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HEARING
OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Franchise
Income Tax Appeals Hearing of:

MARCO ANGULO SANCHEZ and
MARTHA CISNEROS ANGULO,

OTA Case No. 19054809

Appellants.

_____ /

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, FEBRUARY 27, 2020

10:57 A.M.

OFFICE OF TAX APPEALS
855 M STREET, SUITE 960
FRESNO, CALIFORNIA 93721

Reported by JANA A. GUNTER, CSR No. 7589

1 APPEARANCES

2
3 Panel Lead:

4 ANDREW KWEE, ADMINISTRATIVE LAW JUDGE
5 STATE OF CALIFORNIA
6 OFFICE OF TAX APPEALS
855 M STREET, SUITE 960
FRESNO, CALIFORNIA 93721

7 Panel Members:

8 TERESA STANLEY, ADMINISTRATIVE LAW JUDGE
9 SUZANNE BROWN, ADMINISTRATIVE LAW JUDGE

10 For Appellants:

11 MARCO ANGULO SANCHEZ, MARTHA CISNEROS ANGULO,
12 MARVIN ANGULO

13 For the Department of Tax and Fee Administration:

14 MARIFLOR JIMENEZ, HEARING REPRESENTATIVE
15 JASON PARKER, HEARING REPRESENTATIVE
16 CHRISTOPHER BROOKS, TAX COUNSEL
400 R Street
West Sacramento, California 95798

17 Also Present:

18 DANA HOLMES, OMBUDSWOMAN
19 OFFICE OF TAX APPEALS

20 ROMINA ZARAGOZO, SPANISH INTERPRETER
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23
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THURSDAY, FEBRUARY 27, 2020 - 10:57 A.M.

ALJ KWEE: Let's start by going on the record. I'll note as a preliminary matter that we have a Spanish-English interpreter today, so I'm going to start by swearing in the interpreter. Okay?

Would you raise your hand?

ROMINA ZARAGOZO,
placed under oath by the Administrative Law Judge,
acted as Spanish interpreter for
MARCO ANGULO SANCHEZ.

ALJ KWEE: So, I think we're ready to start.

Good morning everyone and welcome to the Office of Tax Appeals. Today's proceeding will be recorded, and a Certified Shorthand Reporter will be transcribing everything that is said today. The transcript will become a part of the public record, and it will be available on our website after the hearings.

In addition, since we have an interpreter today, please remember to speak slowly and clearly into your microphones.

So, we're going to be opening the record now in the appeal of Marco and Martha Angulo, doing business as

1 Marquis Auto Sales, and that's before the Office of Tax
2 Appeals. The case number is 19054809. Today's date is
3 Thursday, February 27th, 2020. The time is approximately
4 11:00 a.m., and today's hearing is being convened in
5 Fresno, California.

6 So, today's hearing is going to be held before a
7 panel of three administrative law judges. My name is
8 Andrew Kwee, and I'm the lead administrative law judge.

9 Judge Teresa Stanley and Suzanne Brown are the
10 other members of this panel. All three judges will meet
11 after the hearing and produce a written decision. As the
12 participants, although the lead judge, myself, will conduct
13 the hearing today, any judge on this panel may participate
14 as an equal participant and ask questions to ensure we have
15 all the information needed to decide this appeal.

16 For the record, will the parties at the table
17 please state their names and who they represent, starting
18 with the tax agency?

19 MS. JIMENEZ: Good morning, Panel Lead and
20 Members. My name is Mariflor Jimenez. To my left is
21 Jason Parker and to his left is Christopher Brooks. We're
22 all representing CDTFA.

23 ALJ KWEE: Okay. Thank you.

24 And for the taxpayer?

25 THE INTERPRETER: (Interprets to Witness.)

1 MR. MARCO ANGULO: My name is Marco Angulo.

2 (Inaudible.)

3 THE REPORTER: I'm sorry. What? I can't hear
4 you. I got your name.

5 MR. MARCO ANGULO: Marco Angulo.

6 THE REPORTER: I thought you said something else.

7 (Discussion in Spanish between Interpreter and Taxpayer.)

8 THE INTERPRETER: "Marco Angulo, Marquis Auto
9 Sales."

10 THE REPORTER: Okay.

11 MS. ANGULO: Martha Angulo.

12 MR. MARVIN ANGULO: My name is Marvin Angulo, here
13 with my parents as a representative.

14 ALJ KWEE: Okay. And my understanding is that you
15 will have three witnesses testify today, which is Marco,
16 Martha, and Marvin; is that correct?

17 MR. MARVIN ANGULO: (Nods head.)

18 MR. MARCO ANGULO: Correct.

19 ALJ KWEE: And just a quick clarification. I
20 understand Martha and Marco were the owners of the
21 business, but I don't believe I have the title or role of
22 Marvin in the business.

23 So, if I can get your role or title?

24 THE INTERPRETER: (Interprets to Witness.)

25 MR. MARVIN ANGULO: I was a manager.

1 ALJ KWEE: Okay. Thank you.

2 Does CDTFA have any objection to hearing the
3 testimony from the three witnesses?

4 MS. JIMENEZ: No, we don't.

5 ALJ KWEE: Okay. And my understanding is that
6 CDTFA has no witnesses of their own to call; is that
7 correct?

8 MS. JIMENEZ: That is correct.

9 THE INTERPRETER: (Interprets to Witness.)

10 ALJ KWEE: Okay. So, on the exhibits, I would
11 note that we received from the taxpayer some additional
12 documents on February 12, 2020. So, the taxpayer submitted
13 seven exhibits. The first four are included in the Minutes
14 and Orders.

15 The first was a list of repossessed vehicles; the
16 second one was a second list of repossessed vehicles; the
17 third one was a Notice of Revocation; and the fourth one
18 was a Bankruptcy Order. Those are the original
19 submissions.

20 And then after that we received three additional
21 documents last week, or 2 weeks ago. Exhibit 5 was a
22 bankruptcy document; Exhibit 6 were loan documents; and
23 Exhibit 7 were documents for the entire case.

24 And I just want to make clear that Exhibit 6 and
25 7, the loan documents, and the documents for the other

1 case, those pertain to a different prior audit period with
2 Judge Teresa Stanley. That's a separate case we'll be
3 hearing later today. I transferred those documents to that
4 other appeal; so, they're not considering those two
5 documents, Exhibit 6 and Exhibit 7, in this appeal today.

6 And I just wanted to make the parties -- make sure
7 the parties understood what I did, and if there are any
8 objections or concerns with that.

9 Does CDTFA have any objections?

10 THE INTERPRETER: (Interprets to Witness.)

11 MS. JIMENEZ: We have no objections.

12 ALJ KWEE: And does the taxpayer have any
13 objections?

14 MR. MARVIN ANGULO: Yes. On that, would be it --
15 because this one was at a later date, it was carried over
16 to the bankruptcy, as opposed to the other case, which was
17 earlier -- maybe it was earlier in the time.

18 ALJ KWEE: Right. So, this case today, right
19 now -- I mean, this case that we're doing right now is 2012
20 to 2015. The other case was 2009 to 2011.

21 And my understanding is that the intended
22 documents were -- for the 2009 and the 2011 -- were for
23 that other period, which is in addition to this appeal.
24 So, that's why I sent those documents to be considered in
25 the other appeal, where I thought they would be more

1 relevant.

2 I just wanted to make sure that was what you
3 intended or if you had any concerns.

4 MR. MARVIN ANGULO: It would just be that -- just
5 to see, you know, after all this is resolved in a
6 bankruptcy.

7 THE INTERPRETER: (Interprets to Witness.)

8 ALJ KWEE: Okay. So, you do want the exhibits in
9 this case?

10 MR. MARVIN ANGULO: (Nods head.)

11 ALJ KWEE: Okay. But you also want them in the
12 other case?

13 MR. MARVIN ANGULO: Both of them.

14 ALJ KWEE: Okay. So, then, I will strike my prior
15 order, unless the CDTFA has an objection to my going back
16 and keeping the exhibits?

17 MS. JIMENEZ: No objection.

18 ALJ KWEE: Okay. So, then we will remain with
19 Exhibits 1 through 7 for the taxpayer and Exhibits A
20 through H for CDTFA. I believe you have a copy in front of
21 you.

22 THE INTERPRETER: (Interprets to Witness.)

23 ALJ KWEE: Did the taxpayer have any concerns with
24 the tax agency's exhibits?

25 (Discussion in Spanish between Interpreter and Taxpayer.)

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THE INTERPRETER: "All good."

ALJ KWEE: Okay. So, with that said, Exhibits A through H for CDTFA and 1 through 7 for the taxpayer are hereby entered into the record. We'll be able to consider all the documents before us.

(Appellants' Exhibits 1-7 admitted into evidence.)

(CDTFA's Exhibits A-H admitted into evidence.)

ALJ KWEE: Does either party have any additional exhibits to add before we move on?

(Discussion in Spanish between Interpreter and Taxpayer.)

THE INTERPRETER: "No."

MS. JIMENEZ: No, we don't.

ALJ KWEE: Okay. We're good with the exhibits.

With that said, I believe we're ready to go over -- before I start, I'm going to say that the issue that we're hearing today is whether any adjustments are warranted to the liability as determined by CDTFA. So, with that said, we'll start with the taxpayer.

What we're going to do today is, the taxpayer is going to have a chance to do an opening presentation, CDTFA will have a chance to do their opening presentation, and then each party will have rebuttal.

So, with that said, I'll turn it over to Taxpayer for the opening presentation.

Before I do that, I would like to swear them in.

1 So, I would ask to swear them in one at a time.

2 I'll start with Mr. Marco Angulo.

3 THE INTERPRETER: (Interprets to Witness.)

4

5 MARCO ANGULO SANCHEZ,

6 placed under oath, through the interpreter,

7 by the Administrative Law Judge,

8 was examined and testified as follows:

9 --- and ---

10 MARTHA CISNEROS ANGULO and MARVIN ANGULO,

11 also placed under oath by the

12 Administrative Law Judge, testified as follows:

13

14 ALJ KWEE: Thank you. With that said, I'll turn
15 it over to the taxpayers' representatives and witnesses,
16 and they may go ahead and provide their opening
17 presentation for today's hearing.

18 (Discussion in Spanish between Interpreter and Taxpayer.)

19 THE INTERPRETER: "So, in the audit that they did,
20 I felt good because the person, whoever did it, spoke
21 Spanish. And I explained to them that they were doing it
22 wrong because they were putting down the quantity that I
23 made, not the quantity that I was making -- that I was
24 receiving."

25 MR. MARVIN ANGULO: On that, a clarification was

1 they were doing it as -- they were filing taxes on accrual
2 as opposed to cash, and mostly everything was done in cash.
3 But when they came in and audited it, they did it as if
4 accrual; they had all the taxes all added up, even if it
5 was none received.

6 (Discussion in Spanish between Interpreter and Taxpayer.)

7 THE INTERPRETER: "Most of those cars, they were
8 repo 'd, and they were not paid.

9 "And then the finances, Finance and Thrift and the
10 Lobel Financial, they would finance them, but they would
11 have to record them."

12 MR. MARVIN ANGULO: "Recourse."

13 THE INTERPRETER: "Recourse." Thank you.

14 (Discussion in Spanish between Interpreter and Taxpayer.)

15 THE INTERPRETER: "So, when they audit them, they
16 had to record all the cars, but most of the cars were not
17 paid."

18 ALJ KWEE: Okay.

19 (Discussion in Spanish between Interpreter and Taxpayer.)

20 THE INTERPRETER: "So, this is a way, how we did
21 our taxes, all the time, of the cars that we sold, but not
22 that we received.

23 "So, it was always 30, 40 percent of the money
24 that was paid, and that's how we were doing it since 1993
25 since we opened the business."

1 ALJ KWEE: Okay. Is that all?

2 (Discussion in Spanish between Interpreter and Taxpayer.)

3 THE INTERPRETER: "Yes."

4 ALJ KWEE: I did have one question about that,
5 because I believe there are two audits.

6 And the earlier audit period that's not at issue
7 right now, the CDTFA looked at the bankruptcy.

8 But in the current audit, the '12 to '15, my
9 understanding was that CDTFA looked at vehicle reports that
10 were filed as sales with the Department of Motor Vehicles.

11 So, I understand the argument about there being
12 repossessions, and the taxpayer is entitled to a bad-debt
13 deduction for the vehicle repossessions, but I'm not
14 understanding how the sales -- the accrual versus
15 cash-basis argument is relevant here, because it seems like
16 the audit was picking up sales that were reported with DMV.
17 So, it wasn't looking at returns. It was looking at what
18 the taxpayer reported as making sales to the DMV.

19 So, I was wondering if you could clarify that, or
20 if that was intended to refer to the other argument -- the
21 other audit periods.

22 (Discussion in Spanish between Interpreter and Taxpayer.)

23 THE INTERPRETER: "So, what we reported to the
24 DMV, we paid, but that does not mean that the clients paid
25 to us."

1 ALJ KWEE: Okay. And that is the issue with the
2 bad debts; is that correct?

3 (Discussion in Spanish between Interpreter and Taxpayer.)

4 THE INTERPRETER: "And then once they did the
5 audit for this -- so, most of what was owed, we were not
6 paid."

7 ALJ KWEE: Okay. Thank you.

8 I'll ask my panel members if they have follow-up
9 questions?

10 I'll start with Teresa.

11 ALJ STANLEY: Thank you.

12 I was just wondering, with respect to your
13 Exhibit 1 and Exhibit 2 -- which both have lists of
14 repossessed automobiles, and then they have associated
15 amounts -- were those the entire amounts? Or was it just
16 the amount that was uncollected? I'm not understanding
17 what these amounts reflect.

18 (Discussion in Spanish between Interpreter and Taxpayer.)

19 THE INTERPRETER: "So, repos, repossess, the
20 finance company would repossess them, and then they would
21 sell them."

22 ALJ STANLEY: One moment please.

23 The interpreter, I'm not hearing; you're talking
24 very softly right now.

25 THE INTERPRETER: Sorry.

1 (Discussion in Spanish between Interpreter and Taxpayer.)

2 THE INTERPRETER: "So, the finance companies would
3 repossess them, but then we would not receive money. So,
4 most of those cars, they would not return those to me. And
5 we also do not get money."

6 ALJ STANLEY: So, do these amounts then reflect
7 money that was never received?

8 (Discussion in Spanish between Interpreter and Taxpayer.)

9 THE INTERPRETER: "I never received that money.
10 And on this amount (indicating), I did not receive. And a
11 lot of those were cars that I would refinance."

12 MR. MARVIN ANGULO: "In-house." "In-house
13 financing."

14 ALJ KWEE: So, just to be clear, the "repo" is a
15 repossession by the finance company, and the "BBK" is a
16 buyback also from the finance company?

17 Is that what you were saying?

18 (Discussion in Spanish between Interpreter and Taxpayer.)

19 THE INTERPRETER: "So, some of those were through,
20 like, the refinance company, and then others I would
21 refinance on my own. And a lot of the cars I would not --
22 I did not find and some -- and they were not refinanced."

23 ALJ KWEE: Okay. But this document is entitled --
24 it's from Lobel Financial.

25 So, are you saying that there are additional ones

1 that you financed that aren't included on this list?

2 THE INTERPRETER: Can you repeat that? I'm sorry.

3 ALJ KWEE: So, this exhibit that we have, lists
4 documents from Lobel Financial.

5 So, are you claiming that this is the total of
6 your bad debts?

7 Or are you claiming that there are additional
8 undocumented bad debts, where you financed the purchase
9 yourself, that aren't included in the Lobel Financial
10 document?

11 (Discussion in Spanish between Interpreter and Taxpayer.)

12 THE INTERPRETER: "So, when they did the audit,
13 these were it."

14 MR. MARVIN ANGULO: There was also a lot of
15 paperwork -- that we gave the people for audits -- we never
16 received back. They were going to take them for copies,
17 and a lot of those paperwork, we never got back. So, this
18 is all that remained. But a lot of those times, in the
19 audits, a lot of the paperwork was given to them to show,
20 and we never got those papers back.

21 So, there was more than this, but this is all we
22 had with us.

23 ALJ KWEE: Okay. And you said that you gave it to
24 the people. Are you referring to, you gave it to CDTEFA?
25 Or you gave it to the customer? Or you gave it to some

1 other --

2 Who did you give it to?

3 (Discussion in Spanish between Interpreter and Taxpayer.)

4 THE INTERPRETER: "So, when they did the audit,
5 these are the ones that remained (indicating)."

6 ALJ KWEE: Okay. I understand.

7 Judge Brown, did you have any questions?

8 ALJ BROWN: Not at this time.

9 ALJ KWEE: And are you good?

10 ALJ STANLEY: (Nods head.)

11 ALJ KWEE: So, at this point I'm going to turn it
12 over to the California Department of Tax and Fee
13 Administration to do their own presentation.

14 MS. JIMENEZ: Thank you.

15 The appellants were a husband-and-wife partnership
16 that operated from October 1st, 2008, to March 31st, 2017.
17 They ran a used-car dealership with a small auto-repair
18 shop in Tulare, California. The audit is from July 1st,
19 2012, through June 30th, 2015.

20 With this audit, the appellants offered limited
21 documents to support reported amounts. The only records
22 provided during the audit period were federal income tax
23 returns for years 2013 and 2014, dealer car jackets, sales
24 invoices for the repair shop, and purchase invoices.

25 THE INTERPRETER: (Interprets to Witness.)

1 MS. JIMENEZ: The appellants did not provide a
2 sales journal or summary records of sales, so we are unable
3 to verify the method of reporting.

4 The Department obtained DMV vehicle registration
5 data for the audit period, establishing taxable sales of
6 \$848,945. That will be on your Schedule 12-B, page 55, of
7 our exhibits.

8 Registered vehicles with DMV were traced to sales
9 jackets and vice versa. This procedure established
10 additional sales of 30 vehicles not included in the DMV
11 sales download, which totals to \$94,151. That's on your
12 schedule 12-C, page 56. These 30 vehicles were not
13 registered with the DMV by the appellants.

14 In summary, the audit established audited vehicle
15 taxable sales of \$943,096.

16 THE INTERPRETER: (Interprets to Witness.)

17 MS. JIMENEZ: As I mentioned earlier, the
18 appellants also operated a small repair shop to repair
19 vehicles in inventory. In some locations, they also
20 provided minor repair services to the public. Based on the
21 repair shop invoices, the Department established sales of
22 parts totaling \$3,032 for the audit period.

23 To compute the unreported taxable sales, we added
24 the taxable vehicle sales, plus the audited taxable sales
25 of auto parts, to arrive at \$946,128. We then compared

1 that amount to the reported taxable sales of \$754,168 to
2 establish the unreported taxable sales of \$191,960 for the
3 audit period. That will be on your Schedule 12-A, page 49,
4 line 24.

5 Appellants provided supporting documentation for
6 bad debts during the audit period. They did not claim any
7 bad-debt deductions on the sales-and-use tax returns or on
8 their income tax returns. The Department calculated a
9 credit for bad debts based on sales where Petitioner
10 provided their own financing.

11 THE INTERPRETER: (Interprets to Witness.)

12 MS. JIMENEZ: Appellants provided information on
13 sales of 40 vehicles, showing that the vehicles had been
14 repossessed and a loss sustained. That's on your schedule
15 12-F1 and at page 64. The Department scheduled sales on an
16 actual basis and used a pro rata method in accordance with
17 the guidelines provided by Regulation 1642, "Bad Debts," to
18 compute the allowable bad debts, totaling \$62,457 for the
19 audit period. Since Appellants did not claim any
20 deductions for bad debts, the \$62,457 was allowed as a
21 credit in the audit.

22 THE INTERPRETER: (Interprets to Witness.)

23 MS. JIMENEZ: As far as Exhibits 1 and 2, we noted
24 that Exhibit 1 items listed are also in Exhibit 2.

25 There is no dispute that appellants made sales to

1 customers to obtain financing from Lobel Financial.
2 However, there's no indication on the Lobel Financial list
3 that the appellants are eligible to a deduction for the bad
4 debts; specifically, appellants did not provide an Election
5 Statement showing that they were entitled to claim a
6 deduction for bad debts or any of the repossessed or
7 returned vehicles.

8 Additionally, there's no indication from the Lobel
9 Financial list as to when appellants sold each vehicle to
10 each customer and whether appellants paid sales tax on each
11 sale. As such, there is insufficient evidence to conclude
12 the appellants are entitled to a bad-debt deduction from
13 the Lobel Financial list.

14 THE INTERPRETER: (Interprets to Witness.)

15 MS. JIMENEZ: Subdivision E of Regulation 1642
16 explains that, "In support of deductions or claims for
17 credit for bad debts, a retailer must maintain adequate and
18 complete records showing, one, the date of the original
19 sale; two, the name and address of the purchaser; three,
20 the amount the purchaser contracted to pay; four, the
21 amount on which the retailer paid tax; five, the
22 jurisdiction where the local tax and district taxes were
23 allocated; six, all payments or other credits applied to
24 the account of the purchaser; seven, evidence that the
25 uncollectible portion of gross receipt on which tax was

1 paid actually has been legally charged off as a bad debt in
2 accordance with Regulation 1642; and, eight, the taxable
3 percentage of the amount charged off as a bad debt properly
4 allocable to the amount to which the retailer reported and
5 paid tax."

6 THE INTERPRETER: (Interprets to Witness.)

7 MS. JIMENEZ: Based on the evidence presented, the
8 Department concludes the audited taxable measure is
9 reasonable, fair, and accounts for all vehicles and parts
10 sold.

11 We also allowed a bad-debt credit in the amount of
12 \$62,457, plus a tax-paid purchase/resold for gasoline not
13 claimed, for \$5,039. Therefore, the applicant's appeal
14 should be denied.

15 This concludes my presentation. I'm available to
16 answer any questions.

17 ALJ KWEE: Yes. Thank you.

18 So, you indicated that the taxpayer didn't claim
19 bad debts on their federal returns.

20 MS. JIMENEZ: That's correct.

21 THE INTERPRETER: (Interprets to Witness.)

22 ALJ KWEE: But, also, that they only provided
23 returns for '13 and '14?

24 So, did CDTFA look at -- because the audit period
25 also included '12 and '15. Did they look at returns for

1 '12 and '15 to see if bad debts were claimed?

2 MR. PARKER: I don't believe we had the 2012 and
3 2015 income tax returns during the audit. So, it wouldn't
4 have indicated that they claimed any bad debt.

5 ALJ KWEE: So, then, the answer is no, you didn't
6 look at '12 or '15 returns in determining whether a
7 bad-debt deduction was allowable? I don't want to put
8 words in your mouth.

9 MS. JIMENEZ: Yes, that is correct.

10 THE INTERPRETER: (Interprets to Witness.)

11 ALJ KWEE: Okay. So -- and also with, I guess,
12 with the bad debts, because they claimed -- you know, once
13 it's charged off.

14 So, I'm wondering -- I'm not sure if some of these
15 might be eligible to '16 or '17. I'm not sure that might
16 be the case. Maybe I should turn to the taxpayer.

17 I'll ask the taxpayer: Did you claim any bad
18 debts on income tax returns for --

19 MR. MARVIN ANGULO: You know, the thing about
20 that -- as they said, there were no deductions. And it was
21 because they personally filed them themselves and were not
22 aware of how to file taxes properly. So, they claimed no
23 deductions, and there was many deductions.

24 THE INTERPRETER: (Interprets to Witness.)

25 MR. MARVIN ANGULO: Like, they said gas, but

1 there's a whole lot of deductions that were not claimed,
2 because they filed the taxes themselves, and they did not
3 know how to do it properly.

4 ALJ BROWN: When you say "they," do you mean --

5 MR. MARVIN ANGULO: My parents.

6 I'm a peace officer; believe me. They filed the
7 taxes by hand. There was no computer, no method. It was
8 all just by hand, by files and by books. So, that's where
9 a lot of the numbers looked inflated because they, you
10 know, were kind of guessing how to do it.

11 ALJ KWEE: Okay. When you're talking about the
12 returns, I was asking about federal income tax returns.

13 MR. MARVIN ANGULO: Uh-huh.

14 ALJ KWEE: And you're saying that the federal
15 income tax returns were also filed by your parents --

16 THE INTERPRETER: (Interprets to Witness.)

17 MR. MARVIN ANGULO: Yeah, because they were a sole
18 proprietor, so they filed federal and business together.

19 ALJ KWEE: Okay.

20 MR. MARVIN ANGULO: Yeah, because they're a sole
21 proprietor.

22 ALJ KWEE: And they didn't claim any bad debt?

23 MR. MARVIN ANGULO: Nothing, nothing at all.

24 And then they had, like, rent and utilities and
25 all this stuff, and nothing was claimed.

1 ALJ KWEE: Okay.

2 THE INTERPRETER: (Interprets to Witness.)

3 ALJ KWEE: And just for the taxpayer, also, a
4 quick follow-up.

5 Because I think CDTFA had mentioned that since
6 these were sales financed by a lender as opposed to
7 financed in-house, they were looking for some sort of -- an
8 Election that would have allowed you to claim.

9 And I'm just wondering, how did this work with
10 your lender? Did you get paid when the sale was made? How
11 did you receive payment after you made a sale that was
12 financed by a lender?

13 (Discussion in Spanish between Interpreter and Taxpayer.)

14 THE INTERPRETER: "There was -- like, Lobel and
15 Finance and Thrift, there was reports; that, when we sell
16 the car, we have to sign for the paper. If the person
17 didn't sign, and they would send the money. If the person
18 didn't" --

19 (Discussion in Spanish between Interpreter and Taxpayer.)

20 THE INTERPRETER: -- "didn't pay, then they will
21 get the money from us."

22 ALJ KWEE: Okay.

23 MR. MARVIN ANGULO: Like a cosigner.

24 MS. ANGULO: We were the cosigner for a lot of
25 people. Yeah, for the people that we scanned on there.

1 ALJ KWEE: Okay. So, if I'm understanding the
2 recourse loans, and if the purchaser didn't pay, the lender
3 would collect from you?

4 MS. ANGULO: Yes.

5 And then, okay, like the finance, well, okay, this
6 car is 5,000, and then they will give us 3,000 and keep the
7 other one. But then if the person didn't pay, they will
8 want their money back. That's why when they're repo 'd,
9 they keep that car so they can get their money back. And
10 then we -- they think that we get all the money.

11 THE INTERPRETER: (Interprets to Witness.)

12 ALJ KWEE: Okay.

13 MR. MARVIN ANGULO: And there's one more thing.
14 I'm not sure how important this is, but the business opened
15 in 1993. On all the papers it says "2008," but they opened
16 the business in 1993.

17 ALJ KWEE: Okay. Was there ever an agreement with
18 Lobel as to who would be able to claim the bad-debt
19 deduction?

20 MS. ANGULO: Yeah. He make an agreement that if
21 the people didn't pay, he had to pay.

22 ALJ KWEE: Okay. But as far as who would be
23 entitled to claim a deduction, was that ever discussed, in
24 writing, with Lobel, that you or them would be able to
25 claim a bad-debt deduction for these transactions?

1 THE INTERPRETER: (Interprets to Witness.)

2 MS. ANGULO: The finance company had the titles.
3 The finance company had the titles.

4 ALJ KWEE: Okay. Thank you.

5 Are there questions?

6 MR. MARVIN ANGULO: There was just one more thing,
7 just for clarification. They filed the DTP {phonetic} and
8 the tax returns the same. So, that's where they both did
9 the accrual instead of the cash method, on both personal
10 and state, and reported all of it accruing, not the cash,
11 based on what they got it. They did it on overall sales.

12 ALJ KWEE: Okay. Thank you.

13 ALJ STANLEY: First with the CDTFA, just to
14 clarify, pages 81 to 97, you have bad-debt charts.

15 Is that the charts that were used to come up with
16 the 62,000-and-something that was allowed as bad-debt
17 deductions?

18 THE INTERPRETER: (Interprets to Witness.)

19 MS. JIMENEZ: Did you say, Judge Stanley, page 87?

20 ALJ STANLEY: 81 to 97 on your Index, it says that
21 those are the bad debts?

22 MR. PARKER: Pages 81 to 97 look like it's a
23 reference for Regulation 1642. So, it's a copy of the
24 regulation.

25 The Audit Working Papers has the bad debts. I can

1 find the -- it will be under Exhibit E.

2 ALJ STANLEY: It says that Exhibit G is a list of
3 scheduled vehicles similar to the DMV list.

4 MR. PARKER: I'm not sure if the exhibit that we
5 downloaded is what was printed. So, it might be a
6 different copy.

7 THE INTERPRETER: (Interprets to Witness.)

8 ALJ STANLEY: I was looking at the one that's
9 online.

10 MR. PARKER: The electronic?

11 ALJ STANLEY: Yes. And the revised exhibit list
12 has Exhibit G, bad debts, and it refers to pages 81 through
13 97, which on the electronic copy have charts that are
14 similar to the DMV charts.

15 Okay. My fault.

16 MS. JIMENEZ: Oh.

17 ALJ STANLEY: That is the exhibits in the other
18 case.

19 MS. JIMENEZ: Okay.

20 MR. PARKER: Okay.

21 ALJ KWEE: Judge Brown, did you have any questions
22 at this time?

23 THE INTERPRETER: (Interprets to Witness.)

24 ALJ BROWN: Let me ask a question to CDTF.

25 When we have a situation where the taxpayers, the

1 appellants, explain that they didn't -- they didn't claim a
2 bad-debt deduction on their tax returns, it sounds like,
3 essentially, because they didn't understand the
4 complexities of it.

5 I understand that the auditor made some allowance,
6 but what are the other options for the taxpayer when they
7 are saying that they are entitled to a greater allowance
8 and they just didn't know that they had to comply with
9 these requirements of 1642-E.

10 MS. JIMENEZ: I think the first part is, we need
11 that agreement. We need to actually see that agreement so
12 we know who is allowed to have that bad-debt deduction.

13 THE INTERPRETER: (Interprets to Witness.)

14 ALJ BROWN: So, the auditor never got access to
15 the contracts with Lobel --

16 MS. JIMENEZ: No.

17 ALJ BROWN: -- is that what you're saying?

18 MS. JIMENEZ: That's correct.

19 ALJ BROWN: Then let me ask the appellant, do you
20 know why --

21 Is that correct, that the contracts with Lobel
22 were not provided to CDTFA?

23 (Discussion in Spanish between Interpreter and Taxpayer.)

24 THE INTERPRETER: "So, I showed everything to the
25 person that did the audit."

1 ALJ BROWN: And you don't have a copy of the
2 contract with Lobel now? You don't currently have it?
3 (Discussion in Spanish between Interpreter and Taxpayer.)

4 THE INTERPRETER: "No, I don't have it. I just
5 have the names."

6 ALJ BROWN: Was there more?
7 (Discussion in Spanish between Interpreter and Witness.)

8 THE INTERPRETER: "The repairman, repairs that we
9 did, so, we never put in the -- we've never provided the
10 parts. The clients would always bring in their parts. And
11 it was very little, because the rest were personal, were
12 cars from the shop."

13 ALJ KWEE: I'm just going back to the taxpayer.
14 You have this list with them. Do you also have --
15 I guess had an arrangement with Lobel, but you don't have
16 any other documentation, for example, to show chargebacks
17 from Lobel to you?

18 All you have at this time is this list of
19 repossessions?
20 (Discussion in Spanish between Interpreter and Taxpayer.)

21 THE INTERPRETER: "So, there were letters that
22 were acknowledgement, that was sent to me."

23 ALJ KWEE: Okay. So, there's no other
24 documentation available to support bad debts beyond what
25 you have here today.

1 (Discussion in Spanish between Interpreter and Taxpayer.)

2 THE INTERPRETER: "Yes, that is all I have."

3 ALJ KWEE: Okay. Thank you.

4 Does either judge have any more questions before I
5 move on to the final arguments -- closing arguments?

6 ALJ BROWN: I guess I wanted to ask CDTEFA if they
7 could respond to the appellants' argument about the cash
8 versus accrual method.

9 Is what they were describing correct? Or do you
10 disagree with that?

11 MS. JIMENEZ: We're supposed to -- they're
12 supposed to report on an accrual basis, and, yes, we did
13 the audit on an accrual basis.

14 ALJ BROWN: I don't think I have any further
15 questions right now.

16 THE INTERPRETER: (Interprets to Witness.)

17 ALJ KWEE: Okay. At this point I would like to
18 turn it over to each party to have a brief opportunity to
19 raise any final issues, comments, concerns.

20 I'll start with the taxpayer, and I'll give you 5
21 to 10 minutes to say what you would like before we
22 conclude.

23 MR. MARVIN ANGULO: Yeah. Accrual, we did not use
24 the accrual method. We used cash method. We used it since
25 we started in 1993. You probably reported accrual-ly

1 {sic}, so that's where we always had problems.

2 THE INTERPRETER: (Interprets to Witness.)

3 ALJ KWEE: Okay. Now, is there any other final
4 comments that you would like to make today?

5 (Discussion in Spanish between Interpreter and Taxpayer.)

6 THE INTERPRETER: "So, the other audits that they
7 had done in the past, they have been finalized good, the
8 outcome was good.

9 "Since 1993, we have been doing our taxes like
10 that. So, there was times where they -- we had people that
11 owed us, and they never returned the money to us."

12 MR. MARVIN ANGULO: Yeah. And when the guy came,
13 he did it the opposite way, as if all the income we took in
14 we collected, as opposed to we only collected what they
15 actually paid us.

16 ALJ KWEE: Okay. CDTFA, you now have an
17 opportunity to make any final closing arguments that you
18 would like.

19 MS. JIMENEZ: We have no additional comments.

20 ALJ KWEE: Okay. So, I believe we're ready to
21 conclude today's hearing.

22 I'll just make sure the panel members don't have
23 any final questions.

24 ALJ STANLEY: No.

25 ALJ BROWN: No.

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ALJ KWEE: Well, thank you everyone for coming in today. The appeal is now submitted on February 27, 2020. We'll be issuing a decision within 100 days of today, and we'll send it out in the mail. The case is now adjourned. We'll have a brief recess before we do the next appeal. Thank you.

MS. JIMENEZ: Thank you.

MR. MARVIN ANGULO: Thank you.

(Whereupon, the proceedings concluded at 11:38 a.m.)

1 REPORTER'S CERTIFICATE

2
3 I, Jana A. Gunter, a Certified Shorthand Reporter
4 in and for the State of California, duly appointed and
5 commissioned to administer oaths, do hereby certify:

6 That I am a disinterested person herein; that the
7 foregoing hearing was reported in shorthand by me,
8 Jana A. Gunter, a duly qualified Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewritten form by means of
11 computer-aided transcription.

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

15 IN WITNESS WHEREOF, I have hereunto set my hand
16 this 27th day of March, 2020.

17
18
19 _____
20 JANA A. GUNTER
21 Certified Shorthand Reporter
22 License No. 7589
23
24
25