the day, Ms. Draper left in  
8 March to start her business. You'll notice that the  
9 seller's permit, the fictitious business name, all  
10 those things are in March.

11 She was working on her menu, her color  
12 schemes, gathering her resources. Also gathering the  
13 finances in order to purchase the equipment. So all  
14 that was going on for several weeks, if not a month,  
15 prior to the actual opening of Creekside Diner.

16 When she in fact did finally get the money  
17 and was able to purchase the assets, she did so. The  
18 assets had already been moved to storage by that  
19 time.

20 So at some point prior, we're not exactly  
21 know when, at some point prior Mr. Bell did in fact  
22 move the assets out of the diner and into a storage  
23 unit.

24 After she purchased them, she retrieved them  
25 from the storage unit, put them back in the diner, as

1 well as hiring brand new painters, new carpet. She  
2 had 15 people working for three days to get that  
3 diner in shape for her grand opening.

4           So from there, we have a situation where  
5 there was certainly no food, no nothing, and the  
6 place was completely cleaned out. So she had to time  
7 her order with her vendor, Sysco, which is evidenced  
8 in Exhibit 4. That order arrived on the day of  
9 opening. Between that and any runs to Sam's and the  
10 grocery store they were able to start business, what  
11 we call a soft grand opening to run the kinks out and  
12 do that sort of thing.

13           But Mr. Bell had left nothing in regards to  
14 food, nothing in regards to anything. When she took  
15 it over, it was essentially an abandoned restaurant  
16 with the equipment removed.

17           She then began operating, at which time she  
18 had -- was under no -- no issues with Mr. Bell.  
19 Never spoke with him, never heard from him until this  
20 issue -- in fact, I don't believe she ever has up  
21 till now.

22           But ultimately this successor liability  
23 notice came in. Our first issue of the case is  
24 whether or not it was timely. That comes down to the  
25 Respondent's Exhibit B.

1 Taxpayer's argument in this case is that when  
2 she applied for her sales permit indicating to the  
3 Board of Equalization at the time that she was going  
4 to open up a restaurant at this address, that that  
5 was written notice to them.

6 She was not buying the business, Oak Tree  
7 Diner. There was no mention of Oak Tree Diner in  
8 that. There would be no mention 'cause in her mind  
9 she was essentially opening up her own restaurant in  
10 that location.

11 Since the board as well as the CDTFA has  
12 argued that she did in fact buy the business, my  
13 position is if you're going to take that argument,  
14 then the notice of putting the restaurant in that  
15 location was sufficient to begin the statute versus  
16 the time that they claim to have heard about it,  
17 which is a telephone call on May 14th of 2012.

18 Most of -- outside of that, most of the  
19 evidence and testimony today will reflect the second  
20 issue, which is whether or not she purchased assets  
21 or the business.

22 So one of the main issues dealing with the  
23 purchase of the business was, you know, what was her  
24 intent at the time of the purchase. The asset and  
25 purchase agreement outlines this in writing. And so

1 really it's very clear per that document that her  
2 intent was to purchase the asset.

3           So then the next question becomes were her  
4 actions any different than her intent in writing when  
5 she bought those equipment and leaseholds.

6           So post purchase of those, she moved forward,  
7 cutting any and all ties to the previous diner. No  
8 signage. She made it very clear to any customers who  
9 would ask that they were out of business. This was a  
10 completely separate. You know, this is typical  
11 behavior when you open up your restaurant when a  
12 prior restaurant has been there.

13           It would have certainly been much less  
14 expensive for Ms. Draper, the taxpayer in this case,  
15 to buy the Oak Tree Diner if she felt there was value  
16 there. It wouldn't have cost her any more money on  
17 the purchase price. And she could have saved the  
18 value of the menus, you know, redesigning the entire  
19 interior.

20           She could have saved countless advertising.  
21 She could have tried to capitalize in any goodwill  
22 that might have been in the community. She didn't do  
23 that. She purchased the assets because she didn't  
24 want anything to do with Oak Tree Diner. Primarily  
25 because she did not think after working there for

1 quite a few years that it had a good reputation. She  
2 felt that she wanted to go in a completely different  
3 direction and therefore severing all ties to Oak Tree  
4 Diner and its -- you know, and whatever relationship  
5 it had with the public was in her best interest,  
6 which is in fact what she did.

7           So she moved on with that intention from the  
8 very beginning. At no point did she try to  
9 capitalize or engage in the goodwill of Oak Tree, to  
10 whatever extent that existed.

11           One of the issues that came up in that was  
12 why did you keep the phone number of Oak Tree Diner.  
13 And she'll testify to that. It had nothing to do  
14 with the fact that there would be some positive  
15 business advantage to that. It had to do with the  
16 area code. At the time Rio Linda had changed it and  
17 she wanted to keep the old 991 area code.

18           In addition, a restaurant is really not the  
19 phone number. It's just not receiving a lot of phone  
20 calls. And in fact she can testify today that they  
21 have not received really any or hardly any phone  
22 calls in the seven years dealing with, you know, can  
23 I order food or that sort of thing.

24           It's a local diner. The phone number has  
25 very little impact on it. She just wanted to make

1 sure that any local, when they saw the area code,  
2 understood that it was in fact Rio Linda.

3 So none of her actions post sale of the  
4 equipment and assets indicated that she was trying to  
5 capitalize or use the goodwill of the previous diner.

6 You know, we've -- like I said, we've seen  
7 this -- recently seen it out by -- I live up in  
8 Auburn. Chevy's closed down. There's a new Mexican  
9 restaurant moving in there. La Taqueria I believe is  
10 the name of it. Now, because we're all familiar with  
11 the national brand, no one's going to confuse that at  
12 that point.

13 But this is a situation where you see a  
14 restaurant leave, typically one of similar type,  
15 meaning a pizza place to a pizza place, a yogurt shop  
16 to a yogurt shop, a cafe to a cafe, a diner to a  
17 diner is going to come in there. In and of itself  
18 that does not create purchasing of that business.

19 In fact, this location has had, I believe,  
20 six diners in over like a 60-year period. She'll be  
21 able to testify specifically to those previous diners  
22 that had been there.

23 Some of those diners, Mr. M's I believe is  
24 the name of it -- we'll clarify that in a moment --  
25 was actually bought and sold to several owners. And

1 of course they kept the name. They kept the  
2 goodwill. No one could -- you know, it was under new  
3 ownership, but there was no purchasing of the assets  
4 in those cases.

5 And in fact when Oak Tree bought it, he of  
6 course did sever all of that as well as Creekside.  
7 So this place has been many diners over the last 50  
8 to 60 years. Some of which, like I said, stayed the  
9 same, some of which didn't.

10 So we are going to be nitpicking on a few of  
11 the assets -- the actions I should say based on her  
12 actions post -- post sale, trying to determine  
13 whether or not it's contrary to the asset purchase  
14 agreement where it explicitly states she's buying  
15 equipment. And then of course it also states she's  
16 not assuming any liabilities.

17 She was not aware of any liabilities at the  
18 time, including the sales tax liability. Not that it  
19 would matter in this particular proceeding. However,  
20 that was put in there specifically to draw the intent  
21 that this is just a simple asset purchase.

22 Keeping in mind that these were not  
23 sophisticated parties that were doing the transaction  
24 at the time. This was, you know, the taxpayer as  
25 well as the previous owner. No attorneys or

1 accountants were involved in the transaction  
2 structure.

3 So having said that, I think we can turn our  
4 attention to the testimony of Ms. Draper to fill in  
5 some of the gaps and specifics regarding the opening  
6 and the running of her diner, Creekside.

7 So I'm just going to ask her a few questions  
8 if that's okay with the panel.

9 EXAMINATION BY MR. COGGINS

10 Q Okay. Ms. Draper, when you first learned the  
11 purchase -- that it was available, the space that Oak  
12 Tree Diner was in, you had mentioned that you had  
13 approached the landlord.

14 Can you just give us a narrative of the  
15 process of approaching the landlord and the steps  
16 that you took looking into opening up your own  
17 restaurant?

18 A I generally got ahold of Mr. Samuel to ask  
19 for a lease, see if it was going to be available in a  
20 timely manner. Otherwise there was only one other  
21 place in town to go and it was a very small place.

22 And he said that they were vacating within  
23 the month. So he would go ahead and let me take over  
24 and do the space where they're at and lease that from  
25 him. So I started my proceedings of getting all my



1 ducks in a row, get my business license and all of  
2 that while I was waiting for the funding.

3 Q Now, did you ever request from the landlord a  
4 copy of a new lease or --

5 A Yes. Several times. He stated to me that he  
6 did not want to get a lawyer. It cost him \$500 to  
7 get a lawyer.

8 So we were working off of a lease from the  
9 previous owner's wife back in like 1982 or something  
10 like that. I don't know. From like four owners  
11 present to him. So he'd never even written them a  
12 notice of lease.

13 Q And so as far as you were concerned, when you  
14 negotiated with the landlord, did you come up with a  
15 rent number at that time?

16 A He agreed to let me lease it for \$2,200 a  
17 month, which I found out later was lower than the  
18 previous owner's rent.

19 Q After negotiating the lease, you turned your  
20 attention to the equipment, the leaseholds, booths,  
21 chairs, as well as restaurant equipment. Can you  
22 tell us a little bit about that.

23 A That was a very timing -- most equipment,  
24 refrigerators were -- you needed at least double door  
25 refrigerators. Those were upwards of 10 to \$12,000

1 for the ones that I needed. And the walk-in was very  
2 expensive. For just the case itself was about  
3 15,000.

4 So in all, the total of everything would have  
5 cost me over \$30,000 to start and then I wouldn't  
6 have the money for all the expenses for the health  
7 department permits and all the other permits and also  
8 getting good dishes and food to open up.

9 So I was looking into a less costly way of  
10 getting equipment.

11 Q So what would the total cost you think to put  
12 brand new booths, chairs -- obviously you did -- and  
13 the restaurant equipment that you needed at a bear  
14 minimum, what do you need the net cost would be above  
15 the -- you know, above the 50,000 you paid for  
16 Mr. Bell, what was the cost of the new stuff?

17 A Probably close to 75, 80,000. And I only had  
18 67,000 to work with.

19 Q Where did the 67,000 come from?

20 A My mother took a second on her property to  
21 give it to me as a gift so I can open up my own  
22 restaurant.

23 Q So when you -- so you're waiting for the  
24 funding and you got it. Tell us what happened after  
25 you got the funding. In other words, what entailed

1 opening up the restaurant, Creekside?

2 A First I had let Mr. Bell know that I received  
3 my funding and that I can go ahead and write him a  
4 check and give him the money for the equipment.

5 So then we can go in, get the keys. And we  
6 changed the carpet. We painted. We cleaned the  
7 kitchen, which didn't look like it had been cleaned  
8 in a very long time, and scrubbed the floors and  
9 painted the walls and got everything shipshape. And  
10 then moved the equipment in from storage, brought it  
11 in and hooked it up. And it took many hours, a lot  
12 of people helping put it together.

13 Q How many people --

14 A Fifteen including -- which includes my  
15 husband, myself and my two kids and my son-in-law.

16 So we had ten other people. The carpet  
17 company did their carpet.

18 Q Painters, so forth?

19 A Uh-huh. Yes.

20 Q Okay. Once you had all your -- and you had  
21 already designed the menu; is that correct?

22 A Uh-huh.

23 Q Can you tell us a little bit about the  
24 process in designing the menu and --

25 A My daughter, myself, and a friend of ours,

1 April, who no longer works for us, we all sat and  
2 decided what we were going to do and figure out names  
3 for the little kids' meals and stuff like that. We  
4 came up with the Rapunzel for the little girls and  
5 then the Humpty Dumpty for the little boys. And we  
6 decided on a picture of a creek 'cause it was going  
7 to be Creekside.

8           And the gentleman at the menu place that I  
9 got them done had the perfect picture and he asked if  
10 he could put it in there and I said that would be  
11 absolutely perfect.

12           So it took us probably three weeks to get the  
13 menus done and ready and printed out. And then a  
14 couple of mishaps on what -- the proofreading. So we  
15 had to get them reprinted, 'cause my proofreading  
16 isn't very well.

17       Q       As far as the actual menu itself, what --  
18 every owner wants to differentiate himself, not only  
19 from the previous restaurant in that location, but  
20 certainly from all the restaurants in the local  
21 areas. With social media today, everyone's got a  
22 pretty easy access to reviews. So what exactly did  
23 Creekside do via the menu and the process?

24       A       We -- we'd switched from using the canned  
25 gravy that they used before. And we make our own

1 biscuits and gravy. Homemade biscuits every day.  
2 And we also make our own roast beef, which Oak Tree  
3 used to go to the store and buy the slab that you  
4 slice, presliced or, you know, precooked meat.

5           We cook our own. We cook -- make soups  
6 daily, fresh. We're made from scratch. They were  
7 store bought. And I wanted to distinguish that we  
8 have better quality food. We are trying to become  
9 our own name, not from before. We have nothing to do  
10 with that. So we wanted to make sure that everyone  
11 knew that we make stuff from scratch.

12       Q       In addition, how long was Oak Tree Diner open  
13 versus your restaurant?

14       A       Oh, Oak Tree? I started in 2001. No, 2002.  
15 And I'm not sure how long it was open for -- as Oak  
16 Tree before that, but I'm pretty sure it was a good  
17 five years before that.

18       Q       I'm sorry. How many hours per week?

19       A       Oh, hours per day. Oh, they were open at  
20 night. So they closed at 8 o'clock at night. So it  
21 was from 6:30 to 8 o'clock.

22           And we're open from 6:00 a.m. to 2:00 p.m.  
23 every day.

24       Q       So you're -- you don't provide dinner  
25 service?

1 A No. No dinner. Just breakfast and lunch.

2 Q Now, do you provide anything outside the  
3 typical diner fare such as Mexican foods or --

4 A Yes. We serve authentic Mexican foods  
5 Mondays and Tuesdays. My new cook makes carnitas  
6 from scratch the traditional way, deep frying them.

7 And then we do shrimp tacos on Thursdays.  
8 And Fridays we do fish tacos. And then Wednesdays we  
9 do a -- my signature dish is a pepperoni pizza bacon  
10 cheeseburger, which when I put that on facebook I got  
11 over 57,000 views. Not that many people showed up,  
12 thank goodness, but --

13 Q But your specials, the pizza as well as  
14 the -- the pizza burger as well as the Mexican have  
15 gone over really well with the customers?

16 A Very well. Very well. Everybody loves the  
17 Mexican food especially.

18 Q One of the issues was how long was Oak Tree  
19 Diner closed before you reopened. Can you give us a  
20 little bit of your testimony on that?

21 A The girls that I rehired said that they were  
22 closed for a little over a week they were out of  
23 work: So in that time we had picked up two days  
24 after they had quit and worked the five days to get  
25 it going as Creekside Diner.

1 Q And so when you took over and went in to  
2 clean, and obviously no equipment was in there, it  
3 had been moved to storage. Had there been any signs  
4 of recent food or anything? Or how --

5 A No. Huh-uh. Everything was packed up and  
6 gone. The cupboards were bare.

7 Q Abandoned or --

8 A Yeah.

9 Q Now, can you talk to us briefly on the phone  
10 number issue. So when you were setting up all your  
11 different vendors, at one point you had to call the  
12 phone company. Tell us why you chose to keep the  
13 same phone number.

14 A The only phone numbers that they had  
15 available with the prefix -- I wanted the 991 prefix  
16 because it's Rio Linda. Known for Rio Linda. I've  
17 been in Rio Linda my whole life. I've always had a  
18 991 number. My number still is a 991-8601. That's  
19 my home number. So everyone knows that's Rio Linda.

20 The only numbers they had available was  
21 either that one or a 285 or a 38 -- or a 286 or a 395  
22 prefix. And those, I mean, I don't even know where  
23 those would be from.

24 So I wanted to make sure that if people see  
25 my number in the phone book -- 'cause I was

1 advertising in the yellow pages under Creekside Diner  
2 with that phone number, that they would see that  
3 that's Rio Linda.

4 Q Thank you.

5 Now, the -- when you originally opened the  
6 restaurant, did you have any intent to keep any of  
7 the Oak Tree goodwill so to speak? Give us a little  
8 bit of a narrative on if you wanted separation or not  
9 from the previous restaurant.

10 A I definitely wanted separation. Their  
11 business had failed. There was hardly any customers.

12 When I left, they -- the owner had to go to  
13 the store daily to buy bacon and to buy anything.  
14 He'd wait if they needed like -- my waitress this  
15 morning reminded me that he would wait till four or  
16 five hours after they got some money in. He'd go  
17 out, take the money out, and go to the store and buy  
18 a couple of pounds of bacon so they can get through  
19 the next couple of hours.

20 And it was very failing. Hardly any  
21 customers. And I wanted to bring my business so I  
22 can get customers. Make a living at it. Make a  
23 life. My own name.

24 My sister even come up with the name  
25 Creekside Diner because we were next to a creek.



1 Q Now, in the record there was -- there were a  
2 couple of phone calls made to you from the Board of  
3 Equalization at the time. And in those notes of  
4 those calls it indicated that you had stated on the  
5 telephone that you had bought the business, Oak Tree  
6 Diner.

7 Do you remember those phone calls?

8 A I remember those phone calls. She had asked  
9 to speak to Ronald Bell. I said Ronald Bell no  
10 longer presides (sic) here. His business has closed.  
11 I opened a new restaurant, Creekside Diner, can I  
12 help you.

13 And then she proceeded to say who she was. I  
14 said I have their phone numbers for Ronald Bell and  
15 for Tammy Volf, who was the bookkeeper at the time,  
16 which was his daughter, and gave her the phone  
17 numbers. I never once said that I bought the  
18 business.

19 (The following proceedings were reported  
20 stenographically by the reporter.)

21 MR. COGGINS: I think that concludes our side  
22 of the case and it's five minutes under budget here.

23 ALJ ANGEJA: All right. Thank you.

24 Questions from the panel?

25 ALJ GEARY: Do you want to ask them now or at

1 the end?

2 ALJ ANGEJA: It's up to you. If you want to  
3 wait, we can wait.

4 ALJ GEARY: I would have some questions for  
5 the witness.

6 I think I'd rather wait and --

7 ALJ ANGEJA: Okay. We'll hold off.

8 ALJ GEARY: -- see if the department has  
9 anything.

10 ALJ ANGEJA: I presume you guys have no  
11 questions. So you're ready for your presentation?

12 MS. HE: Yes. Thank you. Good morning.

13 The department maintains that the notice of  
14 successor liability issued to appellant was timely  
15 and the appellant is liable as the successor for the  
16 unpaid liabilities of Mr. Bell.

17 First, with respect to the issue of the  
18 timeliness of the notice of successor liability. As  
19 you know, Revenue and Taxation Code Section 6814,  
20 subdivision (a) provides that a notice of successor  
21 liability shall be served no later than three years  
22 after the date the department receives written notice  
23 of the purchase of a business or stock of goods.

24 Here, as documented in the Department's  
25 Exhibit F, the ACMS notes at page 4, the department

1 first learned on May 14th, 2012 of the business  
2 purchase from appellant herself while appellant --  
3 while the department was attempting to contact the  
4 seller, Mr. Bell, at his business phone number on  
5 file.

6 So the notice of successor liability dated  
7 May 6, 2015, within three years from the date of  
8 knowledge of May 14, 2012, was timely.

9 Appellant's claim that the department had  
10 knowledge of the business change on April 1st, 2012  
11 through her submission of a seller's permit  
12 application has no merit logically and legally given  
13 that the purchase at issue did not even occur until  
14 April 16th, 2012.

15 Thus according to appellant's own  
16 conversation with the department on May 14th, 2012,  
17 and as shown by the department's Exhibit C, the  
18 purchase and sale agreement dated April 16th, 2012.

19 In addition, contrary to appellant's  
20 contention, appellant's application for seller's  
21 permit could not serve as a written notice of the  
22 purchase of the business or stock of goods as  
23 required by regulation 1702, subdivision (d)(1) as it  
24 left blank the section on ownership and  
25 organizational changes as shown in the department's

1 Exhibit B.

2           Regardless, Exhibit F, the department's ACMS  
3 notes shows that neither appellant nor Mr. Bell ever  
4 notified the department of any purchase until the  
5 department tried to contact the seller at the  
6 seller's business phone number on file on May 14th,  
7 2012.

8           This makes it clear that it was not until May  
9 14th, 2012, that the department for the first time  
10 learned of the business purchase and then asked for  
11 and received a copy of the purchase agreement.

12           Therefore, the date of the department's  
13 knowledge cannot possibly be earlier than May 14th,  
14 2012, and thus the notice of successor liability  
15 dated May 6, 2012 -- 2015, within three years from  
16 that date of knowledge, is timely.

17           Turning to the issue of successor liability.  
18 Pursuant to Revenue and Taxation Code section 6811  
19 and 6812 and the implementing regulation 1702, the  
20 purchaser of a business or stock of goods is  
21 personally liable for the seller's unpaid sales and  
22 use tax liability to the extent of the purchase price  
23 if the purchaser fails to withhold sufficient of the  
24 purchase price to cover those liabilities unless the  
25 purchaser either obtains the tax clearance

1 certificate from the department or makes a written  
2 request to the department for a certificate, but the  
3 department does not respond in a timely manner.

4 Here it's undisputed that the appellant  
5 failed to withhold sufficient of the purchase price  
6 to cover the liabilities of Mr. Bell or to obtain a  
7 tax clearance certificate from the department.

8 Appellant's own contention is that she did not buy  
9 Mr. Bell's business.

10 Contrary to appellant's contentions, however,  
11 the department's evidence amply establishes that the  
12 appellant acquired all of Mr. Bell's business or  
13 stock of goods.

14 The Department's Exhibit C, the purchase and  
15 sale agreement dated April 16th, 2012, establishes  
16 that appellant bought all Mr. Bell's restaurant  
17 equipment in place sufficient for a restaurant  
18 operation.

19 For example, appellant bought seller's four  
20 fridges, two freezers to store food. Appellant  
21 bought seller's stove, flat top grill, deep fryer,  
22 heat lamp, steam table, milk machine, meat slicer,  
23 two toasters, bread warmer, pie case to prepare and  
24 cook food.

25 Appellant bought all dishes, silverware,

1 cups, utensils to serve food. Appellant bought all  
2 tables and booths to seat customers. Appellant  
3 bought the cash register to take money from  
4 customers. All these items are listed in the  
5 purchase agreement in the Department's Exhibit C.

6 Then the Department's Exhibit D. Appellant's  
7 application for permit to operate and the facility  
8 evaluation forms dated April 19th, 2012, as filed  
9 with the County of Sacramento shows that appellant  
10 assumed ownership of Mr. Bell's business without  
11 change or removal of any equipment or any change in  
12 the facility.

13 And on page 2 appellant checked the box which  
14 says in pertinent part, I quote, "I have already  
15 assumed ownership and I'm operating this facility,"  
16 unquote.

17 Further, the county processed the appellant's  
18 application for permit to operate as a change in  
19 ownership.

20 The Department's Exhibit E, the lease  
21 extension, shows that the appellant took over the  
22 seller's valid lease which had at the time an option  
23 to renew all the way through January 2018.

24 There's no dispute on the Department's  
25 Exhibit H, the printout of the Yelp reviews also

1 shows that Appellant kept the same business phone  
2 number as Mr. Bell's.

3           The Department's Exhibit I and J, the county  
4 personal property assessment information show that  
5 seller's fixture and equipment, we call it F and E,  
6 was only worth about half of the purchase price in  
7 both seller's and appellant's hands. Which further  
8 indicates that the purchase price of \$50,000 was for  
9 more than just the F and E listed in the purchase and  
10 sale agreement.

11           The Department's Exhibit G, the letters from  
12 the employees shows that appellant retained at least  
13 some of Mr. Bell's employees.

14           Last but not least, those Department's  
15 exhibits and appellant's own arguments and evidence  
16 such as Exhibit 5, the Fictitious Business Name  
17 Statement dated March 27th, 2012, establish that the  
18 appellant bought Mr. Bell's business as an ongoing  
19 concern without interruption as appellant started  
20 preparing for the business purchase in March 2012  
21 while the business was actively operated by the  
22 seller and then appellant started operating right  
23 after the seller's closure date as was stated both in  
24 the purchase agreement and by appellant herself in  
25 her conversation with the department on May 14th,

1 2012.

2 And of course this evidence also directly  
3 contradicts appellant's testimony just now that there  
4 was interruption of business and she had to move  
5 everything out, move in. And the written evidence  
6 doesn't support any of that.

7 All of this evidence establishes that  
8 appellant bought all of Mr. Bell's business or stock  
9 of goods.

10 Because of the department's ample evidence of  
11 appellant's purchase of Mr. Bell's business or stock  
12 of goods, appellant's reliance in its brief on People  
13 vs. Gabriel is misplaced as Gabriel only held that a  
14 purchase of only fixtures and equipment is not liable  
15 for sales tax due from the seller.

16 In Gabriel the seller's lease had expired and  
17 the seller had abandoned the business long before the  
18 buyer started business and there was no evidence that  
19 the buyer there bought more than the fixture and the  
20 equipment, none of which is the case in this appeal.

21 As to the appellant's alleged menu changes or  
22 other minute operating differences, painting a  
23 different color scheme, marking the floor to a  
24 cleaner tone. All of those, even if it's shown in  
25 evidence, they are legally irrelevant as the



1 successor liability law is not concerned with whether  
2 the buyer made any changes to the business operation,  
3 but only whether the buyer bought all or  
4 substantially all of the seller's business or stock  
5 of goods.

6           Again, going back to the appellant's new  
7 arguments today. First, the argument that she had  
8 moved the assets to storage and into storage and  
9 after painting, again, that is contradicted by the  
10 department's written evidence on record.

11           For example, department's Exhibit D, the  
12 application for permit to operate and the facility  
13 evaluation forms shows that as of April 19th, 2012,  
14 the appellant basically declared that I have already  
15 assumed ownership and I'm operating this facility.  
16 That's only four days right after Mr. Bell ceased  
17 operation.

18           And, of course, appellant started operating  
19 right after the seller's closure date as was stated  
20 both in the purchase agreement and by appellant  
21 herself in her conversation with the Department on  
22 May 14th, 2012.

23           The menu changes, I already addressed that.  
24 That's kind of minute. Operation details. That  
25 doesn't change the fact of the purchase.

1           Whatever the seller decided to do -- the  
2 buyer decided to do with the business after the  
3 purchase is not a part of the inquiry. The inquiry  
4 is only whether at the time of the transaction  
5 appellant bought all or substantially all of the  
6 seller's business or stock of goods.

7           And as to the new argument that the appellant  
8 actually did not need a lot of the F and E listed,  
9 was just put in there to draw the intent that the  
10 purchase was only intended to effect an F and E  
11 purchase, not a business purchase.

12           Again when we go back to Department's Exhibit  
13 D, the application for permit to operate and facility  
14 evaluation, it shows appellant assumed ownership and  
15 operated the facility without any change or addition  
16 to the equipment or to the facility. So that's  
17 directly contradicted as well.

18           The contact with the landlord again doesn't  
19 matter, 'cause the seller had valid lease that's all  
20 the way good through 2018 and appellant acquired the  
21 right to that lease.

22           And her testimony about the contact with the  
23 landlord for a new lease is contradicted again by the  
24 department's evidence. Specifically the ACMS notes  
25 on page 6, Ms. Samuels specifically said it's

1 appellant who refused to do a new lease or change the  
2 name. So it was not until 2014 that got done.

3 All this other testimonies about all the  
4 changes in operation, menu design, kids meal, all  
5 this operation, I kind of addressed that in my  
6 argument already again. It goes to what happened  
7 after the purchase of the operation details, which  
8 was not an inquiry of the successor liability law.

9 The law only asks whether the appellant  
10 bought all or substantially all of the seller's  
11 business or stock of goods.

12 In view of all the evidence on the record,  
13 appellant purchased Mr. Bell's restaurant business or  
14 stock of goods. And therefore Appellant is properly  
15 assessed the successor liability and within the  
16 statute of limitations. Therefore this appeal should  
17 be denied.

18 Thank you.

19 ALJ ANGEJA: And that concludes your  
20 presentation?

21 So quickly can I have everybody reintroduce  
22 themselves for the benefit of the court reporter.

23 MS. DRAPER: I'm Julia Draper.

24 MR. COGGINS: Brian Coggins, representative  
25 for Julia Draper.

1 MS. HE: Mengjun He for CDTFA.

2 ALJ ANGEJA: Go ahead and spell that for  
3 her, please.

4 ALJ CHENG: Mengjun He. It's on the agenda.  
5 M-e-n-g-j-u-n. Last name H-e for CDTFA.

6 MS. SILVA: Monica Silva for CDTFA.

7 MR. HANKS: And Kevin Hanks for CDTFA.

8 ALJ ANGEJA: Thank you.

9 I think before we do questions, since they've  
10 challenged some of that evidence, I'd rather have you  
11 have your rebuttal and then we'll open it up for  
12 questions, if that's all right.

13 Go ahead.

14 MR. COGGINS: So I'd like to -- first I want  
15 to address the asset purchase agreement date, 4/15.  
16 It does state in that agreement that the restaurant  
17 was -- the Oak Tree Diner was closed as of 4/15 and  
18 any liabilities would be his as of 4/15.

19 I'm pointing out that it was not set -- in  
20 other words, she was not open till that date. That's  
21 when they in fact closed the restaurant as pursuant  
22 to that agreement.

23 We know for a fact through her testimony  
24 today, the taxpayer, Ms. Draper, that they had been  
25 closed prior to that. How long, we don't know.

1           It's not a huge issue, but when looking at  
2 People v. Gabriel which is one of the cases on point  
3 here, the very similar facts, the previous business  
4 was closed for a period of time, which is -- you  
5 know, the evidence there is such that, you know,  
6 there was enough time to create changes in the  
7 business, to put your own stamp on it so to speak.

8           Our case is such that there was enough time  
9 to do so. The new carpet, the new paint, the  
10 complete cleaning of the restaurant, new signs, new  
11 menus, all of those things were done in the gap  
12 between the closure, meaning the last day Oak Tree  
13 Diner actually operated as a restaurant, a date we do  
14 not know, and the opening of Creekside diner.

15           Now, to the core of the issue, which is the  
16 purchase of all or substantially all of the assets,  
17 there were a few assets completely left out of the  
18 CDTFA's presentation.

19           One of course is goodwill. The name of the  
20 company -- of the restaurant. These are extremely  
21 important assets if I were to buy a restaurant and  
22 wanted to keep all of its assets.

23           She did not purchase the goodwill. She did  
24 not purchase the name. She did not purchase  
25 anything, which as stated earlier in my presentation

1 cost her quite a bit of money avoiding that.

2 The other thing she purchased none of, which  
3 is an extremely important good for a restaurant, is  
4 food. She had purchased zero food. Fresh food,  
5 canned food, boxed food, all of these things were in  
6 abundant supply obviously as a typical restaurant  
7 would have in inventory. None of those assets were  
8 purchased.

9 As stated in her previous testimony, Mr. Bell  
10 had cleaned out his restaurant and removed the  
11 equipment, taken the food. It was shut down. And in  
12 fact, the deal to purchase that equipment was in flux  
13 because Ms. Draper, the taxpayer in this case had not  
14 received financing. And I'm sure Mr. Bell was under  
15 the possibility that the deal wasn't going to go  
16 through.

17 So there was -- there was no purchase of  
18 food. There was no purchase of the name. There was  
19 no purchase of any goodwill. These are, you know,  
20 significant assets when buying a restaurant.

21 If I was interested in buying one and keeping  
22 all of those, it certainly would be a different  
23 picture than what we have today.

24 That's my response to the --

25 ALJ ANGEJA: Questions from my co-panelists?

1 ALJ GEARY: Yes, I have some questions for  
2 the taxpayer.

3 EXAMINATION BY ALJ GEARY

4 Q I'd like you to walk me through the  
5 chronology in a little bit more detail than you've  
6 given so far.

7 You became employed at that restaurant in  
8 about 2002; is that correct?

9 A Yes. It was March 15th, 2002.

10 Q And who was running the restaurant at that  
11 time?

12 A Linda Bell, which was the previous -- Ronald  
13 Bell's wife.

14 Q Make sure you wait until my question's  
15 done --

16 A Sorry.

17 Q -- before you answer so the court reporter  
18 can take everything down.

19 And she operated the restaurant until  
20 approximately when?

21 A She passed away on May 4th, 2008.

22 Q During the years that you worked for her did  
23 you form an opinion about how she ran the business?

24 A She ran the business very well.

25 Q And is it your belief that during that period

1 of time that restaurant had good goodwill or bad  
2 goodwill?

3 A Good goodwill.

4 Q All right. Now, tell me what knowledge or  
5 event first lit up in your mind the thought that you  
6 might become an owner of that restaurant.

7 A Once the business started failing and no one  
8 coming in, it was apparent that there wasn't going to  
9 be a job. So I was -- decided to look for a new job.

10 And my mother decided to help me along with  
11 that by offering to help look for a diner. She said  
12 I could -- you could do it. There's no problem with  
13 that.

14 Q When you say there was not going to be a job,  
15 was Mr. Bell at that time already terminating or  
16 cutting hours of staff?

17 A There was very little staff. There was one  
18 cook and two waitresses and one dishwasher. That was  
19 it. And there was very little hours. At night they  
20 would have one cook and one waitress.

21 Q Did Mr. Bell ever indicate to you prior to  
22 this conversation you had with your mother about  
23 financing that he was interested in selling the  
24 business?

25 A No, huh-uh.



1 Q So you decided that you probably should look  
2 for a job elsewhere because you didn't -- you weren't  
3 secure in that position?

4 A Right.

5 Q And you talked to your mother about it and  
6 she said something like, well, why don't you open  
7 your own place?

8 A Yes.

9 Q And offered to provide some financing?

10 A Well, after I couldn't find anything for  
11 small business owners to open up. I looked for loans  
12 through my bank and other business opportunity, like  
13 the state had grants, but I couldn't get one.

14 Q And did you look at other locations?

15 A There was only one that was becoming  
16 available, but it needed a lot of work. It was  
17 formerly BG's, which is in Rio Linda. And it was --  
18 it's only like 600 square feet. So it's very tiny  
19 compared to Creekside is right now.

20 Q How did you know learn about that potential  
21 opportunity?

22 A The BG's has closed -- had closed because of  
23 a fire.

24 Q And with whom did you inquire regarding that  
25 facility?

1 A The owner of that facility, which is Carl  
2 Brothers.

3 Q Did you contact that person by phone.

4 A No. I just talked to him 'cause he's a  
5 staple of Rio Linda. Rio Linda's a small town.

6 Q So you talked to him personally --

7 A Yes.

8 Q -- and asked him what the potential was for  
9 you taking over the property?

10 A Yes. He said that the owners of BG's was  
11 still on the works of it. They were still trying to  
12 get their insurance to pay for it. And it was taking  
13 too long, 'cause the County of Sacramento has all  
14 these different permits.

15 The building had been there forever. So they  
16 had to recode everything, bring everything back up to  
17 code, which it hadn't been into code for over 20  
18 years.

19 Q When was the conversation that you were just  
20 describing?

21 A That was in I think February of 2012.

22 Q All right. So when you realized that that  
23 property wasn't going to work, when was the next  
24 communication you had with any potential lessor about  
25 a restaurant property?

1 A I actually didn't. I looked and looked and  
2 couldn't find anything that was close to home. So I  
3 was going to give up.

4 Q And how did it come to your attention that  
5 the possibility was that you could take over Oak Tree  
6 Diner's property?

7 A The -- Ronald Bell had said that they were  
8 going to close and he said the space will be open,  
9 you could probably talk to the landlord.

10 Q When did that conversation take place?

11 A I talked to the landlord in the middle -- the  
12 beginning of March of 2012 and asked him if he had  
13 someone that was gonna rent the space and he said no,  
14 he did not.

15 Q And you already knew that Mr. Bell was going  
16 to vacate 'cause he told you that?

17 A Yes.

18 Q When Mr. Bell asked you -- provided that  
19 information, did you ask him about the equipment?

20 A No, I did not. He offered it to me at the  
21 end of March.

22 Q Where did you look for new equipment?

23 A There's Cresco, which is over here on  
24 Richards Boulevard. And the -- Cullincini's out on  
25 Arden Way I think it is. And there's tons of

1 websites online that I looked through.

2 Some places were in Reno. We went to Reno  
3 and looked.

4 Q Did you look also at used equipment?

5 A Yes. And most of the booths for used  
6 equipment start at \$800 per seat. Which is way too  
7 expensive.

8 ALJ ANGEJA: You need to talk directly into  
9 the mic if you could, please.

10 Thank you.

11 Q BY ALJ GEARY: Did you purchase the equipment  
12 on the date that's indicated on the contract, which I  
13 think is April 16th?

14 A I paid for the equipment that date.

15 Q When did you reach the agreement with  
16 Mr. Bell to purchase it?

17 A It was around the 1st.

18 Q Of April?

19 A Yes.

20 Q When was your soft opening that your  
21 representative referred to?

22 A April 16th.

23 Q So I think you said that you reached an  
24 agreement to buy the equipment in early April and  
25 then paid for it on the 16th --

1 A Yes.

2 Q -- which is when you executed the contract?

3 So when was it -- where was the equipment  
4 when you --

5 A It was --

6 Q -- agreed to buy it?

7 A It was in storage.

8 Q So two weeks before your soft opening the  
9 equipment was already in storage?

10 A I don't -- I'm not sure if it was two weeks  
11 before. I don't know if it was there then, when I  
12 talked to him, 'cause I did not speak to him at the  
13 facility. I spoke to him on the phone.

14 When I was purchasing it, he said that he  
15 could get it out of storage.

16 Q Okay. And then --

17 A So I'm not sure, positive if it was in  
18 storage that day that I talked to him.

19 Q But I take it that he moved it back into the  
20 business premise; is that right?

21 A No. We did.

22 Q You did physically, or you had somebody do  
23 it?

24 A Physically. We had people with trucks.

25 Q So when you -- when you agreed to buy the

1 equipment, you don't know exactly where it was?

2 A Not when I agreed to it, no. I knew that the  
3 seats were still in the facility. But the other  
4 equipment was moved out, the kitchen equipment.

5 Q And when you paid for the equipment, it was  
6 on the premises 'cause that was the day of your soft  
7 opening?

8 A No. No.

9 Well, when I paid for the equipment, yes, the  
10 equipment was there. We brought it prior to it. We  
11 worked four days. We brought it before we paid for  
12 it.

13 Q Okay. How many conversations did you have  
14 with representatives of CDTFA about --

15 A CDTFA, never. Sorry. Board of Equalization,  
16 I spoke with Ida probably four times.

17 Q And do you remember all of those  
18 conversations as well as --

19 A Yes, I do.

20 Q As well as you remember the one you described  
21 earlier?

22 And have you seen the notes that the  
23 department has offered into evidence of those  
24 conversations?

25 A Yes. And I have a lot of marks on the notes

1 of where that did not take place.

2 Q There's a note. It is page 5 of 6, the  
3 department's, CDTFA's Exhibit 6, or Exhibit -- excuse  
4 me. Hold on. Exhibit F.

5 And the last sentence states, "She stated  
6 originally she was going to buy the business, but  
7 then decided to change the business name because she  
8 knew that Mr. Bell had a debt with BOE and other  
9 business-related bills."

10 And that's a quote that I am quoting from  
11 that, from that document.

12 Did you make statements to that effect to  
13 that person?

14 A No, sir. Never. I never even knew about any  
15 of the -- owing -- anything that he owed until the  
16 BOE had contacted me by paper.

17 We had suspicions once they started calling  
18 that he was owing taxes. We found out that he lost  
19 his house because he owed taxes. So we were starting  
20 to wonder what was going on.

21 Q There's evidence that suggests that you filed  
22 a document with the -- regarding the value of the  
23 property that you purchased and that the value of the  
24 property you purchased was something closer to  
25 \$24,000. Do you recall that evidence?

1       A       That was done by my bookkeeper. I have no  
2 knowledge of what she did with that. I don't know  
3 how she came up with those figures.

4       Q       That was an error -- if that's on the  
5 document, it was an error; is that what you're  
6 saying?

7       A       My bookkeeper did that, not I. She did all  
8 my taxes.

9       Q       Is she still your bookkeeper?

10      A       Yes, she is.

11      Q       Did you know whether Mr. Bell had any other  
12 fixtures or equipment that had been used in that  
13 restaurant that you did not buy?

14      A       Yes. I was supposed to receive a milkshake  
15 machine and he didn't have it. And there was an ice  
16 cream freezer that I wanted to purchase and he didn't  
17 have that. And there was something else. A salad  
18 bar that they used to have, I had said interest in  
19 that and he didn't have that.

20      Q       Do you know what happened with those pieces  
21 of equipment?

22      A       No, I do not.

23              ALJ GEARY: Thank you. That's all I have.

24              MS. DRAPER: Okay.

25              ALJ CHENG: For the taxpayer. Mr. Coggins,



1 in your opening you had mentioned the leaseholds  
2 being part of the purchase agreement. What did you  
3 mean by that?

4 MR. COGGINS: We had listed the leaseholds as  
5 an asset purchase obviously in the asset purchase  
6 agreement that was signed. They were also listed in  
7 Exhibit -- I believe it's 1.

8 I take that back. It's not listed on Exhibit  
9 1. It's listed -- the leaseholds were listed on the  
10 federal tax returns exhibit which was provided in the  
11 supplemental brief. And there was the 24,000 listed  
12 as leasehold improvements on the federal tax return  
13 depreciation schedule.

14 They were also listed on -- the leaseholds  
15 that I referenced were listed as a purchase on the  
16 federal tax return as well as the Sacramento  
17 assessor's listed leaseholds as well.

18 These would be the -- you know, the affixed  
19 items in the restaurant essentially.

20 ALJ CHENG: It's not in the purchase  
21 agreement.

22 MR. COGGINS: I understand. I misspoke on  
23 Exhibit 1. It's not in the purchase agreement.

24 It's listed in the supplemental brief that I  
25 had filed with this department. It was listed on the

1 federal income return allocating the 50,000 purchase  
2 price.

3 ALJ CHENG: And they're improvements to the  
4 land, to the property?

5 MR. COGGINS: Those were the leasehold  
6 improvements to the inside of the diner, the tenant  
7 improvements that had been done prior to the  
8 purchase.

9 ALJ CHENG: Done by Mr. Bell?

10 MR. COGGINS: Correct.

11 EXAMINATION BY ALJ CHENG

12 Q Okay. Ms. Draper, you had mentioned that the  
13 rent that you negotiated was less than what the prior  
14 tenant got.

15 A That's what I was told.

16 Q Okay. So was it -- did you just renew the  
17 old lease or --

18 A No. We went just by talking. I didn't sign  
19 any papers until 2014 because he -- he is the one  
20 that said that he would not pay for a lawyer. And --

21 Q He who? The landlord?

22 A The landlord, yes. Even though it states --  
23 the CDTF, is that right, stated that he said that it  
24 was I. No, it was him, Aiad Samuel, that would not  
25 get the lawyer to do a lease.

1 I even purchased a lease from Staples. I  
2 purchased a commercial lease and asked him, "Okay,  
3 will this work?" 'Cause I've never dealt with a  
4 lease before.

5 So -- and he said, "No, it has to be a  
6 lawyer." I said, "Well, I can't afford a lawyer."  
7 And he says, "Well, I won't pay for the lawyer."

8 That is why he no longer has businesses and  
9 he filed bankruptcy.

10 Q So the lease that you ended up signing, that  
11 was an old form from --

12 A Yes, prior --

13 Q -- a prior lease?

14 A From Linda Bell, when Linda Bell had had it.  
15 And Tom, not Tom Ray. Something Ray. Someone with  
16 the last name of Ray owned the complex at that time  
17 with that lease was stated. Ray Properties, yes.

18 Q And you indicated that your accountant listed  
19 these equipment and fixtures with a value of about  
20 \$26,000 approximately?

21 A That's whatever the -- for the property tax  
22 form was for, yes.

23 Q So --

24 A I have no understanding of any of that, so --  
25 I didn't know I had to pay property taxes until I got

1 the paperwork.

2 Q What did you think the equipment and fixtures  
3 were worth at the time that you purchased them?

4 A To me they were worth a million dollars  
5 because I can open my own restaurant.

6 Q But you paid 50?

7 A Yes.

8 Q So were they worth 50 to you?

9 A Yes.

10 ALJ CHENG: That's all I have. Thank you.

11 ALJ ANGEJA: I just have one quick question.

12 EXAMINATION BY ALJ ANGEJA

13 Is there a name of the storage facility or an  
14 address?

15 A It's the same storage unit that -- or same  
16 facility I use, which is -- I think it's A1 Storage.  
17 And all's I know is it's on 14th Street.

18 I don't know if they still -- it's in Rio  
19 Linda. Sorry. I'm not sure if they still have a  
20 storage unit there or not.

21 Q Is there any proof of the storage there? I  
22 understand the landlord would have leased the spot --

23 A Yeah, I --

24 Q -- so you wouldn't have that.

25 A Yeah. I have no idea.

1 ALJ ANGEJA: Okay. Does either have party  
2 have questions? If not -- hearing none. Okay.

3 So at this point I will close the record and  
4 we will conclude the hearing. I want to thank each  
5 party for coming in today.

6 Following this hearing, my co-panelists and I  
7 will discuss the evidence and the arguments and then  
8 we will issue a written opinion within 100 days of  
9 today's date.

10 And with that, this hearing is now closed.  
11 Thank you.

12 (The hearing concluded at 10:59 a.m.)  
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REPORTER'S CERTIFICATE

I, PEGGY A. PORTER, do hereby certify:

That I transcribed the livestream video provided to me;

That I am a Certified Shorthand Reporter of the State of California;

That pages 4 - 25 of the said proceeding were thereafter, under my direction, transcribed into computer-assisted transcription; and that the foregoing transcript constitutes a full, true, and correct report to the best of my ability of the proceeding which then and there took place; that I am a disinterested person to the said action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 7th day of November 2019.

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PEGGY A. PORTER, CSR 6086

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REPORTER'S CERTIFICATE

I, PEGGY A. PORTER, do hereby certify:

That pages 25 - 53 of the said proceeding was taken before me at the said time and place, and was taken down in shorthand writing by me;

That I am a Certified Shorthand Reporter of the State of California;

That the said proceeding was thereafter, under my direction, transcribed into computer-assisted transcription; and that the foregoing transcript constitutes a full, true, and correct report of the proceedings which then and there took place; that I am a disinterested person to the said action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 7th day of November 2019.

\_\_\_\_\_  
PEGGY A. PORTER, CSR 6086