

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, )  
)  
DARLENE WILKINSON, ) OTA NO. 18053079  
) 18063352  
APPELLANT. )  
)  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Thursday, March 26, 2020

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER

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Transcript of Proceedings, taken at  
12900 Park Plaza Dr., Cerritos, California, 90703,  
commencing at 10:05 a.m. and concluding  
at 10:39 a.m., on Thursday, March 26, 2020,  
reported by Ernalyn M. Alonzo, Hearing Reporter,  
in and for the State of California.

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APPEARANCES:

Panel Lead: ALJ TERESA STANLEY

Panel Members: ALJ JEFFREY MARGOLIS  
ALJ AMANDA VASSIGH

For the Appellant: DARLENE WILKINSON  
MOUNIA BOUKHALFA

For the Respondent: STATE OF CALIFORNIA  
FRANCHISE TAX BOARD  
By: JOEL SMITH

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I N D E X

E X H I B I T S

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

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1 Cerritos, California; Thursday, March 26, 2020

2 10:05 a.m.

3

4 JUDGE STANLEY: We're going to go on the record  
5 in the appeal of Darlene Wilkinson, Case number 18053079.  
6 The date is March 26, 2020. The time is 10:05 a.m., and  
7 the location of this hearing is technically in Sacramento,  
8 California. The panel judges are myself, Teresa Stanley,  
9 Judge Jeffrey Margolis, and Judge Amanda Vassigh.

10 I'll ask Ms. Boukhalfa to identify herself for  
11 the record and her client.

12 MS. BOUKHALFA: Yes. Mounia Boukhalfa here, and  
13 I'll be representing Ms. Wilkinson today.

14 JUDGE STANLEY: And Ms. Wilkinson is also  
15 present?

16 MS. WILKINSON: Yes.

17 JUDGE STANLEY: Thank you.

18 And for Franchise Tax Board?

19 MR. SMITH: Yes. This is Joel Smith.

20 JUDGE STANLEY: Okay. Thank you.

21 I'm going to admit into evidence at this time,  
22 Appellant's Exhibits 1 through 9 and the Franchise Tax  
23 Board's Exhibits A through G. Both will be admitted  
24 without objection.

25 ///

1 (Appellant's Exhibits 1-9 were received  
2 in evidence by the Administrative Law Judge.)  
3 (Department's Exhibits A-G were received in  
4 evidence by the Administrative Law Judge.)

5 JUDGE STANLEY: The issue before us today is  
6 whether Appellant has shown that the statute of  
7 limitations to file a claim for refund was tolled due to  
8 financial disability of Ms. Wilkinson. Because there's  
9 only one witness today, we're not going to have opening  
10 statements. We're going to move directly to testimony.

11 So Ms. Wilkinson, can you first please state your  
12 full name.

13 MS. WILKINSON: Darlene Wilkinson.

14 JUDGE STANLEY: Okay.

15

16 DARLENE WILKINSON,

17 produced as a witness, and having been first duly sworn by  
18 the Administrative Law Judge, was examined and testified  
19 as follows:

20

21 JUDGE STANLEY: Okay. Ms. Boukhalfa, you may  
22 proceed.

23 MS. BOUKHALFA: Yes. Thank you. Mounia  
24 Boukhalfa here.

25 ///

PRESENTATION

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MS. BOUKHALFA: Ms. Wilkinson, I have one question for you. I was wondering if you could tell us your medical conditions prevented you from managing your financial affairs.

MS. WILKINSON: Well, I have multiple sclerosis. And, in addition, I have osteoporosis which cause multiple fractures in my spine. And the multiple sclerosis keeps me -- it bothers my mobility also and my cognitive ability. So I'd had to have my family, even on my regular tax returns, help me in gathering my information to do my tax returns, even from my bed. And I usually have to have other people help me. I cannot do all this myself, or I will -- I also had to leave my good state job because of my disability.

MS. BOUKHALFA: Thank you. Mounia Boukhalfa here again. And Ms. Wilkinson, when were you diagnosed with MS?

MS. WILKINSON: The final diagnoses, I believe, was 1988, the final one.

MS. BOUKHALFA: Yes. Mounia Boukhalfa here again. I know that you told me that MS it can be very different for each patient. Can you tell us how the mental impairment shows in your condition?

MS. WILKINSON: The what? Could you repeat that?

1 MS. BOUKHALFA: The MS --

2 MS. WILKINSON: How it repeats --

3 MS. BOUKHALFA: How it --

4 MS. WILKINSON: How it what?

5 MS. BOUKHALFA: How it's effecting you  
6 personally.

7 MS. WILKINSON: Well, it effects my day-to-day  
8 living, and the cognitive abilities is also affected. I  
9 cannot also -- also I cannot always drive. I have to have  
10 other people drive me, especially when exacerbated by the  
11 fractures in my spine of osteoporosis. I have to have  
12 other people drive me -- even before this Corona virus --  
13 drive me to different places. The fatigue -- and I have  
14 had three attacks of paralysis where, of course, I  
15 couldn't move at all.

16 So it affects my day-to-day living, especially,  
17 my financial affairs. I have had to have my daughter, who  
18 lives in Placerville, help me with things like my bill  
19 paying and, of course, gathering information just to do my  
20 normal tax returns every year. And she had to drive me to  
21 an accountant to do the amended returns.

22 MS. BOUKHALFA: Thank you, Ms. Wilkinson. One  
23 last question. Is it correct that your MS also last  
24 longer than 12 months? I know that you've told us you  
25 were diagnosed in one 1988. So, of course, does it last



1 longer than 12 months?

2 MS. WILKINSON: Oh, yes. Unfortunately, there's  
3 no cure. I have taken medication for it, but it's mostly  
4 for symptoms. It -- it -- there's no cure. It is  
5 progressively worse. It originally was relapsing  
6 remitting, which I would get attacks of paralysis and get  
7 most of my feeling back, except for the nerves that had  
8 died. But then progressed into secondary progressive and  
9 chronic progressive.

10 So it does get progressively worse. It affects  
11 my immune system. It affects nerves. It's a  
12 neuromuscular disease. So it affects everything in my  
13 body ongoing.

14 MS. BOUKHALFA: Thank you, Ms. Wilkinson.

15 MS. WILKINSON: Okay.

16 MS. BOUKHALFA: Mounia Boukhalfa here. Thank  
17 you, Ms. Wilkinson. I don't have any further questions.

18 JUDGE STANLEY: Okay. Thank you, Ms. Wilkinson.  
19 This is Judge Teresa Stanley.

20 Mr. Smith, do you have any questions for the  
21 Appellant?

22 MR. SMITH: I do not.

23 JUDGE STANLEY: Judge Margolis, do you have any  
24 questions?

25 JUDGE MARGOLIS: Yes, I do have one question.

1 Ms. Wilkinson, when did you -- when and how did you learn  
2 that you had an error in your tax returns and that you  
3 wanted to amend them?

4 MS. WILKINSON: Approximately 2015. I'm not sure  
5 exactly the year. And I did call the Franchise Tax Board,  
6 and the person I talked to advised me to do amended  
7 returns and to include a letter, because she also felt  
8 that the Franchise Tax Board should have noticed it and  
9 not tax me on it.

10 In fact, I sent in a copy of 2009 where Franchise  
11 Tax actually wanted me to pay more on my estimated tax.  
12 So they did go through -- over the return, but that was  
13 when I first noticed.

14 JUDGE MARGOLIS: And why did you -- how soon  
15 after you found out did you see your accountant to -- to  
16 start taking action. I think that your amended return  
17 wasn't filed until 2017.

18 MS. WILKINSON: Correct.

19 JUDGE MARGOLIS: So I'm just wondering --

20 MS. WILKINSON: I had also had additional injury.  
21 Serious ones where I was hospitalized where I fell and  
22 injured my knee on top of my fractured back. So I  
23 couldn't go. I tried to do these returns myself. Even  
24 though I worked for Franchise Tax, I was not familiar with  
25 doing amended returns. I worked in fiscal accounting.

1           And so my daughter had told me she'd drive me to  
2           an accountant she knew in Placerville. But that was  
3           because I could not go myself. I had all these other  
4           injuries on top of -- which affects my MS. Every time  
5           something in my body happens, my MS then acts up. And so  
6           she had to come over here and lookup all my information.  
7           In fact, I missed two years, '05 and '06.

8           JUDGE MARGOLIS: Do you recall what -- what  
9           sparked you? I mean, what -- how did -- you told -- you  
10          testified as to when you learned of the problem, but how  
11          did you learn of the problem?

12          MS. WILKINSON: It was in the -- in the tax. I  
13          looked over to see why I am paying so much taxes, and I  
14          looked over the booklet, and it's -- that's when it said  
15          it about -- on the adjustments, that California does not  
16          tax social security. And I had just always assumed the  
17          State was just like the federal.

18          JUDGE MARGOLIS: Oh, okay.

19          MS. WILKINSON: I wasn't familiar with social  
20          security benefits at the time.

21          JUDGE MARGOLIS: And you're pretty sure that was  
22          in 2015 and not 2016 or 2014 or -- I just want to make  
23          sure that --

24          MS. WILKINSON: I'm reasonably sure, yes.

25          JUDGE MARGOLIS: Okay. I don't -- I don't think

1 I have any other questions at this time.

2 JUDGE STANLEY: Thank you. This is  
3 Judge Teresa Stanley. Judge Vassigh, do you have any  
4 questions?

5 JUDGE VASSIGH: Thank you. I do not.

6 JUDGE STANLEY: Okay. This is Judge Stanley  
7 again. I have a couple of follow-up questions.  
8 Ms. Wilkinson, you said your daughter helped you and that  
9 she lives in Placerville. So does that mean she does not  
10 live with you?

11 MS. WILKINSON: Correct.

12 JUDGE STANLEY: And when you told Judge Margolis  
13 that you had fallen and injured your knee and couldn't  
14 move for a while, that --

15 MS. WILKINSON: Oh, yes.

16 JUDGE STANLEY: That was -- when did that occur?

17 MS. WILKINSON: 2015.

18 JUDGE STANLEY: That was 2015. Okay. So does  
19 anybody live with you that --

20 MS. WILKINSON: No.

21 JUDGE STANLEY: -- can help you file a return?

22 MS. WILKINSON: No. They always -- they have to  
23 drive over here to help me, even now that I'm not allowed  
24 outside.

25 JUDGE STANLEY: Okay. If nobody has any further

1 questions, then what I'm going to do is turn back to  
2 Ms. Boukhalfa and allow you to make a closing statement.

3 MS. BOUKHALFA: Yes. Thank you. Mounia  
4 Boukhalfa here.

5

6

CLOSING STATEMENT

7 MS. BOUKHALFA: Well, as you see Ms. Wilkinson  
8 obviously meets both criteria for financial disability.  
9 Both her doctors state that she was not able to manage her  
10 financial affairs. She was diagnosed with MS in 1988.  
11 And this disease maintains a wide variety of symptoms,  
12 including pain, trouble walking, forgetfulness. Both her  
13 doctors also state that the impairment last longer than  
14 12 months, and we've seen that. She was diagnosed in  
15 1988, and there's no cure for MS.

16 Another important point is that Ms. Wilkinson is  
17 asking for a refund after mistakenly including her social  
18 security on her tax return. So she's actually asking for  
19 a refund of money that was rightfully hers. I believe,  
20 therefore, Ms. Wilkinson should receive a refund for the  
21 tax years 2007 until 2011.

22 Thank you.

23 JUDGE STANLEY: Thank you. This is Judge Stanley  
24 again.

25 Mr. Smith, you may proceed.

1 MR. SMITH: Thank you. This is Joel Smith.

2

3

CLOSING STATEMENT

4

5 MR. SMITH: The issue on appeal as has been  
6 stated is whether the statute of limitations to file a  
7 claim for refund was suspended under Revenue and Taxation  
8 Code Section 19316, such that Appellant filed timely  
9 claims for refund for the 2007 through 2011 tax years.

10 Appellant timely filed California tax returns for  
11 the 2007 through 2011 tax years. Then on  
12 April 15th, 2017, Appellant filed amended tax returns  
13 claiming overpayments for all five tax years. Respondent  
14 accepted the amended tax returns but could not issue  
15 refunds as requested because the overpayments were barred  
16 by the statute of limitations. California law requires a  
17 taxpayer file a claim for refund within four years of the  
18 date a timely return is filed, or one year from the date  
19 of payment, whichever is later.

20 Unfortunately, Appellant did not file her claims  
21 for refund within the statutory period. On appeal,  
22 Appellant argues the statute of limitations to claim a  
23 refund should be suspended due to financial disability,  
24 under Section 19316. To be considered financially  
25 disabled, a taxpayer must show that he or she is unable to  
manage their financial affairs due to a physical or mental

1 impairment that is considered terminal or expected to last  
2 for a continuous period of at least 12 months.

3 Admittedly, this is a high standard imposed by  
4 the legislature. Under Section 191316, financial  
5 disability shall be established in accordance with  
6 procedures and requirements specified by Respondent. As  
7 explained in the Appeal of Meek, a precedential BOE  
8 decision, Respondent properly exercised its authority by  
9 creating Form 1564 to assist taxpayers in making a  
10 financial disability claim.

11 Form 1564 requires an affidavit from a physician  
12 that indicates the duration for which the physician  
13 believes the taxpayer was unable to manage his or her  
14 financial affairs. Here, Respondent does not question the  
15 voracity of Appellant's documented physical ailments.  
16 However, as shown in Respondent's Exhibit A, Appellant's  
17 history of self-preparing her own tax returns and timely  
18 filing them every year during the period of time she  
19 argues she was financially disabled, suggest she was able  
20 to manage her financial affairs during the relevant time  
21 period.

22 Appellant claims she was financially disabled  
23 from April 1st, 2007, to at least May 1st, 2019. This  
24 time period started more than one year before Appellant  
25 prepared and filed her original 2007 tax return and ended

1 more than two years after she engaged a tax professional  
2 to file the amended tax returns at issue in this appeal.  
3 Also, there appears to be inconsistencies with Appellant's  
4 physician affidavits. I'll refer to some of the exhibits  
5 to make this point.

6 Appellant initially submitted an affidavit from  
7 Dr. Shafer to Respondent on May 30th, 2019. This is  
8 marked as Respondent's Exhibit G. I direct your attention  
9 to page 6 at the bottom on Number 5. Dr. Shafer left the  
10 time period blank where he needed to state when Appellant  
11 was prevented from managing here financial affairs. And  
12 Dr. Shafer signed the affidavit on March 19th, 2019.

13 Appellant later submitted to the OTA what appears  
14 to be a duplicate affidavit from Dr. Shafer also signed on  
15 March 19th, 2019. This is marked as Appellant's  
16 Exhibit 5. The date range of April 1st, 2007, to  
17 May 1st, 2019, is handwritten on this version of the  
18 affidavit. Note, the end date of May 1st, 2019, is more  
19 than one month after Dr. Shafer signed the affidavit.

20 Dr. Anderson's affidavit, which is marked as  
21 Appellant's Exhibit 2, is also postdated. Dr. Anderson  
22 signed the affidavit on March 29th, 2019. But the end  
23 date for Appellant being unable to manage her financial  
24 affairs is one month later, on May 1st, 2019. Based on  
25 this information, Respondent determined the affidavits do



1 not meet the Section 19316 requirements.

2 To summarize, during the period of time Appellant  
3 argues she was unable to manage her financial affairs, she  
4 prepared and timely filed tax returns every year, engaged  
5 a tax professional to file amended tax returns, filed the  
6 appeals in this matter and submitted multiple Form 1564s.  
7 Financially disabled is a term specifically defined under  
8 Section 19316, and Appellant has not shown she meets that  
9 definition. As such based on Appellant's filing history  
10 and other evidence in the record, Respondent request you  
11 sustain its position.

12 I can answer any questions the panel has. Thank  
13 you.

14 JUDGE STANLEY: Thank you.

15 This is Judge Stanley. Ms. Boukhalfa, do you  
16 have any questions for Mr. Smith.

17 MS. BOUKHALFA: I don't have any questions, but I  
18 would like to add something if that's possible.

19 JUDGE STANLEY: Yes. I'm going to turn it back  
20 to you to address, hopefully, the issues that Mr. Smith  
21 has raised today.

22 MR. SMITH: Excuse me this is Joel Smith. It's  
23 my understanding that the parties are not to ask each  
24 other questions. Is that somehow different for this  
25 hearing?

1 JUDGE STANLEY: How is it -- this is  
2 Judge Stanley. I don't understand what you're saying.

3 MR. SMITH: It's been my experience that the  
4 counsel from either -- from both parties are not -- do not  
5 ask each other questions.

6 JUDGE STANLEY: Well, she's not asking you any  
7 questions for starters, and we have the authority to  
8 conduct the hearing in any manner that is helpful to the  
9 panel to make a decision and get all the relevant facts in  
10 this case.

11 So I will ask also, before I turn back to you  
12 Ms. Boukhalfa, I will ask Judge Margolis, do you have any  
13 questions for the Franchise Tax Board?

14 JUDGE MARGOLIS: Yes, I do.

15 Mr. Smith, FTB's position in this case is that if  
16 the taxpayer is able to file returns, they can't -- they  
17 don't qualify for relief under financial disability. It's  
18 that simple; isn't it?

19 MR. SMITH: No. That's not the determinative  
20 factor on this. It's kind of an analysis of all the facts  
21 and circumstances. In particular, it's the fact that the  
22 physician affidavit required under Section 193 16, that --  
23 that particular element has not been met. It's not one  
24 specific -- it's not the filing of returns. It's -- it's  
25 looking at all the facts.

1           JUDGE MARGOLIS: Okay. I think that when we get  
2 back to the taxpayer, I think my -- my guess is that she  
3 was going to address that issues about the dates. But  
4 we'll find out in a bit. A couple of more questions for  
5 you.

6           At what time must be the taxpayer be disabled?  
7 You know, for example, you know, a taxpayer has got four  
8 years to amend its return -- his or her return. If you --  
9 I guess theoretically, you can wait until the last minute,  
10 but there's nothing wrong with that. What happens if you  
11 get disabled the month before the four years runs? It --  
12 what -- doesn't that count as a disability because during  
13 the, you know, wouldn't you still be disabled?

14           Would you look to the whole four-year period and  
15 say, "Well, you could have filed this, you know, in year  
16 one rather than in the last month. And by waiting until  
17 the last month, you don't qualify for disability."

18           I'm just wondering what the FTB's position there  
19 is. You know, what's the relevant time period you look at  
20 for being disabled in the context to the claim for refund?

21           MR. SMITH: Right. No. This can't be like an  
22 FTB -- this is not Respondent's position. This is  
23 directly from the Revenue and Taxation Code 19316. And it  
24 is that the period to file a claim for refund is suspended  
25 from the beginning of the financial disability determined

1 with the physician's affidavit.

2 So in your example of one month left, you know,  
3 Respondent's position is not going to be, "Well, you  
4 should have done this in the three years prior." The time  
5 period will be suspended as of that one month remaining.  
6 And then if the taxpayer is determined to be financially  
7 disabled for two years, when that financial disability  
8 time period is complete, two years afterwards the taxpayer  
9 would then have one month from that point to file claims  
10 for refund.

11 Does that make sense?

12 JUDGE MARGOLIS: Yeah. It does. Okay. Thanks  
13 for explaining that. And then I guess I have one more  
14 question. Well, maybe two. So when I read the statute  
15 19316 or -- it talks about the taxpayer being disabled.  
16 And I'm wondering, you know, if the taxpayer is relying on  
17 relatives, does that mean she's not -- if she has  
18 relatives that are willing to help her, does that mean  
19 she's not disabled? Or I mean, can you look at a  
20 taxpayer's support group or the fact that they may be  
21 wealthy enough to hire professionals? Or do you just look  
22 at the taxpayer's disabilities?

23 MR. SMITH: No. It's only a consideration of the  
24 taxpayer's disabilities. In 19316(b)(2), that's the only  
25 thing where -- what someone else has authority to do might

1 matter. And under (b) (2), I mean, a taxpayer is not  
2 financially disabled if someone is legally authorized to  
3 act on his or her behalf on financial matters.

4 JUDGE MARGOLIS: Okay.

5 MR. SMITH: So we have --

6 JUDGE MARGOLIS: So the fact is that --

7 MR. SMITH: I'm sorry.

8 JUDGE MARGOLIS: The fact that the taxpayer  
9 testified -- I'm sorry for talking over you. You can  
10 continue, Mr. Smith. Go ahead.

11 MR. SMITH: No. No. So I was just going to  
12 conclude that the wealth or lack of wealth of a taxpayer  
13 or anything that has no bearing or, you know, who's around  
14 to help or close or how far they are that -- that's not a  
15 consideration.

16 JUDGE MARGOLIS: Okay. Thank you. And -- but  
17 for the date issue in these affidavits, is that the --  
18 otherwise these affidavits would be sufficient if the  
19 dates had been -- if the problems you identified with  
20 respect to the dates and the medical affidavits, if they  
21 weren't there, would the affidavits be sufficient?

22 MR. SMITH: You're asking if the dates weren't  
23 there meaning that -- I mean --

24 JUDGE MARGOLIS: No. The dates were --

25 MR. SMITH: -- that's oftentimes what happens

1 that the dates are blank.

2 JUDGE MARGOLIS: -- if the periods reflected in  
3 the affidavits had been filled in on, you know, I think  
4 one -- we have two identified affidavits. One where the  
5 periods are filled in, and one where they are not. If  
6 they had filled in on those, and the date and the terminal  
7 date had been the date he -- the doctor signed it, would  
8 there be any -- would you -- would FTB have found those  
9 afterwards sufficient for purposed of 19316?

10 MR. SMITH: Respondent's -- the date doesn't have  
11 to be when the taxpayer or when the doctor signs it.  
12 If -- I mean, if the there are other affidavits to  
13 consider, Respondent would consider them. The ones that  
14 are before us, that are the exhibits in this appeal, do  
15 not meet the standards under 19316.

16 JUDGE MARGOLIS: They don't meet the standards.  
17 Okay. I thought -- I thought the reason you said they  
18 don't meet the standards was because of the date issue.  
19 What is -- do you have a -- is there -- do you think that  
20 her medical condition is not sufficient for purposes --  
21 you think that her medical condition is not sufficient for  
22 purposes of finding her financially disabled? Or is it a  
23 problem with the signatures and dates on the affidavits?  
24 I'm trying to figure that out.

25 MR. SMITH: No. It's -- I mean, I'm not in a

1 position to tell the doctor what someone's ailments are,  
2 someone who I've never met before. It's the affidavit as  
3 a whole that is considered. On these particular  
4 affidavits, the dates and the issues surrounding them are  
5 an issue. And this is oftentimes an issue on these Form  
6 1564s, because doctors leave -- leave them blank. So I'm  
7 not -- as I stated, I'm not challenging the medical  
8 history of the Appellant at all.

9 JUDGE MARGOLIS: Are you -- okay. But I guess  
10 what I'm hearing from -- what I heard from you, it's my  
11 understanding is -- that you were saying that the  
12 principal issue with the insufficiency of the affidavits  
13 related to the dates is there any -- what's -- is there  
14 any other insufficiencies with respect to the affidavits?

15 MR. SMITH: On the ones that I have been  
16 provided, no. However, every element of the affidavit  
17 needs to be sufficient. So just having one part of the  
18 affidavit not meet a standard doesn't mean that the whole  
19 affidavit should be accepted. I'm not -- I'm not entirely  
20 clear what hypothetical we're trying to create here.

21 JUDGE MARGOLIS: Okay. I was just trying to zero  
22 in on the deficiencies in the affidavit. I -- if you have  
23 nothing further, neither do I then.

24 JUDGE STANLEY: Thank you, Judge Margolis. This  
25 is Teresa Stanley. Judge Vassigh, do you have any

1 follow-up questions?

2 JUDGE VASSIGH: Hi, this is Judge Vassigh. I do  
3 not have any follow-up questions for Respondent. I might  
4 for Appellant. I'm waiting to see how Appellant addresses  
5 this issue.

6 JUDGE STANLEY: Thank you. This is  
7 Judge Stanley.

8 Ms. Boukhalfa, I'm going to turn it back to you.

9 MS. BOUKHALFA: Thank you. Mounia Boukhalfa  
10 here.

11

12

REBUTTAL STATEMENT

13 MS. BOUKHALFA: I'm not sure if I understand  
14 Mr. Smith very well, but I think the submitted Form 1564  
15 does meet the standards. I mean, it's -- it's signed, and  
16 we see that it's within the period of the statute of  
17 limitations where she was financially disabled. And both  
18 doctors also state that she was not able to manage her  
19 financial affairs within that period.

20 Once again, Mr. Smith also states that she was  
21 able to manage her financial affairs because she filed her  
22 taxes. I believe that leaving your house once a year to  
23 file your taxes does not establish that the taxpayer was  
24 able to manage here financial affairs. We see that she  
25 needed the assistance of family. And she indeed contacted



1 a professional because she was not able to do it herself,  
2 and she just wanted to make sure that she did everything  
3 within time.

4 And it takes a lot of planning for her to do  
5 that. It's not something that she can easily do. She  
6 needs to contact her family. She needs to contact the  
7 professional and makes sure that the family goes with here  
8 and everything due to her medical condition.

9 Thank you.

10 JUDGE STANLEY: Okay. Judge Margolis, do you  
11 have any follow-up questions for Appellant?

12 JUDGE MARGOLIS: I do. I think that -- why  
13 weren't the dates filled in on one affidavit from  
14 Dr. Shafer, but they were filled in on the other one?  
15 That's my main question, I guess. And with respect to the  
16 other affidavit, I guess, I don't -- did the doctor fill  
17 in the dates, or did the taxpayer or someone besides the  
18 doctor fill in the dates?

19 MS. BOUKHALFA: From what I know, it's that the  
20 doctor filled out the dates.

21 MS. WILKINSON: Could I answer that? This is  
22 Darlene Wilkinson speaking.

23 JUDGE MARGOLIS: Yes, please.

24 MS. WILKINSON: I believe his medical assistants,  
25 which are not really registered nurses, filled most of it

1 out. And this form was not to be given to me by -- this  
2 was given to me by the attorney, the TAAP attorney prior  
3 to Mounia Boukhalfa. This -- he just gave it to me that  
4 year. That's why this Mr. Smith is taking up on the date.  
5 That's why it's so late. I didn't know there was such a  
6 form because my computer is -- does not function. It's  
7 very old. So I didn't know, and that's why that came in  
8 later.

9 But on these doctor reports, Dr. Shafer is the  
10 head of the MS Center. He's pretty prominent and  
11 well-known around here and even in other states. He  
12 doesn't have the time, I suppose, to fill out all of the  
13 forms like this, and so he has to have some -- one of his  
14 MAs, they call them, to help him with that, to do that.

15 JUDGE MARGOLIS: Okay. There was something else  
16 you wanted to add earlier. Is there anything else you  
17 wanted add? I just want to make sure you have an  
18 opportunity to say whatever you want, Ms. Wilkinson.

19 MS. WILKINSON: Well, on some of the dates, I  
20 believe they wanted me to put some in. That's why some  
21 were left blank because they sent it to me after the  
22 doctors signed these. They sent it to me to add anything  
23 I could add. But I wasn't even sure how to fill it out,  
24 and I couldn't get ahold of the attorney there at TAAP to  
25 help me. This was before Mounia.

1           So I didn't quite know, but I do know that even  
2 back in '07 I have medical proof I had fractured -- two  
3 fractures in my thoracic. I couldn't even move my arms  
4 hardly without screaming with pain and spasming. So that  
5 was -- anyway, that was the reason that form was dated --  
6 you said 2019. I didn't even know it was that far up.

7           JUDGE MARGOLIS: Okay. Mr. Smith, just to make  
8 clear the way the suspension works. So if during the  
9 four-year period to file a claim for refund, in years two  
10 and three she was disabled, she would still get two years  
11 added onto the end of the four years; is that correct?

12           MR. SMITH: I'm trying to think this through in  
13 my head here your scenario. So you're saying at, like,  
14 the start of year two to determine financially disabled  
15 and then at the end of year three she's determined  
16 financially disabled, sort of that period is determined to  
17 be over?

18           JUDGE MARGOLIS: Yes.

19           MR. SMITH: So yeah, in essence you would -- you  
20 would have like three years. Because when you became  
21 financially disabled there was still three years left on  
22 the four-year window. So I think we're saying the same  
23 thing that when the financial disability ends, you'd have  
24 three more years. It also could be, you know, considered  
25 two more years after the year four comes to a close, but

1 that's how that would be determined.

2 JUDGE MARGOLIS: Okay. Thanks. I have no  
3 further questions.

4 JUDGE STANLEY: Thank you. This is  
5 Judge Stanley. Judge Vassigh, do you have any questions?

6 JUDGE VASSIGH: No, I don't. Thank you.

7 JUDGE STANLEY: Okay. Ms. Boukhalfa, have you  
8 concluded your presentation at this time?

9 MS. BOUKHALFA: I have. Thank you.

10 JUDGE STANLEY: Okay. So this will conclude the  
11 hearing today. The judges will be meeting and deciding  
12 the case based on the documents and the testimony that was  
13 present. The record is closed at this time, and the  
14 Office of Tax Appeal will mail a written decision no later  
15 than 100 days after the close of this hearing.

16 I want to thank you all for participating and  
17 talking slowly and clearly so that we can capture every  
18 word. And there are no more cases on today's calendar.  
19 So we will adjourn the hearing. Thank you all for  
20 participating.

21 (Proceedings adjourned at 10:39 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 2nd day of April, 2020.

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ERNALYN M. ALONZO  
HEARING REPORTER