

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF)
)
T. DOYLE AND K. DOYLE,) OTA No. 19054797
)
 APPELLANT.)
)

)

VIDEOCONFERENCE

TRANSCRIPT OF PROCEEDINGS

Sacramento, California

Wednesday, February 3, 2021

Reported by:
Dorothy M. Simpson
CSR No. 14323

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TRANSCRIPT OF PROCEEDINGS, via videoconference,
Sacramento, California 95811, commencing at 10:12 a.m. and
concluding at 11:08 a.m. on Wednesday, February 3, 2021,
reported by Dorothy M. Simpson, CSR No. 14323, in and
for the State of California.

1 APPEARANCES :

2 Panel Lead: Hon. Elliott Scott Ewing

3 Panel Members: Hon. Alberto Rosas
4 Hon. Andrea Long

5 For the Appellant: Jae Lee

6 For the Respondent: Franchise Tax Board

7 By: David Muradyan
8 Nancy Parker

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11 (All parties appeared via videoconference.)

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EXHIBITS

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(Respondents Exhibits K through M were
admitted at page 8.)

PRESENTATION

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1 Sacramento, California; Wednesday, February 3, 2021

2 10:00 a.m.

3
4
5 JUDGE EWING: Okay. All right. Very well. We are
6 now going to go on the record in this matter.

7 We are now on the record in the appeal of
8 T. Doyle and and K. Doyle, OTA Case Number 19054797.

9 Today is Wednesday, February 3rd, 2021, at
10 approximately 10:12 actual local time.

11 This appeal was intended to be heard in
12 person in Sacramento, California, but instead, and with
13 the consent of the parties, it is being held by WebEx
14 video conference today.

15 I am Elliott Scott Ewing, the lead
16 administrative law judge on this matter, and with me
17 today are Judge Alberto Rosas and Judge Andrea Long.
18 The three of us will be hearing this matter this
19 morning. I am the lead ALJ, meaning I will be
20 conducting the proceedings but my copanelists and I are
21 equal participants, and we will reviewing the evidence,
22 asking questions, and reaching a determination on this
23 case today.

24 Parties, please, state your name and who you
25 represent for the record, starting with Appellants.

1 MR. LEE: This is Jae Lee. I am the Appellants'
2 representative.

3 JUDGE EWING: Okay. And also for Appellants, I
4 understand we have Ms. Menguin. Ms. Menguin, please,
5 state your name and your role for the record.

6 MS. MENGUIN: Yes. Good morning, your Honor.
7 Menguin He from TAAP.

8 JUDGE EWING: Okay. And also for Appellants,
9 Appellant Mr. Doyle, will you, please, state your name
10 for the record.

11 MR. DOYLE: Thomas G. Doyle. Thank you.

12 JUDGE EWING: Thank you, Mr. Doyle.

13 Now for Respondent, please, state your name
14 and who you represent for the record.

15 MR. MURADYAN: Hello. This is David Muradyan, and
16 I represent the Respondent Franchise Tax Board.

17 JUDGE EWING: Okay. And finally for Respondent,
18 Franchise Tax Board, we also have Ms. Nancy Parker.

19 Ms. Parker, please, state your name for the
20 record.

21 MS. PARKER: My name is Nancy Parker, and I also
22 represent the Franchise Tax Board.

23 JUDGE EWING: Thank you, Ms. Parker.

24 I understand we have no one else for the
25 parties, so we will move on to the issues in this case.

1 At the Prehearing Conference held in this
2 matter on January 6, 2021, the parties represented as
3 agreed that the following are the issues in this appeal:

4 Number 1. Whether Appellants have
5 established reasonable cause for abatement of the late
6 payment penalty.

7 Number 2. Whether Appellants are entitled to
8 a refund of the underpayment of estimated tax penalty.

9 And 3. Whether Appellants are entitled to
10 interest abatement.

11 Any questions at this point? No? We're
12 doing fairly well. Okay.

13 As far as the exhibits. Appellants have
14 submitted Exhibits 1 through 10, which are admitted into
15 evidence without objection.

16 (Appellants' Exhibits 1 through 10 were
17 admitted into evidence.

18 JUDGE EWING: Respondent FTB Has submitted Exhibits
19 A through J which also are admitted into evidence
20 without objection.

21 (Respondent's Exhibits A through J were
22 admitted into evidence.)

23 JUDGE EWING: For Appellants, Mr. Lee, I would like
24 to reconfirm you have no additional exhibits at this
25 time.

1 MR. LEE: This is Jae Lee.

2 That is correct.

3 But I do have a question about -- I'm sorry.

4 Can I continue?

5 JUDGE EWING: Certainly. Go ahead.

6 MR. LEE: I do have a question about the

7 Respondent's exhibit list.

8 According to my Exhibit Log, the Respondent's

9 Exhibits go to M. Is that not the case?

10 JUDGE EWING: That is correct. Thank you for
11 pointing that out. Let me go back to that item.

12 Yes. Let me correct the record on that
13 point.

14 Regarding the exhibits, FTB has submitted
15 Exhibits A through M as in Mike, which are also admitted
16 into evidence without objection.

17 (Respondent's Exhibits K through M were
18 admitted into evidence.)

19 And thank you for bringing that up, Mr. Lee.
20 I appreciate that.

21 Okay. Any other questions about the
22 exhibits?

23 Okay. Hearing none.

24 Okay. Do my fellow ALJs have any questions
25 at this point? No? Okay.

1 Very well. Okay. We'll go ahead and get
2 started with Appellant's opening presentation. We will
3 begin with the opening presentation of Appellant.

4 Mr. Lee, you indicated in the Prehearing
5 Conference -- excuse me -- in this matter, your
6 presentation would be expected to take 20 to 25 minutes.
7 You have requested an additional five minutes, which I
8 granted.

9 Please, go ahead and begin.

10 MR. LEE: Thank you. I'd like to start by asking
11 Mr. Doyle questions to establish some relevant facts
12 regarding this appeal against the FTB's Assessment of
13 penalties and interest against the Appellants.

14 BY MR. LEE:

15 Q. Mr. Doyle, how would you describe the Merrill
16 Lynch account that you used for the tax payment at
17 issue?

18 A. This is Tom Doyle.

19 The Merrill Lynch account is my standard and
20 primary checking account.

21 Q. Thank you. And by "primary account," what do
22 you mean?

23 A. It's the account I use for everyday
24 transactions -- for writing checks, debit transactions,
25 withdrawals, payments, digital payments, just like an

1 everyday transaction account.

2 So I have used this without any incidents
3 over the years, and I think I have been a client of
4 Merrill Lynch for about 20 years now.

5 This particular account is also tied to
6 another trust investment account, and this is account is
7 where the -- at the time I got about 1.2 million dollars
8 of liquidity in the when the payment was made, and that
9 was consistent with the funds that I left in that
10 account for several months following the payments and
11 throughout the following year. So as to that account,
12 like I said, it's a traditional checking account, write
13 out credit and debit cards tied to it and handle all my
14 deposits and withdrawals.

15 Q. Thank you. And have there been any incidents
16 or features of the account that kept you from using the
17 account in the manner you just described?

18 A. No, there's no other feature that's ever
19 impeded me from using the account in the manner that I
20 described, or as most of us would use our typical
21 checking accounts or withdrawal accounts. I found it to
22 work very efficiently for my everyday use.

23 JUDGE LONG: This is Judge Long. I'm sorry -- I'm
24 sorry to interrupt.

25 Judge Ewing, I think we may have overlooked

1 swearing in Mr. Doyle.

2 JUDGE EWING: Yes, you're right. Thank you, Judge
3 Long. I appreciate that.

4 We may have to -- to go back and re-ask these
5 questions. And my apologizes to the panel and those on
6 the -- WebEx today.

7 Yes. I need to swear in the witness,
8 Mr. Doyle.

9 Okay. Mr. Doyle, will you, please, raise
10 your right hand.

11
12 THOMAS DOYLE,
13 Produced as a witness, and having
14 been first duly sworn by the Administrative
15 Law Judge, was examined and testified as
16 follows:

17
18 JUDGE EWING: Do you solemnly swear and affirm that
19 you will tell the truth, the whole truth, and nothing
20 but the truth?

21 THE WITNESS: I do.

22 JUDGE EWING: Okay. Very well. Thank you. Thank
23 you for pointing that out, Judge Long.

24 Okay. I apologize for this, but, Mr. Lee,
25 would you, please, repeat your questions now that the

1 witness is under oath?

2 MR. LEE: Yes. I'll start from the beginning.

3 BY MR. LEE:

4 Q. Now, Mr. Doyle, how would you describe the
5 Merrill Lynch account that you used for the tax payment
6 at issue?

7 A. That account is used as my primary account
8 for checking, withdrawals, and digital transactions.

9 Q. And by "primary account," what do you mean?

10 A. It's (audio distortion) --

11 THE REPORTER: Excuse me. Excuse me. There's --
12 there's something, there's clicking and I can't hear
13 him. Somebody is moving papers or something.

14 Can you start your answer over?

15 THE WITNESS: Yes. This is Tom again.

16 And by my primary account, it's the account
17 that I use for my everyday transactions as a checking
18 account as well as for some investments. I've used this
19 account without incident for well over 10 -- 20 years
20 now with Merrill Lynch.

21 And in that account I have maintained a
22 balance during that year 2017 to 2018 that was
23 approximately 1.2 million dollars and those were the
24 balances in the account at which time I did make the
25 payment.

1 This checking account acts as any other
2 checking account similar to what most people have. I
3 have a credit card tied to it. I use it for my debit
4 transactions as well as just digital transactions,
5 withdrawals, and payments.

6 So there are limitations placed on it, and,
7 like I said, I use it for traditional withdrawals and
8 deposits.

9 BY MR. LEE:

10 Q. And are there any features or incidents of
11 the account that keep you from using the account in the
12 manner you just described?

13 A. No, there are no restrictions on the account.
14 I can use it for any transactions that I so choose, and,
15 you know, it's very accommodating, it's very easy to
16 use.

17 So, like I said, I do use it for my everyday
18 transactions just like any other checking account.

19 Q. Thank you. Now, turning to the routing
20 number issue.

21 Have you made an error in accurately
22 transcribing what you believe to be the correct routing
23 number?

24 A. No, I did not. I included and had input the
25 correct number for the routing from that bank.

1 Q. So you did not make an error in typing the
2 routing number?

3 A. No, I did not make an error in typing the
4 routing number. It's the same routing number that I had
5 used previously on other wire transactions, and I
6 believed it to be the valid routing number at the time
7 that I made the payment.

8 I have never had any other issues using that
9 exact routing number in the past. In fact, that was the
10 first time that routing number was used, and I
11 experienced any kind of issues associated with that
12 account.

13 Q. Thank you. And did either -- either of the
14 merging banks provide you with notice of a change in
15 your banking information?

16 A. No, I was not notified by either bank about
17 any changes in the routing numbers or any other details
18 that would have affected my use of the account. I did
19 not receive any personal notices, nor had I ever seen
20 any types of public notices or statements to that effect
21 regarding changes to any potential routing numbers.

22 Q. Thank you. And did you have any independent
23 indications that could have suggested to you that the
24 routing number you provided was outdated?

25 A. No. No, there was nothing that -- no reason

1 to believe or prior to that transfer that the routing
2 number was outdated in any fashion.

3 At the time I believed, and to the best of my
4 knowledge, I knew that that was the correct routing
5 number and it should have been valid at that time.

6 Looking back even, I can't think of anything
7 else that I would have done differently because I was
8 using the same number that I had used previously, and
9 there was nothing else that would have tipped me off to
10 the lack of validity of that routing number.

11 I was using it in the same manner which I
12 generally would have attempted to make any other
13 necessary payments that would have led to payments of
14 funds that were due.

15 Q. Thank you. Now, are there any facts you wish
16 to provide the Panel as relevant to this appeal?

17 A. I think that the significant fact was the
18 confirmation page that I received from the payment at
19 the time that I made it suggested, and common sense
20 would have suggested it as well, in the ordinary course
21 of business that confirmation page indicated that
22 payment was made.

23 And I think in the ordinary course of
24 business, a confirmation page like that would suggest
25 and would have been a sufficient evidence of payment,

1 not just a preliminary scheduling of the payment.

2 And nothing on that page would have suggested
3 that I should have reviewed or had future reason to
4 confirm that payment was actually made.

5 MR. LEE: Thank you.

6 That is all I have for Mr. Doyle.

7 JUDGE EWING: Thank you, Mr. Lee.

8 Judge Rosas, do you have any questions at
9 this time?

10 JUDGE ROSAS: This is Judge Rosas.

11 I do not have any questions at this time.
12 Thank you.

13 JUDGE EWING: Okay. Very well. Judge Long, do you
14 have any questions at this time?

15 JUDGE LONG: This is Judge Long.

16 I have no questions at this time.

17 JUDGE EWING: Okay. This is judge Ewing.

18 Mr. Doyle, I do have a couple of questions.

19 One question is is we have the Web page
20 confirmation page which is Appellant's Exhibit Number 1.

21 On the Web page confirmation it says that the
22 date the request was made 9/11/2017, and it shows that
23 the payment date would occur on 9/14 -- September 14,
24 2017.

25 Did you -- did you happen to notice that

1 those dates were different?

2 MR. DOYLE: No, I do not recall that.

3 JUDGE EWING: Okay. Thank you.

4 Second question is, near the bottom of that
5 page, it says your bank account allowed up to two
6 business days from the payment date for your bank
7 account to reflect your payment.

8 Did you -- did you happen to notice that
9 language?

10 MR. DOYLE: I don't recall at this time reading
11 that specifically.

12 JUDGE EWING: Okay. Thank you.

13 And, finally, the bank account that you were
14 using, the Merrill Lynch account, had you ever used any
15 other account to -- to make your tax payments?

16 MR. DOYLE: Not that I am aware of, no.

17 JUDGE EWING: Okay. Okay. Very well.

18 Thank you. Those are all the questions I
19 have.

20 MR. DOYLE: Thank you.

21 JUDGE EWING: Franchise Tax Board, Mr. Muradyan, do
22 you have any questions for the witness?

23 MR. MURADYAN: I do not.

24 JUDGE EWING: Okay. Thank you.

25 MR. MURADYAN: I do not have any questions.

1 JUDGE EWING: Okay. Thank you.

2 Okay. Now we can turn to Respondent FTB's
3 presentation.

4 Mr. Muradyan, you indicated at the Prehearing
5 Conference in this matter that you needed 10 to 15
6 minutes for your presentation. Feel free to begin.

7 MR. MURADYAN: Thank you.

8 And I along with Nancy Parker represent
9 Respondent, Franchise Tax Board --

10 THE REPORTER: Who's talking? I -- can't I can't
11 see who's talking.

12 Okay. You're talking. Start again then.

13 MR. LEE: Jae Lee. Sorry.

14 Judge Elliott, that was just the -- the
15 testimony part of the initial statement. I -- I haven't
16 yet made the rest of my argument. Is that the course
17 or --

18 JUDGE EWING: Oh, yes. Yes. My apologies.

19 Mr. Muradyan, if you can wait one moment for
20 your presentation.

21 And, Mr. Lee, go ahead.

22 MR. LEE: Thank you. This is Jae Lee.

23 Now, the Appellant's first contention is that
24 the Appellant's have established reasonable cause for
25 the abatementment of penalties imposed Pursuant to

1 Revenue and Taxation Code Section 19132.

2 Now, 19132(a) allows the abatement of
3 penalties imposed pursuant to that section where the tax
4 show the late payment was due to reasonable cause, and
5 not willful neglect.

6 In the Appeal of Curry, the BOE expounds on
7 the reasonable cause standard by adopting the ordinary
8 prudence and care standard specifying that inquiry will
9 take into account the circumstances of the taxpayer.

10 And as repeatedly found in other precedential
11 opinions, ordinary business care is a fact-sensitive
12 inquiry into what an ordinarily prudent and careful
13 businessperson would do under the circumstances that the
14 taxpayer faced.

15 In the Appeal of Harry Moren, the FTB held
16 that that acting -- that acting with ordinary business
17 prudence and care does not require that the taxpayer act
18 in the most cautious manner. In that appeal, OTA
19 rejects FTB's contention that the taxpayer could simply
20 have doubled his tax liability while faced with
21 uncertainty. In rejecting the FTB's position, the OTA
22 explicitly finds that the most cautious approach is not
23 the only reasonable one.

24 A misunderstanding of the ordinary prudent
25 standard is in line with a reasonableness concern

1 evident in the very wording of reasonable cause. It
2 would be unreasonable for a taxpayer to take a vastly
3 more cautious approach that his knowledge would suggest
4 is advisable. To require that the taxpayer make
5 exhaustive inquiries into every possible impediment to
6 payment, violates the standard as articulated in Morse,
7 and imposes a burden on the taxpayer that is out of
8 proportion to the possibility of issues arising.

9 Now, it is possible that reasonableness may
10 include a reasonable inquiry into the fact so to
11 determine adequately -- the adequately prudent course of
12 action. But even conceding this, the ordinary prudence
13 and care standard does not require that the taxpayer act
14 in accordance with those facts that would not be
15 uncovered by reasonable inquiry.

16 So the question to be asking, applying the
17 reasonable care standard is not whether the taxpayers
18 acted as a perfectly diligent and inquiring taxpayer,
19 but rather whether the taxpayers acted reasonably given
20 the set of facts knowing to him or should have been
21 known to him.

22 The Appellants in this case had acted with
23 ordinary business care and prudence given the set of
24 facts available to them. The Appellants have completed
25 the payments steps and no further action was required on

1 their part for the payment to be scheduled. They
2 reached the final page of the Web page -- page which
3 confirmed that the payment had been scheduled. They
4 also clearly believed that no further action was
5 required of them at this point as evidenced by their
6 saving of the confirmation page, and highlighting the
7 confirmation page to the FTB.

8 And it's important to note here that
9 Appellants had input the correct routing number as far
10 as they were aware or should have known. If Appellants
11 had not input an incorrect routing number in the sense
12 that they made a typo or used a number wrong transcribed
13 by them. They used the routing number most recently
14 provided to them by their bank.

15 The only reason the payment was not
16 effectuated was because after the Bank of America and
17 Merrill Lynch merger, the required routing number had
18 changed unbeknownst to the Appellant. The bank gave
19 them no notice whatsoever that the merger had left a
20 change in their banking information. Nor were they
21 aware of any other issues with the scheduled payment and
22 had no reason to believe further inquiry was necessary.

23 They had no issues with the routing number
24 before this incident. They had sufficient funds in the
25 account in question at the time, and they had used the

1 same bank account to effectuate a tax payment to FTB
2 with no issues.

3 Given the foregoing, the Appellant has acted
4 in a manner consistent with an ordinarily -- with what
5 an ordinarily prudent and careful businessman, given
6 substantially similar facts. All the facts support that
7 Appellants had every intention of making the payment,
8 undertook all the necessary steps to effectuate the
9 payment, and were only prevented from doing so because
10 of a piece of information that they were not aware of.

11 Moreover, an ordinarily prudent and careful
12 businessman would not have felt that further inquiry as
13 to the validity of the routing number would have been
14 necessary or even reasonable.

15 An ordinarily prudent businessperson would
16 expect the bank to inform them of such significant
17 changes to his bank information. When first provided
18 with a routing number by the bank, we cannot know what
19 it is without the bank informing us, and once provided a
20 number the average account holder has no independent
21 need to verify the validity of the routing number, and
22 must accept the bank statement at face value. At least,
23 that is, until they are given information that may
24 contradict the accuracy of the routing number. For
25 example, when a payment does not go through. But until

1 such indication is given, the account holder has no
2 basis to question the validity of that number. It would
3 actually be unreasonable for the account holder to
4 question the validity of the number for electronic
5 transfers without proceeding without issue while using
6 numbers as that indicates for the Appellant.

7 By the same reasoning, a reasonable person
8 would have expected the bank to clearly notify them of
9 any change to that banking information. When a change
10 in the number happens, the account holder, again, has no
11 means of discerning that the original number is no
12 longer valid, at least until given independent
13 indication to the contrary or the bank notification to
14 that effect. And again, the account holder relied on
15 the bank to provide him accurate information in a timely
16 manner.

17 What this means is that a reasonable person
18 would not inquire into whether the routing number
19 provided is problematic, at least until being notified
20 by the bank of a change or being given some other
21 indication that the routing number is no longer valid.

22 The Appellants' lack of action until notice
23 from the FTB, likewise, can be understood as reasonable.
24 As has been argued in Reindale Electronic Transfer of
25 Funds Act, the EFTA, provides relevant guidelines on

1 part of reasonable behavior on the part of the
2 trasnferrer and transferee in an electronic transfer.

3 Pursuant to EFTA 1693(d)(f) adopting is given
4 to the consumer by a financial institution which
5 indicates that a transfer was made offered as prima
6 facie evidence that such transfer was, in fact, made.

7 Now, lets make clear that the Appellants are
8 not claiming that the EFTA is controlling in this
9 appeal. Instead the claim is that the relationships and
10 assumptions created by EFTA, serve as indications of
11 congressional finding on rational behavior for either
12 party in an electronic transfer. Here Congress has
13 elected to treat a document which indicates the payment
14 is made, like a confirmation page, as evidence of
15 transfer which creates an evidentiary hurdle, which must
16 be overcome by the other party to assert that no such
17 payment was made. This move is indicative, at least, a
18 congressional finding the document indicating a payment
19 is made is taken as a confirmation that a reasonable
20 transfer or need.

21 That is to say a reasonable person would not
22 think it necessary to further confirm actual transfer,
23 at least, absent some other indication of issues.

24 Appellants have received a document which can
25 reasonably be construed that a payment was made,

1 believed the document was evidence of such, and had no
2 independent reason to doubt that the transfer had been
3 made.

4 Based on the foregoing, the Appellants have
5 acted reasonably in not confirming whether the routing
6 number was active.

7 The Appellants were given no notice by either
8 of the merging institutions that there was an attendant
9 change in the routing number, nor were they -- nor had
10 they had any other issues with the payments being made
11 from the same account.

12 Given these facts, a reasonable business
13 person exercising ordinary prudence and care in the
14 conduct of his business would not have felt that an
15 inquiry into whether the -- into whether the routing
16 number is valid is necessary. Indeed, the foregoing
17 would suggest that it would be unreasonable to make such
18 inquiries, and to require such a burden in the
19 situation -- of the taxpayer in the situation, would not
20 only deviate substantially from reasonable prudence, but
21 also contradict the holding in Morse in which it
22 explicitly rejects the idea the most cautious approach
23 is the only reasonable one.

24 Now, the case is relied on by the FTB to
25 argue sufficient, they don't undermine the Appellants'

1 claim that they have acted reasonably, prudently and
2 carefully --

3 THE REPORTER: Can you slow down? Hey, hey, hey.
4 Slow down. You're -- you're going way too fast. Slow
5 down.

6 MR. LEE: I'm sorry. I'll slow down.

7 The appeal of Michael and Devin Scanlon is
8 distinguished from the present appeal such the guidance
9 they provide is of limited relevance. Scanlon ought to
10 be narrowly construed in light of Curry and other
11 numerous precedential opinions which made clear that the
12 reasonable cost standard is fact sensitive.

13 The OTA specifically points to the
14 Appellants' actual knowledge of prior errors and
15 suggests that this actual knowledge ought to have
16 prompted to be especially diligent.

17 It is significant that the OTA linked actual
18 knowledge with diligence, a level of care in conducting
19 himself, that the OTA thought that actual knowledge had
20 a bearing on what the Appellants ought to have done,
21 suggests the OTA found that knowledge to be a relevant
22 factor in determining the necessary level of care, and
23 therefore actual knowledge is a material fact which
24 attaches to and explains the OTA's decision in that
25 appeal.

1 So the interpretation offered by the FTB
2 fails to explain this causal link between the
3 Appellants' knowledge and the standard of care, and so
4 fails to account for the fact specific nature of the
5 inquiry.

6 JUDGE EWING: Mr. Lee.

7 MR. LEE: Presently --

8 JUDGE EWING: Mr. Lee, can I -- can I interrupt you
9 there a moment? My apologies for interrupting, but can
10 you slow down a little more, please. You are still --
11 you are still going quite fast, so we would appreciate
12 that.

13 MR. LEE: I'm sorry. Yeah. There's a lot to get
14 through.

15 JUDGE EWING: I understand. Thank you.

16 MR. LEE: The alternative interpretation offered by
17 the FTB fails to explain this causal link between the
18 Appellants' knowledge and the standard of care, and so
19 fails to account for the fact specific nature of the
20 inquiry.

21 Now, the present appeal is distinguished from
22 Scanlon such that the requirement articulated in that
23 appeal provides only limited guidance here.

24 As stated earlier, Appellants had no actual
25 knowledge of any problems with this particularly payment

1 or any issues with past payments which informed the OTA
2 of the proper standard of care in that appeal.

3 Also, it is important to reassert at this
4 point as Appellants had not input the wrong routing
5 number. They had accurately entered the routing number
6 which they reasonably believed was accurate and which
7 they had no reason to question.

8 Given these factual distinctions between
9 Scanlon and the instant appeal, it would be an undue
10 extension of Scanlon to accept the standard of care as
11 articulated in that appeal.

12 The Appeal of Sidney and Ellen Friedman is
13 likewise distinguished from the present appeal.

14 Again, that case, the OTA had found
15 significant that Appellants had failed to complete the
16 payment process, such that an ordinarily prudent
17 businessman would have understood that the payment was
18 not complete.

19 JUDGE EWING: Mr. -- Mr. Lee. Mr. Lee, I -- I -- I
20 have to interrupt you.

21 Judge Rosas has lost his audio and cannot
22 hear you. He is going to try to get back in. So while
23 he does that, we are going to go off the record, and
24 break for five minutes, and we'll come back on the
25 record in five minutes.

1 Thank you.

2 (Off the record from 10:39 a.m. until 10:40
3 a.m.)

4 JUDGE EWING: Okay, Mr. Lee. We will go back on
5 record in this.

6 And Mr. Lee, continue with your presentation.

7 Apologies for the interruption.

8 MR. LEE: Not a problem at all.

9 This is Jae Lee.

10 All right. As the Appeal of Sidney and Ellen
11 Friedman is likewise distinguished from the present
12 appeal. Again, in that appeal, the OTA found it
13 significant that the Appellant had failed to complete
14 the payment process, such that an ordinarily prudent
15 businessman would have understood that the payment was
16 not complete.

17 The OTA found that the Appellants failed to
18 act reasonably given their constructive knowledge that
19 they had not, in fact, completed the process.

20 And like in Scanlon, OTA again linked this
21 particular fact to the requirement of monitoring their
22 bank account to insure payment was made, suggesting,
23 therefore, that a reasonable person would have realized
24 he had failed to undertake all steps to schedule a
25 payment and would first finish scheduling the payment

1 and second monitor their bank account to insure there
2 were no other errors.

3 And, again, to extend the holding of Friedman
4 to those appeals where the Appellants do not have a
5 reason to believe their payment would not be honored,
6 fails to account for the significant attack to that fact
7 by the OTA and the fact of the nature of this inquiry as
8 a whole.

9 The two cases, in fact, add strength to the
10 Appellants' position that they had acted reasonably
11 given actual and constructive knowledge of the facts.

12 In both Scanlon and Friedman, OTA required
13 the monitoring of accounts to ensure sums were
14 withdrawn, where there were facts that suggested that
15 the taxpayer should have been particularly diligent.
16 This heightened requirement of monitoring accounts in
17 light of these concerns suggests that a lower level of
18 inquiry would be reasonable when such factors are
19 lacking. This is consistent with the idea that the
20 abatement policy is fact sensitive and the idea as
21 hinted in Morris that a reasonably cautious
22 businessperson reacting porportionate to the level of
23 inquiry and diligence that facts known to him would
24 suggest are appropriate.

25 In the present appeal, the Appellants were

1 not aware of any fact, nor should have been -- nor
2 should inquired into the number such that there are no
3 factors which would have led to a reasonable
4 businessperson to inquire further.

5 There is more. It stands to reason that a
6 reasonable person confronted with this set of facts
7 would not believe it reasonable to monitor his bank
8 accounts.

9 Now, this concludes the portion of the
10 statement directed directly at Section 19132
11 penalties --

12 THE REPORTER: Say that one again. Section what?
13 What section?

14 MR. LEE: 19132 penalties.

15 THE REPORTER: Okay.

16 JUDGE EWING: Mr. Lee, you have approximately seven
17 more minutes to go on your presentation.

18 MR. LEE: Thank you.

19 Now, this next argument is directed in equal
20 parts to both penalties assigned pursuant to 19132 and
21 19136 as well as all interest accrued.

22 The Appellants urged the OTA equitably to
23 stop the FTB from collecting any and all penalties
24 imposed and interest accrued thereon.

25 The four requirements for the application of

1 equitable estoppel are satisfied.

2 First, the opposing party, the FTB, has been
3 appraised of the relevant facts. The FTB was fully
4 appraised of the fact that the scheduled payment did not
5 go through because of the routing number error. As
6 evidenced by Exhibit F -- K of the Exhibit log. Not
7 only did the FTB know that the scheduled payment had not
8 been made, but also the reason why the payment did not
9 go through, and they had been aware of this issue for a
10 full year before they decided to take any action.

11 For the Appeal of Western Colorprint, BOE
12 held that the Appellants failed to prove that the FTB
13 was fully appraised of the fact because the evidence
14 presented was just a phone call with no transcript
15 detailing the content of the conversation.

16 There is no such issue in this present
17 appeal. The FTB, by its own admission was fully
18 appraised of the relevant facts regarding the issues
19 with payment, and the Appellants have the FTB's own
20 exhibit as evidence of such.

21 Second, the FTB intended for the Appellants
22 to act in reliance of its action. The FTB concedes this
23 point again when they are relying on the confirmation
24 and the fact in question page that suggests that the
25 Appellant had not acted in a reasonable manner. The FTB

1 would not point to the failure to follow the
2 instructions on those pages if it did not intend for the
3 Appellants to act with reliance to the guidance provided
4 by those pages.

5 The pages are also formal expressions of the
6 FTB's position on tax payments which FTB tends to be
7 much more authoritative than an impromptu phone
8 conversation. The FTB has full control of how to write
9 the pages, what information to include, and more
10 importantly, was in control of when this information
11 would be made public.

12 Given the significance attached to these
13 pages by the FTB, it is fair to suggest that these pages
14 are formal expressions of the FTB's considered position
15 after due deliberation.

16 Therefore, the fact in question and
17 confirmation pages are best characterized as formal
18 expressions of the FTB's position intended to provide
19 authoritative guidance on proper taxpayer behavior.

20 Third, the Appellants were not aware of the
21 true lay of the facts.

22 THE REPORTER: I'm sorry. They are not aware of
23 what?

24 MR LEE: The true lay of the fact.

25 THE REPORTER: Okay. You are going very fast,

1 so...

2 MR. LEE: I'm sorry. I'll slow down.

3 Right. The Appellant husband has made a
4 sworn statement that the Appellants were not aware of
5 the fact that their payment had not been processed,
6 never mind the reason why it wasn't.

7 Numerous facts support this contention. The
8 Appellants were not aware of any circumstances which
9 might have led them to pay closer attention. They had
10 sufficient sums in the bank account at all times, and
11 the Appellants acted promptly upon notice by the FTB,
12 making the payment within a reasonable period of time.

13 Now, these facts suggest that the Appellants'
14 inaction was not the result of willful neglect but
15 rather innocent ignorance.

16 Fourth, the Appellants acted in reliance with
17 FTB's actions to their detriment. In the Appeal of
18 Western Colorprint, the OTA determined that to the
19 detriment to reliance requires that the taxpayers'
20 reliance on the FTB's action led to an increase in their
21 tax liability.

22 In this appeal, Appellants suffered harm in
23 the form of penalties and interests accrued that would
24 not have been imposed absent the FTB's misleading
25 statement in its confirmation page. Confirmation pages

1 worded such that the Appellant could have and did rely
2 upon it to believe that no further actions were required
3 on its part.

4 With the Appeal of Lopert, the BOE agrees
5 with Appellants that pertinent information missing from
6 FTB's document leading to misleading statements made the
7 FTB. This case is analogous to the Appeal of Lopert.
8 The confirmation page reads, and I quote, "We recommend
9 printing and saving this screen." This can reasonably
10 be interpreted as having legal significance, suggesting
11 that this is legally operative as evidence of payment.
12 This suggestion is strengthened by ordinary business
13 practice of using the -- on the confirmation page as
14 proof of payment, rather than merely the proof of
15 scheduling for payment, as evidenced by argument made
16 previously regarding the applicability and the
17 significance of of the EFTA.

18 That -- Appellants have testified that they
19 acted and relied on the confirmation page when the
20 ill-chosen wording of the confirmation page suggests
21 that their reliance was reasonable.

22 Finally, failure to stop the FTB in the
23 current appeal will result in manifest injustice.
24 Allowing the FTB to impose penalties and fines caused by
25 its own inadequate wording is manifestly unjust and

1 shifts the costs of bad governance to the taxpayer.

2 As noted above, the confirmation page fails
3 to adequately inform the taxpayer of the actual
4 significance of confirmation. This con -- this
5 contingency is compounded by the fact that confirmation
6 is often used in business to mean confirmation of
7 payment, rather than simply confirmation of scheduling.

8 The FTB should have been particularly
9 diligent in crafting a message which could be
10 potentially confusing, goes against normal business
11 usage of the word, and was considered significant enough
12 by the FTB to suggest that the taxpayer should save this
13 document.

14 FTB, however, failed to do this. Instead, we
15 have a document that failed to make use of opportunities
16 to clarify significance while actively confusing the
17 taxpayer. It would be manifestly unjust to force the
18 harm caused by this oversight to the taxpayer.

19 Thank you. That concludes my statement.

20 JUDGE EWING: Thank you, Mr. Lee.

21 Now, let me try this again.

22 Judge Rosas, do you have any questions at
23 this time?

24 JUDGE ROSAS: This is Judge Rosas.

25 I do not. Thank you.

1 JUDGE EWING: Thank you, Judge Rosas.

2 Judge Long, do you have any questions at this
3 time?

4 JUDGE LONG: This is Judge Long.

5 No questions.

6 JUDGE EWING: Okay. And I should ask Appellant
7 Thomas Doyle the questions I asked previously since he
8 was not under oath, and I'll go very quickly with this.

9 Mr. Doyle, on the Appellants' Exhibit Number
10 1, it indicates that the date the payment request was
11 made is 9/11/2017 and the payment date lower on the page
12 shows as 9/14/2017, three days later.

13 Did you notice those dates on the -- on the
14 Web page confirmation form?

15 THE WITNESS: No, I don't recall.

16 JUDGE EWING: Okay. Thank you.

17 And my second question is lower on the form
18 it says to allow -- I'm sorry? Okay. Lower on the form
19 it says to allow up to two business days from the date
20 the payment is made to reflect the payment. Did you --
21 did you notice that language as well?

22 THE WITNESS: I don't recall.

23 JUDGE EWING: Okay. Mr. Doyle. Thank you.

24 And -- and finally you mentioned that you
25 used your Merrill Lynch checking account to make the

1 payments in questions here.

2 Had you used any other bank account --
3 checking or savings -- to make prior tax payments in the
4 past?

5 THE WITNESS: No, I don't believe so.

6 JUDGE EWING: Okay. So, well -- thank you.

7 Okay. Mr. Muradyan, you indicated at the
8 Prehearing Conference in this matter that you needed 10
9 to 15 minutes for your presentation. Feel free to
10 begin.

11 MR. MURADYAN: Thank you.

12 Good morning. My name is David Muradyan, and
13 I, along with Nancy Parker (Audio distortion) --

14 THE REPORTER: I think -- it's -- you're garbled.

15 MR. MURADYAN: Sorry about that. I will repeat.

16 Good morning. My name is David Muradyan, and
17 I, along with Nancy Parker, represent Respondent,
18 Franchise Tax Board, in the appeal of Appellants Thomas
19 and Kerry Doyle in this action.

20 In this case, there are three issues.

21 First, have Appellants established reasonable
22 cause for the abatement of late payment penalty?

23 Second, have Appellants shown that they are
24 entitled to a refund of the underpayment of estimated
25 tax penalties?

1 And third, have Appellants established that
2 they are entitled to abatement of the interest?

3 For reasons set for the FTB's opening and
4 reply briefs, as well as, the reasons I will now state,
5 FTB's actions must be sustained on all accounts.

6 Before covering the issues, I want to briefly
7 address all of the facts.

8 On September 11th, 2017, Appellants used
9 FTB's Web pages and requested an electronic payment in
10 the amount \$100,000 to be remitted on September 14th,
11 2017, as an estimated tax payment for the 2017 tax year.
12 However, payment was not honored by the Appellants'
13 financial institution, and Appellant did not pay the
14 outstanding balance until January 9th, 2019, which was
15 nearly one year and four months after the initial
16 attempted payment.

17 In addition, there was testimony from
18 Appellant about the type of account used, and I'd like
19 to address that as well. Specifically, the Merrill
20 Lynch account has both a corresponding checking account
21 which ends in 98 as well as a investment type account
22 which ends in 29, as stated in Exhibit F to Appellants'
23 own reply.

24 Unfortunately, in this case, Appellants did
25 not use the corresponding checking account for payment

1 at issue, that, rather, they used investment account
2 ending in 29.

3 With the facts out of the way, I'll now
4 address all of the issues.

5 First, Appellants have failed to establish
6 reasonable cause to the abatement of the late payment
7 penalty. In this case, FTB imposed a late payment
8 penalty because Appellants did not make their payment
9 which was due on April 15th, 2018, until January 9th,
10 2019.

11 Appellants' primary argument is that they
12 received a confirmation page on September 11th, 2017,
13 establishes reasonable cause for the late payment that
14 they relied on that confirmation page as evidence of
15 payment. However, this argument is not (audio
16 distortion), as Appellant's Web page request for payment
17 was not honored by their financial institution because
18 Appellants entered the wrong type of banking account.
19 Specifically, when using FTB's Web page system,
20 Appellants information for a Merrill Lynch cash
21 management account, which is not a regular checking or
22 savings account as required by FTB's Web page. In fact,
23 as set forth in FTB's page instructions, taxpayers must
24 use only a regular checking or savings account and not a
25 money market or brokerage account.

1 Moreover, as also set in FTB's Web page
2 instructions, the confirmation page is not confirmation
3 of payment, but rather confirmation that a request has
4 been made.

5 Unfortunately, after Appellants' unsuccessful
6 attempt on September of 2017 -- 2017, they did not
7 undertake any effort to determine whether the funds had
8 been withdrawn from the account successfully, and they
9 stated in their briefs they discovered that the payment
10 had not been processed only after receiving FTB's notice
11 of tax return change nearly one year and two months
12 later.

13 In fact, even after receiving notice that
14 their payment had not gone through, it took Appellants
15 another two more months to finally make a payment.
16 Thus, they finally made their payment nearly one year
17 four months after their initial attempt.

18 Appellants have not stated what they did to
19 ensure that the \$100,000 payment had been processed, and
20 instead placed blame on FTB arguing that they did not
21 receive any notification from FTB regarding an issue
22 with their scheduled payment.

23 The argument is a deflection from Appellants'
24 failure in their obligation to provide accurate
25 information about the bank from which the electronic

1 payment was to be made.

2 Moreover, notwithstanding the inordinant
3 time, Appellants did not seek to confirm that the
4 payment in the amount of \$100,000 had been processed and
5 cleared from their financial institution. This is not
6 conduct of a reasonably prudent person and does no
7 constitute reasonable cause to abate the penalty.

8 As stated in your precedential opinion,
9 Scalon, the exercise of due care and diligence requires
10 taxpayers to monitor their bank account for benefit and
11 quickly ascertain whether a scheduled electronic payment
12 from their account to the FTB was, in fact, paid.

13 Likewise, as also stated in Scalon, lack of
14 notice from the FTB about failed payment, does not
15 negate Appellants' due prudence and due care to verify
16 that their scheduled payment was successful, because
17 exercising ordinary business care and prudence would
18 entail ensuring that the electronic payment of \$100,000
19 was actually debited.

20 Contrary what Phillips argued, Scanlon did
21 not require actual knowledge. Rather it stated that in
22 the light of Appellants' prior error -- prior error,
23 they should have been especially diligent. In other
24 words, it didn't -- it didn't require knowledge, but
25 rather they should have been especially diligent in

1 light of their actual knowledge.

2 In Scanlon, your office stated that they
3 expect reasonably prudent taxpayers, exercising due care
4 and taxpayers monitoring their bank account and quickly
5 ascertain whether a scheduled payment was, in fact,
6 paid.

7 Your office also stated in Scanlon that lack
8 of notice from FTB of a failed payment does not negate
9 the (audio distortion) and due care to verify that a
10 scheduled payment was successful.

11 In sum, contrary to Appellants' assertion,
12 both Scanlon and Friedman required monitoring of one's
13 bank account to insure that an attempted payment did, in
14 fact, get debited.

15 Appellants also made arguments regarding the
16 EFTA. However, as stated in FTB's reply to them, the
17 EFTA does not apply as EFTA is not a service provider
18 under 15 U.S.1693(b)(d). However, even if it did for
19 limited purposes of being a service provider under that
20 section, Section 1693(3)(b) provides that an electronic
21 funds transfer services are made available to the
22 consumer account by a person other than a financial
23 institution holding a consumer's account, the Consumer
24 Protection Bureau, by regulation, shall assure that the
25 disclosing sections of responsibilities and remedies

1 created by the (audio distortion) are made applicable to
2 such person and service. However, FTB was not providing
3 (audio distortion) benefits to Appellants and it is not
4 clear how such provision would apply in this instance in
5 that Appellants were paying FTB, not FTB (audio
6 distortion) based payments (audio distortion).

7 In sum, the EFTA does not apply to FTB.

8 In conclusion, the late payment penalty was
9 imposed because Appellants failed to use the correct
10 type of an account when making the e-payment. It was
11 further compounded by Appellants' failure to ensure that
12 the payment successfully cleared the bank account.

13 Accordingly, the late payment penalty was
14 properly imposed and the Appellants have not established
15 reasonable cause for abatement of the penalty.

16 Second, Appellants have failed to show that
17 they are entitled to a refund of the underpayment of
18 estimated tax penalty. The law requires taxpayers who
19 are seeking and not subject to withholding make payments
20 of the estimated amount of their tax. FTB has proved
21 that underpayment estimated tax penalty because
22 Appellants failed to make all of their estimated tax
23 payments of their 2017 taxes. Thus, the penalty was
24 properly imposed.

25 In this case, Appellants have not contested

1 the competency of this penalty, rather they offered the
2 same reasonable cause and argument for abatement of this
3 penalty that they asserted with respect to the late
4 payment penalty. However, the law does not provide an
5 abatement of the estimated tax penalty for reasonable
6 cause.

7 Moreover, Appellants have not argued, nor do
8 the facts available to FTB suggest, that they meet any
9 one of the limited exceptions.

10 Without evidence that Appellants meet the
11 spirit of the section, the estimated tax should be
12 sustained.

13 Third and final, Appellants have failed to
14 show that they are entitled to abatement of interest.
15 The assessment of interest of tax (audio distortion) and
16 interest is not a penalty, but simple compensation for
17 the taxpayers' use of money after the date of the tax.

18 There is no reasonable cause exception to
19 this. The interest that accrued in this appeal for the
20 taxpayers is resolvable if the taxpayers paid their tax
21 liability (audio distortion) returned to them. There
22 was no delay or error on the part of FTB that caused
23 interest to accrue.

24 Since the assessment of interest is mandatory
25 and Appellants do not meet the limited circumstances

1 that would allow for abatement of it, the interest for
2 the 2017 tax year cannot be abated.

3 In conclusion, based on the facts and
4 arguments of FTB's opening and reply briefs, and for
5 reasons I just provided, FTB's actions with the 2017 tax
6 year must be sustained.

7 Thank you. And with that, I look forward to
8 any questions you may have.

9 JUDGE EWING: Thank you, Mr. Muradyan.

10 Judge Rosas, do you have any questions at
11 this point?

12 JUDGE ROSAS: This is Judge Rosas.

13 I do not have any questions. Thank you.

14 JUDGE EWING: Okay. Thank you, Judge Rosas.

15 Judge Long, do you have any questions at this
16 point?

17 JUDGE LONG: This is Judge Long.

18 I don't have any questions at this point.

19 JUDGE EWING: Okay. Thank you, Judge long.

20 And I do not have any I questions at this
21 point.

22 So now we have five minutes for Appellants'
23 closing presentation, if any.

24 Mr. Lee, do you wish to make a closing
25 statement?

1 MR. LEE: Yes, I'd like to make a closing
2 statement.

3 JUDGE EWING: Okay. Thank you.

4 Mr. Lee, may I remind you to, please, speak
5 slowly for the stenographer. Thank you.

6 MR. LEE: This is Jae Lee.

7 Yeah. It shouldn't be much of a problem this
8 time, don't have so much to go through.

9 First of all, I'd like to make clear for the
10 panel here, that the Appellants are not making a
11 reasonable cause type argument for all penalties and
12 interest accrued.

13 The reasonable cause argument is only being
14 made in response to the penalties imposed pursuant to
15 Section 19132, but that the equitable estoppel argument
16 is being made in response to all the -- to both
17 penalties and interest accrued.

18 So I just wanted to make that clear for the
19 panel.

20 And the FTB focuses on the fact that the
21 Appellants have used an outdated routing number and have
22 made no effort to check to maintain -- to check their
23 account after the fact, as reasons for their lack of
24 reasonable prudence. But that is only an issue if it is
25 reasonable for a person to have felt that there was such

1 a need. Now, Appellants have shown that a reasonable
2 person would not have felt that monitoring their bank
3 account would be necessary, given the fact that the
4 Appellant was aware of or should have been aware of.
5 Actually, the Appellants have shown that to have
6 monitored the bank account under these circumstances
7 would have been unreasonable.

8 Now, I want to draw a parallel to the grace
9 provided to FTB by the last known address rule. For
10 that rule, notice is sent by the FTB to a taxpayer's
11 last known address, is sufficient for notice even if not
12 received by the taxpayer so long as the address the
13 notice is sent to is the address that appeared on the
14 taxpayer's last return filed with the FTB. The law does
15 not require that the FTB actually locate the address of
16 the taxpayer it hopes to reach. It allows the FTB to
17 assume that the information it had is correct and avoid
18 the cost of the reaffirming a fact that it had no reason
19 to doubt.

20 The FTB's position creates an onerous
21 requirement for the taxpayer that the FTB itself is
22 excused from. Why should the taxpayer be held to a more
23 rigorous standard than the FTB when it comes to
24 verification of facts that he has no reason to doubt?
25 That is the thorny question that must be asked and

1 answered if this Panel to accept the FTB's position.

2 The FTB asks this Panel to focus merely on
3 the fact that the taxes were not paid on time and that
4 there was an issue with the routing number provided by
5 the Appellants. In essence, the FTB asks this panel to
6 the facts of the issue of this appeal, as if they are a
7 black and white picture with inadequate sensitivity
8 failling to capture the true colors of the scene. The
9 Appellants have provided facts to this Panel which
10 populate those parts of the picture left bare by the
11 FTB's position. This is no less than what the law
12 requires, that a taxpayer's circumstances be examined
13 with care beyond the immediate problem to determine
14 whether the taxpayer had nonetheless acted reasonably.
15 And that full picture shows that the plaintiff has acted
16 reasonably and in detrimental reliance of the FTB.

17 Thank you. That concludes my final
18 statement.

19 JUDGE EWING: Thank you, Mr. Lee.

20 So Judge Rosas, do you have any questions at
21 this point?

22 JUDGE ROSAS: This is Judge Rosas.

23 I do not. Thank you.

24 JUDGE EWING: Okay. And Judge Long, do you have
25 any questions?

1 JUDGE LONG: This is Judge Long.

2 I have no questions.

3 JUDGE EWING: Okay. And Mr. Muradyan, is there
4 anything else you'd like to add?

5 MR. MURADYAN: The only thing I would just close
6 with, is at the end of the day, you know, we're very
7 sympathetic to taxpayers' position with respect to the
8 confirmation page. But ultimately, this becomes an
9 issue of whether, when someone makes an attempted
10 payment, whether they have a responsibility to ensure
11 that that payment is eventually debited from their bank
12 account.

13 In this case, that was not done, you know, a
14 week after the payment was submitted. It wasn't done on
15 April 15th of 2018 or when the tax bill would have been
16 due. It was not done on November -- or I'm sorry -- it
17 was not done on April -- on October 15th when they
18 finally filed the return.

19 And ultimately, it comes down to whether they
20 had a requirement to ensure that the payment was
21 debited.

22 And the Scanlon and Friedman opinions, both
23 of which are precedential, make it clear that the
24 taxpayers have an obligation to monitor their bank
25 accounts and to ensure that the payment is eventually

1 done.

2 With that, I would like to say thank you
3 again for everyone, and I have nothing further at this
4 time.

5 JUDGE EWING: Very well. Thank you, Mr. Muradyan.

6 And, Mr. Lee, you get the last word. Do you
7 have anything else you would like to add?

8 MR. LEE: No, not at this time. Actually, no.
9 This is the last time.

10 JUDGE EWING: Okay. Well, thank you, Mr. Lee.

11 Okay. We are ready to conclude this hearing.

12 The judges will meet and decide the case
13 based on the documents and testimony presented and
14 admitted as evidence today.

15 We will send both parties our written
16 decision no later than 100 days from today.

17 Thank you everyone for your time and
18 participation today.

19 And thank you to Ms. Simpson, our
20 stenographer.

21 Thank you, Mr. Doyle, for your testimony and
22 time today. We very much appreciate it.

23 And finally, Judge Rosas and Judge Long,
24 thank you, my fellow panelists.

25 This case is now submitted and the record is

1 closed.

2 This hearing is now adjourned. Thank you
3 very much for your valuable time today and goodbye.

4 * * * * *

5 (Hearing adjourned at 11:08 a.m.)

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REPORTER'S CERTIFICATE

I, Dorothy M. Simpson, CSR No. 14323, the undersigned Certified Shorthand Reporter licensed in the State of California does hereby certify:

That the foregoing proceeding was taken before me at the time and place therein set forth, and thereafter, to the best of my ability to hear and understand, transcribed under my direction and supervision.

I further certify that I am neither counsel for nor related to any party to said action, nor in any way interested in the outcome thereof.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's certificate null and void.

In witness whereof, I have subscribed my name this date: February 10, 2021.



Dorothy M. Simpson, CSR
Certificate Number 14323