

## BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF: )  
 )  
JOY & JOSHUA ENTERPRISES, INC. ) OTA No. 21078284  
 )  
 APPELLANT. )  
 )

**CERTIFIED COPY**

TRANSCRIPT OF PROCEEDINGS

Fresno, California

Thursday, September 29, 2022

Reported by:

Cynthia P. Hernandez  
CSR No. 13521

Job No. :  
38707 OTA(B)

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TRANSCRIPT OF PROCEEDINGS, taken at  
855 M Street, Suite 960, Fresno, California,  
commencing at 1:45 p.m. on Thursday,  
September 29, 2022, reported by  
Cynthia Hernandez, CSR No. 13521, a  
Certified Shorthand Reporter in and for  
the State of California.

1 APPEARANCES:

2  
3 Panel Lead: ALJ JOSHUA ALDRICH

4  
5 Panel Members: ALJ KEITH LONG  
6 ALJ OVSEP AKOPCHIKYAN

7  
8 For the Appellant: IHAB ABDELMALEK  
9 A. KAMEL

10 For the Respondent: STATE OF CALIFORNIA  
11 DEPARTMENT OF TAX AND  
12 FEE ADMINISTRATION

13 RAVINDER SHARMA

14 CHRISTOPHER BROOKS

15 RANDY SUAZO  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

E X H I B I T S

(Appellant's Exhibits 1-15 were received in evidence at page 13)

(Department's Exhibits A-F were received in evidence at page 11)

P R E S E N T A T I O N S

PAGE

By Mr. Kamel

16

By Mr. Sharma

27

1 FRESNO, CALIFORNIA; THURSDAY, SEPTEMBER 29, 2022

2 1:45 P.M.

3 -oOo-

4 JUDGE ALDRICH: This is Judge Aldrich. We are opening  
5 the record in the appeal of Joy & Joshua Enterprises,  
6 Inc., doing business as Superior Used Cars, before the  
7 Office of Tax Appeals, OTA case number 21078274.

8 Today's date is Thursday, September 29th, 2022,  
9 and it's approximately about 1:45 in the afternoon.

10 This hearing is being conducted in Fresno,  
11 California, and it's also being live streamed on OTA's  
12 YouTube channel.

13 The hearing is being heard by a panel of three  
14 administrative law judges. My name is Josh Aldrich.  
15 I'm the lead judge for purposes of conducting the  
16 hearing.

17 I'm joined by Judges Keith Long and Judge  
18 Ovsep Akopchikyan. Excuse me.

19 During the hearing, panel members may ask  
20 questions or otherwise participate to ensure that we  
21 have all information we need to decide this appeal.  
22 After the conclusion of the hearing we three will  
23 deliberate and decide the issues presented.

24 As a reminder, the Office of Tax Appeals is not a  
25 court. We are an independent appeals body. Also a

1 reminder, the panel does not engage in ex parte  
2 communications with either party. Our opinion will be  
3 based on the arguments, evidence and relevant law. And  
4 we have read the parties' submissions and are looking  
5 forward to hearing arguments.

6 So at this time I'd like to ask who's present  
7 for Appellant. The Appellant's representative, if you  
8 could identify yourself.

9 MR. ABDELMALEK: This is Bob Abdelmalek and I'm the  
10 representative.

11 JUDGE ALDRICH: Thank you.

12 MR. KAMEL: And my name is Atif Kamel and I'm the  
13 owner of Superior Used Cars, Joshua Enterprises.

14 JUDGE ALDRICH: Thank you.

15 And for CDTFA who is present?

16 MR. SHARMA: Ravinder Sharma, hearing representative.

17 MR. BROOKS: Christopher Brooks, Tax Counsel for  
18 CDTFA.

19 MR. SUAZO: Randy Suazo, hearing representative for  
20 CDTFA.

21 JUDGE ALDRICH: Thank you, everyone.

22 So the September 12, 2022, minutes and orders has  
23 been distributed to the parties. It listed three  
24 issues. In the interest of time I'm not going to be  
25 restating the issues that were summarized there.

1 However, I wanted to ask the parties were the issues  
2 summarized on the minutes and orders correctly  
3 summarized? Mr. Bob?

4 MR. ABDELMALEK: I was supposed to get a link for the  
5 audit of December, I think, '21 or something like that.  
6 I have not got this link.

7 JUDGE ALDRICH: So you are saying that the link  
8 attached to the minutes and orders didn't function for  
9 you?

10 MR. ABDELMALEK: (Shakes head)

11 JUDGE ALDRICH: And when did you discover that?

12 MR. ABDELMALEK: The day they sent me the email. I  
13 don't remember when.

14 JUDGE ALDRICH: So -- okay. Thank you.

15 But going back to the issue statements, are those  
16 correct?

17 MR. ABDELMALEK: Yeah.

18 JUDGE ALDRICH: Yeah? Close enough?

19 And the department?

20 MR. SHARMA: This is Ravinder Sharma. That is  
21 correct. Thank you.

22 MR. ABDELMALEK: Actually, it opened, but did not have  
23 the exhibit.

24 JUDGE ALDRICH: So you are saying the file for the  
25 minutes and orders opened, but the link did not? Or the

1 link opened, but there was --

2 MR. ABDELMALEK: The link opened and it had the  
3 minutes, but it did not have the files for the audit  
4 that -- the one I never received. I think it was, like,  
5 December 2021 or something like that.

6 JUDGE ALDRICH: I think it was December 21st, 2021,  
7 something around that time.

8 Okay. Let me see. So I guess I wanted to ask the  
9 department, you know, Appellant is claiming that they  
10 didn't receive the department's exhibits that were  
11 submitted on December 22nd, 2021. I guess I wanted to  
12 know where were those exhibits sent? Were they  
13 submitted via mail? Email?

14 MR. SHARMA: This is Ravinder Sharma. We uploaded  
15 that to Safe -- would be a response brief.

16 JUDGE ALDRICH: Okay. So I guess it would have been  
17 more conducive to let us know that you hadn't received  
18 them ahead of time. So I wanted to clarify and see --  
19 are you requesting them? Are you requesting additional  
20 time? What would you like?

21 MR. ABDELMALEK: We submitted all the records we have.  
22 If anything other than this record it cannot be a  
23 correct record. So I think we submitted all the correct  
24 records. I just wonder if there's any difference than  
25 this one or not.



1 JUDGE ALDRICH: So let me see if I understand what you  
2 are saying.

3 You are saying that you submitted all these  
4 records. And I did receive PDFs of approximately  
5 1,200 pages; there was a little bit more than that. And  
6 your position is that if it's different than what those  
7 records reflect, it's incorrect.

8 MR. ABDELMALEK: Yeah.

9 JUDGE ALDRICH: Okay. Well, that sounds like part of  
10 the dispute about the audit. I guess, to clarify, are  
11 you saying that -- are you objecting to the admission of  
12 CDTFA's proposed exhibits?

13 MR. ABDELMALEK: Yeah. The audit was done incorrectly  
14 from the first place.

15 JUDGE ALDRICH: I understand that's your argument, but  
16 right now we're focused on whether or not to admit  
17 exhibits into evidence.

18 And so the department, they submitted Exhibits A  
19 through F, I believe, through the briefing process. And  
20 then we attached that link that you say that you  
21 didn't -- weren't able to access. I guess I'm wondering  
22 what remedy would you like? Are you asking for  
23 something?

24 MR. KAMEL: We just wanted to see what --

25 MR. ABDELMALEK: Yeah. We want to see to see what's

1 wrong. How did they come up with the \$35,000 if we  
2 submitted to them the actual information? And actual  
3 information he would not owe this money.

4 JUDGE ALDRICH: Okay. So this is -- that's going back  
5 into the arguments about there's errors in the re-audit.  
6 I'm more focused at this time on whether or not to admit  
7 exhibits into the evidence.

8 So if you are saying that you didn't receive those  
9 exhibits ahead of time, one option might be that we can  
10 hold it open for you to comment on those exhibits, but I  
11 guess I'm curious as to how you wanted to handle that.  
12 If you are making the objection because you didn't  
13 receive them -- do you have a request?

14 MR. ABDELMALEK: Probably we need to receive them and  
15 study them to see what go wrong, so maybe it's a  
16 continuation. But at this time we need to make sure  
17 it's received.

18 JUDGE ALDRICH: Okay. So I guess, how long -- if we  
19 were to hold the record open, provide you -- make sure  
20 that you receive those documents, how long would you  
21 need to look over those documents? A month?  
22 Two months?

23 MR. ABDELMALEK: Probably a month would be sufficient.  
24 October usually is a busy time for me, but I will make  
25 the time for it, yes.

1 JUDGE ALDRICH: For CDTFA, I'm sure you -- if you'd  
2 like to respond to their response you probably need  
3 about a month; is that correct?

4 MR. SHARMA: That's correct.

5 JUDGE ALDRICH: So we'll handle it after -- well,  
6 we'll allow for submissions after the hearing. We'll  
7 ensure that, once again, you get a copy of the proposed  
8 exhibits. For now, I'm going to go ahead and admit the  
9 Exhibits A through F from the department. And you are  
10 objecting to them, but the reason I'm doing that is  
11 because I'm giving you an opportunity to respond to them  
12 after the hearing. All right?

13 MR. ABDELMALEK: Okay.

14 (Department Exhibits A-F were admitted by the  
15 Administrative Law Judge.)

16 JUDGE ALDRICH: And then -- so we had talked during  
17 the pre-hearing conference about Appellant's exhibits.  
18 In anticipation of the pre-hearing conference there was  
19 a 10-page schedule submitted.

20 CDTFA, do you have any objection to that schedule?

21 MR. SHARMA: This is Ravinder Sharma. The department  
22 has no objection to that.

23 JUDGE ALDRICH: Okay. And subsequently --

24 MR. ABDELMALEK: I'm sorry, what was that? The  
25 admission from us or --

1 JUDGE ALDRICH: Right. So you proposed exhibits for  
2 us to consider into -- to be placed into evidence so we  
3 can consider them in making our opinion, and so I was  
4 asking the department what the position was with respect  
5 to that exhibit. So -- and that was the one that was  
6 attached to your pre-hearing conference email.

7 MR. ABDELMALEK: Okay.

8 JUDGE ALDRICH: Okay? And so, subsequently, you  
9 submitted an email with attachments on September 14th,  
10 2022. So that was timely. Okay?

11 And I wanted to ask the department if they had any  
12 objections to those submissions.

13 MR. SHARMA: This is Ravinder Sharma. Department has  
14 no objection to that either.

15 JUDGE ALDRICH: Okay. So all the exhibits -- proposed  
16 exhibits have now been admitted into evidence, and  
17 that -- but I wanted to go ahead and label those a  
18 little bit, since I didn't receive an exhibit index.

19 So attached to the email there were 12 files  
20 labeled by quarter, beginning with the second quarter of  
21 2012, through the first quarter of 2015. And there was  
22 also a file labeled as letters and a file labeled as  
23 monthly taxes.

24 So in the absence of an exhibit index, we'll refer  
25 to the files attached to Appellant's email as exhibits 1

1 through 14. For example, second quarter of 2012 will be  
2 Exhibit 1. And through 12 chronologically. Letters --  
3 the file labeled "letters" will be Exhibit 13. The file  
4 labeled "monthly taxes" will be Exhibit 14. And the  
5 10-page schedule attached to the email that was received  
6 prior to the pre-hearing conference will be Exhibit 15.

7 So this is just for purposes of identifying them  
8 if we need to reference them later.

9 (Appellant's Exhibits 1-15 were admitted by  
10 the Administrative Law Judge.)

11 JUDGE ALDRICH: Do you have a question?

12 MR. KAMEL: Yes, your Honor. I think that we started  
13 from April 1st, so that's three quarters in 2012, not  
14 the second quarter. Oh, yeah, you are right, the second  
15 quarter.

16 MR. ABDELMALEK: The files from one --

17 JUDGE ALDRICH: I have --

18 MR. ABDELMALEK: Which one is number 15, I'm sorry?

19 JUDGE ALDRICH: 15 is the 10-page schedule that you  
20 attached to your pre-hearing conference email. So the  
21 one that was sent prior to our first conference  
22 together. That's Exhibit 15, excuse me.

23 Does that work for you, Appellant?

24 MR. KAMEL: Yes, please.

25 JUDGE ALDRICH: Sounds good.

1           And so 1 through 15 for Appellant have been  
2 admitted. A through F for department has been admitted  
3 subject to additional briefing after the hearing.

4           So for -- we plan for the hearing to proceed as  
5 follows: Appellant representative or Appellant is going  
6 to be presenting for approximately 30 minutes. The  
7 department will then have approximately 20 minutes.  
8 There will be a period of time for questions from the  
9 panel members, and then we'll give Appellant the last 5  
10 to 10 minutes to form a rebuttal or comment. And if you  
11 need additional time, please let me know. We might be  
12 able to make adjustments.

13           And then, just to be clear, so the owner of  
14 Superior Used Cars is here, but you are not planning on  
15 testifying?

16           MR. KAMEL: I'm going to say something for the time we  
17 have.

18           JUDGE ALDRICH: So you are going to be presenting  
19 argument?

20           MR. KAMEL: Yes.

21           JUDGE ALDRICH: Okay. That's fine.

22           Any further questions before we move to  
23 presentations?

24           MR. ABDELMALEK: I need to make sure we receive these  
25 exhibits in a very way -- it cannot be argued. So is it

1 going to be by mail or email or --

2 JUDGE ALDRICH: What would you prefer?

3 MR. ABDELMALEK: I can work with everything. So  
4 what's the easiest way?

5 JUDGE ALDRICH: So what we'll do is, since there's  
6 a -- currently there's a time limit of 30 days I want to  
7 afford you that opportunity to review those files.  
8 We'll send it to you in email as an attachment with a  
9 PDF and then we'll also sent it in a hard copy.

10 MR. ABDELMALEK: Perfect. That would be wonderful.  
11 This way there's no --

12 JUDGE ALDRICH: Yeah. I understand.

13 MR. ABDELMALEK: Yeah.

14 JUDGE ALDRICH: Okay?

15 MR. ABDELMALEK: Okay. That sounds good.

16 JUDGE ALDRICH: All right. So if you are ready to  
17 proceed with your presentation -- do you need a second  
18 or are you ready to go?

19 MR. KAMEL: Well, who is going to start first, the  
20 department or us?

21 JUDGE ALDRICH: Yeah, so just like I mentioned in the  
22 pre-hearing conferences and the minutes and orders,  
23 you'd be starting first, and you have 30 minutes. Are  
24 you asking for a change in the order or is that okay?

25 MR. ABDELMALEK: That's fine for me. Is it okay with

1     you?

2           MR. KAMEL:    I'm fine.

3           MR. ABDELMALEK:  What's the timeframe?  When are they  
4     going to send us the email and the actual -- you know,  
5     how long will it take to send us this information?

6           JUDGE ALDRICH:  How long?

7           MR. ABDELMALEK:  Yes.

8           JUDGE ALDRICH:  You know, I can work with support  
9     staff at OTA to get that done quickly.

10          MR. ABDELMALEK:  Okay.  Because I don't want to be  
11     like 10, 15 days --

12          MR. KAMEL:  Having enough time to review it.

13          MR. ABDELMALEK:  Yeah, to review it.

14          JUDGE ALDRICH:  Right.  I acknowledge that, and that's  
15     why I proposed to send it via PDF link and then also in  
16     hard copy format.

17          MR. ABDELMALEK:  All right.  Okay.  That sounds good.  
18     Thank you.  So -- you want to say something?

19          MR. KAMEL:  I'm going to say --

20          MR. ABDELMALEK:  Okay.

21  
22                                 PRESENTATION

23          MR. KAMEL:  So dear your Honors, it's my pleasure to  
24     stand in front of you and your court to talk about my  
25     case and how much impacted my business and my personal



1 life.

2 It was beyond my dreams to stand in a court  
3 without paying any attorney's fees, which I don't have.  
4 This makes my -- makes me believe more and more in our  
5 justice system, so please hear me out.

6 I came to this country in 1992 with big dreams. I  
7 came to live American dream. I started business in 1995  
8 as a small car dealer, but things didn't go quite well.  
9 In November '96, I was driving my wife to the hospital  
10 to deliver our second child and we got in a car accident  
11 in our way to the hospital and I lost my life wife and  
12 unborn baby.

13 I was fortunate to manage my business and being a  
14 single parent for a 14 months old daughter for  
15 seven years. I continue with my business. After  
16 seven years I was blessed with a wonderful wife and two  
17 more children.

18 It was never new to me to know that I'm having  
19 severe depression disorder. I learned at young age to  
20 overcome my weaknesses and keep up with my life, trying  
21 to survive on my own and take care of my family.

22 2008 came with all kind of financial difficulties,  
23 but I managed to survive. I had my first audit in 2012  
24 from Board of Equalization charging me 28,000 between  
25 penalties and late fees, but not one unreported sales

1 tax. I paid this amount in full just because I had the  
2 money then. And I'm sure they didn't consider my bad  
3 debts too. But the most important question I ask the  
4 auditor, how to do it right? So I won't be in the  
5 future having problems with your department.

6 Keep in mind, your Honor, I'm just an average guy.  
7 I'm not an accountant, so -- plus Board of Equalization  
8 didn't give me classes to -- how to figure these numbers  
9 out.

10 I hired a third party, Gentry's Registration, to  
11 do my DMV and sales tax, with an instruction of 2012  
12 auditor. Also by the end of 2012 or 2013 I had an IRS  
13 auditor. This time he came to me, to my car lot, and  
14 told me that I didn't file 2008 taxes. I told him that  
15 I filed every year and my CPA filed it to me. He told  
16 me "you need to go to IRS building and resolve this  
17 matter."

18 I went. They said 2008 was not completely filed.  
19 I was missing a form. And the tax return will not --  
20 was about \$24,000. I told them, "Let me sign this  
21 missing form so I can receive my tax refund." They  
22 said, "It doesn't work this way. It doesn't work this  
23 way. You need to pay in full what you owe," without  
24 counting any dime from the money they had already. I  
25 said fine. I began with \$10,000 up in the front and the

1 rest in payments, with the total close to \$24,000 or  
2 something very close.

3 I was hoping to get my money back so I would break  
4 even, then I got the shocking answer after I paid: The  
5 statute of limitation would stop me from getting the  
6 money back. Your Honor, everything I said is truth and  
7 my accountant can prove this in detail.

8 I still managed to survive in my business with a  
9 great struggle, but I didn't have money to fight. Now  
10 I'm standing in the front of you about audit from  
11 April 1st, 2012, to March 31st, 2015.

12 I had Mr. Iqbal from Board of Equalization charge  
13 me \$35,000. Mr. Iqbal is no longer working for the  
14 department. In my personal opinion, he was doing the  
15 audit incorrectly to recommend me to different  
16 accountant from his friends. In return I might hardly  
17 owe any money in the audit. When I refused he changed  
18 and without considering any legit credit, like bad  
19 debts.

20 So my accountant tried to complain several times,  
21 but the department didn't take any action, so my  
22 accountant had to report him to his district manager,  
23 Mr. Juarez. Then, after the department investigation,  
24 the auditor is no longer working in the department. But  
25 the strange thing, the department is still using the

1 wrong reports. Not even that, but they want to charge  
2 me 10 percent extra for negligence.

3 It was recommended several times to redo the audit  
4 by several CDTFA and OTA employees. For seven years I  
5 requested the department to redo the audit several  
6 times, to redo the audit and done correctly, but nothing  
7 happened. In my opinion, the department refused to do  
8 it correctly. Now, after a very long seven years I owe  
9 close to \$60,000; penalties and late fees. I'm still  
10 waking up in the middle of the night afraid that the  
11 State of California will lien on my house.

12 I forgot to mention I had another audit after from  
13 Board of Equalization in 2018 and went fine.

14 Your Honor, I was working so hard for 25 years,  
15 six days a week, no vacation, no retirement. I was  
16 paying myself \$1,500 a month, which is less than minimum  
17 wage, to stay in business and make ends meet. Now I'm  
18 not even paying myself because I cannot afford it.

19 The last car I bought to sell was in January 2020,  
20 almost three years ago. I stopped buying cars or  
21 selling cars. I closed my business, which is my main  
22 income for long-time livelihood.

23 I still have my dealer license. I still paying  
24 rent. I still having my car lot insurance and bond  
25 current and all other expenses hoping to resolve this

1 matter. I try to force myself to work, but every time I  
2 go to work all kind of negative feelings, anger, anxiety  
3 and losing hope, hit me, so I leave work right away. So  
4 I had to go to treatment; medication lately. Please see  
5 the letter I submitted to you.

6 Your Honor, in the past I survived to manage all  
7 my hardship all my life, and they were really hard, but  
8 this time for first time in my life I feel defeated,  
9 helpless and losing any interest to work. I know I have  
10 high rates or repos in my business just because I'm a  
11 small buy here, pay here car lot and one-man show. I  
12 buy. I sell. I finance.

13 Helping unfortunate people, it make me feel good.  
14 It was my therapy. I like to help people to have wheels  
15 to go to work. These people cannot go to big car lots  
16 because of bad debts or bad credit. I was giving them  
17 chance to make their living, plus it was easier for me  
18 for my struggle mental status than trying to go with my  
19 financing companies or banks because they needed more  
20 paperwork, which I wasn't good at it.

21 I was working with poor people. They had lots of  
22 challenges. One of many stories I still remember:  
23 Juan Guerrero. He was a nice Hispanic guy. He bought a  
24 Nissan truck from me -- a Nissan Titan truck from me.  
25 He was doing birthday parties, event rentals, like

1 setting up chairs, tables and jumpers in people back  
2 yards and charging a few bucks. He was paying me on  
3 time, but he came to me and said his payment is too high  
4 because his business slow down. I told him that I can  
5 refinance just the principal without charging any  
6 finance charge to help him out.

7 After a few months his poor wife and his 17 years  
8 old son, they came to me. She came to me telling me  
9 with her broken English that Juan have passed away of a  
10 heart attack at the age of 45. And she had to keep  
11 doing her late husband's business so her kids wouldn't  
12 be live in the street.

13 I cried. I released the title to her for the  
14 truck. And I remember when my father passed away when I  
15 was four years old and my mom was biggest struggle to  
16 raise the four of us on her own.

17 I have many -- I have so many stories just like  
18 Juan. Poor people keep working and they don't complain,  
19 just like me, suffering in silence and keep working.

20 Your Honor, after 27 years in business with all my  
21 hard work I lost my business because it was too painful  
22 to continue. Now my wife, who had two strokes  
23 back-to-back in 2016, and me, we clean toilets, wash and  
24 clean sheets to make beds for our property to rent it  
25 for Airbnb to make our hard work living. This is our

1 only income. No retirement; just a small security after  
2 65 years old.

3 I have two kids. I'm still raising them; one in  
4 college and the other one in sophomore high school, and  
5 my older daughter is still living at home.

6 I'm content and happy, but when I see other car  
7 dealers who did bankruptcies and operated under their  
8 kids' names or who flee the country with millions of tax  
9 payers' money and come back to California and still  
10 selling cars I don't know how. I feel really sad, but  
11 because I didn't do that I deserve to be punished from  
12 State of California. Now this, but the State of  
13 California might lien my on my house for my debt and  
14 lose it, which I feel I don't owe it.

15 Your Honor, a few days ago I bought a car to go  
16 back in business after almost three years of not buying  
17 cars. If you help me out to stay in business I will be  
18 grateful for life. If not, I will let my wife drive  
19 this car instead of her 2005 Toyota Sienna -- She's  
20 driving it for 17 years straight -- and probably  
21 surrender my dealer license.

22 I know I do some mistakes, but in life I don't  
23 cheat. I try to do everything correct. I need to stay  
24 in business, so please hear me out.

25 Your Honors, thank you for listening to me and may

1 God bless you.

2 JUDGE ALDRICH: Thank you.

3 Mr. Bob, do you plan on adding to that?

4 MR. ABDELMALEK: Just something, and I will make very  
5 quick, because I know we took some time.

6 I start looking for Mr. Jeff's paper when that  
7 audit started. And when we met with Mr. Iqbal it was --  
8 he will come to my office, tell me something, go to his  
9 office, send me an email totally different, totally  
10 different. I talked with the supervisor, Mr. Richard,  
11 and it's like, "I need another one. He's doing that.  
12 He's doing that."

13 Until July 12th -- it's my kids' birthday; I have  
14 twins -- July 12, 2016, so I will never forget this  
15 date, I get a phone call from Mr. Jeff's wife that the  
16 auditor was there and he told her they will go to jail  
17 because of their accountant. They need to change him  
18 and he can help her with that. And she get the second  
19 stroke immediately and she had to be rushed to the  
20 hospital.

21 Then I did call Richard at that time. I was at  
22 the pet store; I was buying my kids' birthday present.  
23 I remember that as if it's a movie right in front of my  
24 eye. He said he will make sure everything went fine.  
25 He will be checking this audit all the time. So I start



1 CC him in all the e-mails proving that the auditor will  
2 come to my office, will say something and will go to his  
3 office to write an email to document totally different  
4 thing.

5 Then, when we close the audit he came to my office  
6 and he said, "I have good news. Your guy doesn't owe  
7 anything; maybe a little bit, because he miscalculated  
8 the bad debt. He put the whole amount, but with the  
9 other credit he owes only under \$2,000." So we agreed  
10 about that. He said, you know, "something wrong with my  
11 computer. I cannot send you the email with that. So  
12 let me go to the office and I'll send it to you  
13 immediately." By the end of the day he went to the  
14 office and he sent me totally different audit that  
15 Mr. Jeff owes a lot of money.

16 Then, that's when I contacted Mr. Juarez and the  
17 supervisor in Bakersfield. They said they would reopen  
18 the audit. There's -- an accountant contacted me and he  
19 came. He asked for all the paper; we had an  
20 appointment, then he disappeared. I learned later that  
21 he moved to Sacramento.

22 Then we start doing the appeals. With the appeal,  
23 the first one, it was recommended to redo the whole  
24 audit because it's done wrong. Then the supervisor did  
25 not want to redo the audit. And to come to this

1 decision from the appeal officer we had to give some  
2 samples. We did the samples. They said "okay. We have  
3 to redo the whole audit."

4 Then CDTA (sic) never opened it. They gave us  
5 appointment. They never showed up and they -- they did  
6 not show up. They -- I contacted Mr. Juarez again and  
7 he was in San Diego and he said, "I'll be in the office  
8 in one day. I will take care of it." Monday it was the  
9 COVID and there was --

10 MR. KAMEL: The lockdown.

11 MR. ABDELMALEK: The lockdown.

12 Then we get -- they opened the audit. They took  
13 the samples that we gave to give the decision to reopen  
14 the audit. And it was wrong. It was on the wrong  
15 report. They did not contact us. They never sent us  
16 the paper. It's just being for seven years at least  
17 three accountants and three, four auditors and OTA --  
18 several people and every single person recommended that  
19 the report was done wrong and it needs to be redone.  
20 The department never did that. So that is the story  
21 about this audit.

22 JUDGE ALDRICH: Okay. So instead of asking questions  
23 from the Appellant or Appellant's representative  
24 immediately we're going to reserve those for after the  
25 department makes their presentation.

1           And so Department, are you ready to proceed with  
2 your opening and closing?

3           MR. SHARMA: This is Ravinder Sharma. That's correct,  
4 we are ready. Thank you.

5           JUDGE ALDRICH: Go ahead.

6  
7                                   PRESENTATION

8           MR. SHARMA: Appellant is a corporation that operated  
9 a used car dealership in Bakersfield, California, since  
10 January 2006, doing business as Superior Used Cars.

11           The department performed an audit examination for  
12 the period of April 1, 2012, through March 31, 2015.  
13 Appellant reported total sales of approximately \$1.1  
14 million, claimed deductions of \$77,000, resulting in  
15 reported taxable sales of \$1.03 million for the audit  
16 period. Exhibit A, page 7 to 8.

17           Appellant provided dealer jackets, sales reports  
18 and monthly sales summaries for the audit period. The  
19 department obtained Department of Motor Vehicles --  
20 that's DMV -- data from its data analysis section.

21           The department used Appellant's sales records and  
22 DMV data to determine audited taxable sales of \$1.48  
23 million for the audit period. Exhibit A, pages 16 to  
24 28. The department also noted duplicates sales of  
25 approximately \$18,000. That is Exhibit A page 15.

1           During the audit process, the department noted  
2           that Appellant started leasing vehicles in June 2014.  
3           The department used tax collector amount to determine  
4           taxable measures of \$30,000 for the audit period.  
5           Exhibit A, page 29 and 30.

6           The department examined Appellant's books and  
7           records. Those records revealed that Appellant  
8           purchased two vehicles, for a total of \$11,000, for  
9           personal use after issuing a sales certificate. Exhibit  
10          A, page 38.

11          The department also determined that Appellant had  
12          unclaimed bad debts of little more than \$11,000 for the  
13          audit period. Exhibit A page 36 and 37.

14          Based on the above audit procedures and reported  
15          taxable sales of \$1.03 million, the department  
16          determined unreported taxable sales of \$458,000 for the  
17          audit period.

18          During the audit process, the department noted  
19          that Appellant did not report district taxes. The books  
20          and records show unreported district taxes on taxable  
21          measures of \$39,000 for the audit period. Exhibit A,  
22          page 31 to 35.

23          The department assessed a 10 percent negligence  
24          penalty because Appellant's vehicle sales reported to  
25          the DMV substantially exceeded reported taxable sales to

1 the department. These others are similar to the others  
2 for the prior audit.

3 The department notes that Appellant's  
4 understatement increases from 12 percent in the prior  
5 audit to 44 percent in the current audit. The  
6 negligence penalty is appropriate.

7 Appellant has not provided any documentary  
8 evidence to show that audited taxable sales establish  
9 based on sales reports and DMV data is not correct;  
10 however, for prehearing conference Appellant submitted a  
11 10-page sales report dated September 2, 2022, for the  
12 audit period.

13 To verify the accuracy of the 10-page sales  
14 report, the department randomly selected five quarters;  
15 second quarter 2012, third quarter 2012, fourth quarter  
16 2012, first quarter 2014 and first quarter 2015. In  
17 those five selected quarters the 10-page report lists  
18 sales of 65 cars, as compared to Appellant's previously  
19 submitted sales of 100 cars, based on dealer jackets,  
20 sales reports and DMV data.

21 Further analysis shows that the 10-page sales  
22 report contains the additional sales of four cars which  
23 were not part of the previously submitted documents.  
24 See Appellant's sale report dated September 2nd, 2022,  
25 pages 2, 6 and 7, for stock number 300043R1, second

1 330044.

2 MR. KAMEL: Can you repeat them?

3 JUDGE ALDRICH: If you can direct your question to me.

4 MR. ABDELMALEK: Can we get a copy of this report? Is  
5 it possible to get a copy of that? Because there's a  
6 lot of numbers and I could not write all of it.

7 JUDGE ALDRICH: How about we ask Mr. Sharma just to  
8 speak a little bit slower? The other thing is that  
9 this, like I said, is being live streamed on YouTube.  
10 You'll be able to hear it again on YouTube.

11 Department, did you have a report that you wanted  
12 to submit or is this just part of your argument?

13 MR. SHARMA: Yes, part of the argument.

14 We analyzed the 10-page report submitted by  
15 Appellant and we just selected five quarters to verify  
16 the accuracy.

17 JUDGE ALDRICH: Okay. Hold on.

18 So going back to you, since they haven't submitted  
19 it as additional evidence, I guess we can have the  
20 option of you can view it on YouTube. Shortly after the  
21 hearing -- I'm not sure how long the stenographer needs  
22 to prepare the transcript, but it would be available on  
23 the transcript, which will be posted to our website as  
24 well, so you can double -- or cross-reference the  
25 numbers there. Does that answer your question?

1 MR. ABDELMALEK: Sure.

2 JUDGE ALDRICH: So-so?

3 MR. ABDELMALEK: Yeah.

4 JUDGE ALDRICH: You need more clarification?

5 MR. ABDELMALEK: No. I have the clarification, but I  
6 don't know how much doable to gather all this  
7 information, you know. That's fine.

8 JUDGE ALDRICH: Well, did you miss a number on one of  
9 the stocks?

10 MR. ABDELMALEK: It's most of the numbers -- it's big  
11 numbers and I'm trying to write those things, you know.

12 JUDGE ALDRICH: Mr. Sharma, could you start over with  
13 those stock numbers and speak a little bit slower when  
14 you say them?

15 MS. SHARMA: Yeah, definitely.

16 I will restart from the four cars.

17 Further analysis shows that the 10-page sales  
18 report contains the additional sales of four cars which  
19 were not part of previously submitted documents. That's  
20 Appellant's sales report dated September 2nd, 2022.  
21 Reference of the page sales report is page number 2 --

22 JUDGE ALDRICH: Take it a little bit slower.

23 MR. SHARMA: Okay. Appellant's sales report dated  
24 September 2, 2022, page number 2, 6 and 7. Stock number  
25 is, first car, 300043R1. Second, 33004. Third,

1 320023R1. Fourth, 330059.

2 JUDGE ALDRICH: Did you get all that?

3 MR. ABDELMALEK: Yeah.

4 JUDGE ALDRICH: Okay.

5 MR. KAMEL: Do you have dates for -- can we get the  
6 dates, your Honor?

7 JUDGE ALDRICH: Do you understand that they are  
8 pulling this information off of the report that you  
9 submitted as evidence?

10 MR. KAMEL: All right.

11 MR. SHARMA: Thank you.

12 Total differences of the 39 missing car sales and  
13 four additional car sales amounts to \$276,000 for  
14 five quarters. The department submits that all 39 cars  
15 which are not part of the sales report dated  
16 September 2nd, 2022, were determined to be valid sales  
17 by examining Appellant's dealer jackets, sale journal,  
18 report of sales and by examining DMV data. For  
19 reference, Exhibit A, pages 17 to 28.

20 Based on the above analysis, the department  
21 determined that Appellant's 10-page sales report dated  
22 September 2nd, 2022, is incomplete and unreliable.

23 Appellant contends that notice of determination  
24 was not issued timely. In response, the department  
25 submits that it has issued a timely notice of



1 determination on February 10, 2017, which was supported  
2 by a series of properly executed and signed waivers of  
3 limitation extending the statute of limitation to  
4 April 30, 2017. Exhibit B, pages 53 to 57.

5 Appellant contends that it's eligible for  
6 additional bad debts and submitted a packet of  
7 1,205 pages in support of its claim. In response, the  
8 department submits that it has reviewed the packet and  
9 noted that its contents do not provide all the  
10 information needed to support any unclaimed amounts of  
11 bad debts.

12 For example, Appellant failed to provide any  
13 summary schedule to determine the amount of claimed bad  
14 debts for every car repossessed. They failed to provide  
15 the value of repossessed cars. There are no worksheets  
16 showing allocation of all payments to taxable and  
17 non-taxable items, and others as required by Appendix 1  
18 of Regulation 1642.

19 Critically, Appellant failed to provide any  
20 evidence that claimed amount of bad debts has been  
21 charged off for income tax purposes. Based on the above  
22 analysis, the department determined that submitted  
23 documents are incomplete and do not support any  
24 additional adjustments for bad debts.

25 During the prehearing conference, Office of Tax

1 Appeals asked the department to provide answers to the  
2 following questions: How did the auditor calculate the  
3 vehicle sales price based on the California Department  
4 of Motor Vehicles -- DMV report of sales data? For  
5 example, was the vehicle license vehicle used to assign  
6 the lowest estimated sales price within the range of  
7 \$200?

8 In response, the department submits that auditor  
9 used dealer jackets, sales journal and DMV data to  
10 determine the sales price for every car. Based on  
11 review of Schedule 12b-1 to 12b-2, the following  
12 procedure was used: All scheduled sales price for car  
13 with stock number or report of sales numbers are based  
14 on examination of dealer jackets, sales journal and  
15 represent actual sales price, document fees and sales  
16 tax.

17 All scheduled sales price for cars without stock  
18 number are based on DMV data because dealer jackets were  
19 not available. Generally, when dealer jackets or other  
20 sales records are not available, the department uses  
21 vehicle license fee codes to assign the lowest estimated  
22 sales price within the range of \$200.

23 In the present case, since the department had  
24 access to most of the dealer jackets and all sales data,  
25 the auditor used dealer jacket or sales data for a

1 similar car to assign estimated sales price for cars  
2 without stock number.

3 For example, if the DMV data shows lowest  
4 estimated sales price of \$5,800 for a range of \$5,800 to  
5 \$6,000, but Appellant's records show a sales price of  
6 \$5,995 for a similar car, then the department used  
7 estimated sales price of \$5,995. The department used  
8 this process on a total of nine cars. The estimated  
9 sales price for each of these nine cars is still within  
10 the range of \$200, but not the lowest estimated sales  
11 price.

12 As stated above, the department has fully  
13 explained the basis for deficiency based on the  
14 available books and records. Further, the department  
15 has used approved audit methods to determine the  
16 deficiency. Therefore, based on the evidence presented,  
17 the department requests that Appellant's appeal be  
18 denied.

19 This concludes my presentation and I'm available  
20 to answer any questions you may have. Thank you.

21 JUDGE ALDRICH: Thank you, Mr. Sharma. So we're going  
22 to be asking questions at this point.

23 I do have a couple of questions. So for the  
24 Appellant representative, Mr. Bob, you've reiterated a  
25 few times that you think that the audit was done

1     incorrectly. Was it the methodology? Was it the  
2     source? What exactly are you saying? What was wrong  
3     with the audit, according to your view?

4     MR. ABDELMALEK: Okay. After we agreed about the  
5     audit he changed all the numbers and more cars it's not  
6     for sale. The DMV record was not correct. The price of  
7     the cars it's -- depends on the quality of the car. So  
8     the same car, you can sell it for two different prices.

9     So it's everything -- he did change the full  
10    report. He showed me a report to my office, went to his  
11    office, emailed totally different report. So everything  
12    looks correct. So the 39 cars we did talk about it with  
13    him and we proved they did get through the DMV and that  
14    was wrong information. He was supposed to clear it,  
15    that these cars are not ours or there's a duplicate. So  
16    there's -- the DMV report it's not reliable one.

17    JUDGE ALDRICH: Okay. So your argument is that of the  
18    39 cars some of those are duplicates or they weren't  
19    actually sold by you?

20    MR. ABDELMALEK: Exactly.

21    JUDGE ALDRICH: Okay.

22    MR. ABDELMALEK: And that's known about the DMV for  
23    all the audits. I can give so many examples the DMV and  
24    auction, they have wrong information.

25    JUDGE ALDRICH: Okay. So your position is that the

1 DMV provided the department incorrect data or the  
2 auction house provided incorrect data.

3 Are you still arguing about bad debts deduction?

4 MR. ABDELMALEK: Yeah. We provide all the bad debts.  
5 That's when Mr. Jeff will owe couple thousand dollars or  
6 less. That's what we determined. And we submit all the  
7 bad debt in the file to Exhibit 14, I believe. I think  
8 it's Exhibit 14.

9 JUDGE ALDRICH: Yeah. So in regards to Exhibit 14,  
10 will I find the value of the car on the date of  
11 repossession?

12 MR. ABDELMALEK: That's the reason for the difference  
13 of the 2,000, but we can fix that if -- you know, just  
14 to try to go see what's the value of the car, because  
15 when car is removed is very much a very old value. But  
16 we can go through them one by one and we can fix that.

17 JUDGE ALDRICH: Okay. And another question I had: If  
18 these bad debt deductions occurred, why weren't they  
19 claimed, if they weren't claimed on the federal income  
20 tax returns as bad debts?

21 MR. ABDELMALEK: It was claimed.

22 JUDGE ALDRICH: It was claimed?

23 MR. ABDELMALEK: And I showed the department that when  
24 they issued this one with the first appeal, that's --  
25 there's two ways as the supervisor Mr. Richard said it,

1 and the department. You could put the amount of sales  
2 as the full amount, minus the debts or you can deduct it  
3 from the sales amount and you put the numbers of the  
4 sales without the bad debt.

5 JUDGE ALDRICH: So on the federal income tax returns  
6 you were netting the bad debts out?

7 MR. ABDELMALEK: Yes, as of my memory, but -- right.  
8 I'm -- difficult. I think that's what we agreed about  
9 us and the department and the first appeal.

10 JUDGE ALDRICH: Okay. And just as a point of  
11 clarification, has your email address changed during the  
12 audit or through the appeal?

13 MR. ABDELMALEK: No.

14 JUDGE ALDRICH: Okay. Because I was looking at some  
15 of the exhibits and it looks like you had signed an  
16 electronic agreement to receive electronic data. And,  
17 so for example, on the decision it looks like it was  
18 sent to you and the Appellant electronically. And it  
19 listed an email address. And -- so that's true of a few  
20 of these -- or I haven't gone through extensively at the  
21 time that we've been at the hearing, but it's true of  
22 most of those exhibits.

23 So I guess I'm just a little bit confused as to  
24 the argument that you haven't received them, but we've  
25 already addressed it. We're going to hold it open and

1 allow for some additional time.

2 But -- so there has been an issue regarding the  
3 statute of limitations. So is it still your position  
4 that notice of determination wasn't issued within the  
5 statute of limitations?

6 MR. ABDELMALEK: No, no. That's the position that  
7 Mr. Jeff talked about. That has nothing to do with this  
8 one.

9 JUDGE ALDRICH: Okay. So for today's hearing it's  
10 whether or not the --

11 MR. KAMEL: We didn't know that was even -- I was not  
12 aware there is day making. Because we have -- because  
13 in the emails going back and forth we're supposed to  
14 have another auditor come to the office to check the  
15 files, the ones we were talking about.

16 JUDGE ALDRICH: Okay.

17 MR. KAMEL: And for some reason the auditor said, "You  
18 are supposed to come to me," but we have -- an email was  
19 sent to him prior to this that he's supposed to come to  
20 the office; that's why we're waiting to meet him in the  
21 office. So that's why we're waiting to discuss what we  
22 have wrong and we can talk about it. I see in here when  
23 you are talking about estimate --

24 JUDGE ALDRICH: So I don't think you are answering my  
25 question. And you will have an opportunity to talk in a

1 second.

2 But with respect to the first issue, the  
3 timeliness of the NOD's, that's not at issue anymore?  
4 Is that what you're saying?

5 MR. ABDELMALEK: Which one, I'm sorry?

6 JUDGE ALDRICH: The first issue is whether or not the  
7 notice of determinations was timely issued, whether it's  
8 valid. And we had included that on the minutes and  
9 orders, and we had discussed that during the prehearing  
10 conference, and we confirmed that at the beginning of  
11 the hearing, but it sounds like that's not a dispute or  
12 is it?

13 MR. ABDELMALEK: It is. I never get it. I don't  
14 know -- it was not emailed.

15 JUDGE ALDRICH: You never get it?

16 MR. ABDELMALEK: No.

17 JUDGE ALDRICH: What is "it" in this situation?

18 MR. ABDELMALEK: The one for December of '21.

19 JUDGE ALDRICH: The opening brief.

20 MR. ABDELMALEK: No, the opening -- for the last time  
21 we met? I'm not understanding. I'm sorry.

22 JUDGE ALDRICH: Okay. So on the minutes and orders  
23 that memorialized our conversation of the prehearing  
24 conference we listed three issues, so three things that  
25 we have to determine in our opinion. Okay? And the



1 first of those was with respect to the timeliness or the  
2 validity of the notice of determination. So the bill  
3 that was sent as a result of the audit. Is that being  
4 disputed still or not?

5 MR. ABDELMALEK: I got the email for the minutes for  
6 the meeting we had last time, but I did not get the  
7 link -- or I couldn't open the link or it was empty, the  
8 link for the department appeal.

9 JUDGE ALDRICH: Okay. That's fine. We can move on.  
10 There's more questions. Actually, that was all the  
11 questions I had.

12 So at this time I'm going to refer to the other  
13 panel members if they have any questions for either of  
14 the parties.

15 So, Judge Long, did you have any questions for  
16 either of the parties?

17 JUDGE LONG: Yes. This question is for Appellant.

18 With respect to the audit being done wrong, can  
19 you point to any transactions in the audit or re-audit  
20 specifically? I understand that your position is that a  
21 completely different set of papers were issued after you  
22 agreed upon the audit. But with respect to the actual  
23 schedules them self can you point to something in the  
24 schedule and also point to a place in your exhibits  
25 where we can see that those numbers are either incorrect

1 or differ in some ways so that they might not be taxable  
2 or to prove your point?

3 MR. ABDELMALEK: I don't have a stock number, but DMV  
4 report was not correct and we filter it with the correct  
5 amount. There was a bad debt. We proved it's a bad  
6 debt. It was not in that report that this number has  
7 been changed. There's a credit for guess it was not  
8 there.

9 Very of the cars -- some cars was reported by the  
10 DMV for different number. We challenged that. DMV  
11 report had duplicate cars. We did challenge that. So  
12 we challenged everything it was brought that we did a  
13 mistake.

14 So that's part of what went wrong, you know. I  
15 don't have in front of me each car by itself.

16 JUDGE LONG: So with respect to the audit and the  
17 re-audit are we to understand that every car that is  
18 found to have been subject to unreported taxable sales  
19 is incorrect?

20 MR. ABDELMALEK: Yes. Not -- every car they've had  
21 fund for it we had an answer for it. And that's why we  
22 said to reopen the -- redo the audit, not to reopen it.  
23 That's why it was all the recommendation, because there  
24 was so many mistakes they had in the audit --

25 JUDGE LONG: And you don't have any --

1 MR. ABDELMALEK: -- at the time, yes.

2 JUDGE LONG: And you don't have any examples?

3 MR. ABDELMALEK: Right now?

4 JUDGE LONG: Yeah.

5 MR. ABDELMALEK: No, I don't.

6 MR. KAMEL: Your Honor, I'm gonna say how car sales  
7 work. Sometimes I'm a buy here, pay here place, which  
8 is a lot of people buy the car. When they buy the car,  
9 before even 30 days they default giving me down payment.  
10 I go repo the car. And this car is like unwind it,  
11 because they failed -- they failed from the get-go.  
12 Some people give me down payment and the check would  
13 bounce and I had to go repo the car and sell it again.

14 Maybe in DMV what I do -- I sent the reported sale  
15 back. I say "and this car is being repoed" so they  
16 would consider it back to my inventory. If they didn't  
17 consider it as repoed it would be duplicates, because I  
18 resold it. And at the same time it will show that I'm  
19 having high number of sales when the actual I'm having.  
20 That's one thing.

21 The other thing I am having -- if I buy a car back  
22 or if I repo a car, or sometime I have some cars really  
23 damaged and I cannot sell them, sometime I sell these  
24 cars with a statement of fact that this car sold as  
25 junk. "This car needs major repair or could use for

1 parts."

2 And I have the customer sign for it. And I hand  
3 them -- as a customer demand title, so I charge them for  
4 the price of the vehicle very cheap, because the car is  
5 not running right. And I charge them just the sales tax  
6 and I write a statement of fact. "This car -- the buyer  
7 understand this car is not smogged. Is not safety. Is  
8 not running" so he won't come back to me. The car is --  
9 has major things wrong. And I charge them cheap amount  
10 of money. He gets the title. It's up to him to go to  
11 DMV or not, but I send the reported sale for how much I  
12 paid this vehicle.

13 When I write it down I write it for this amount.  
14 So they cannot come and say I have estimate value of  
15 some cars for these cars. They couldn't find it or  
16 something, because these cars, some of them -- big  
17 number of cars they are like -- sometime people don't  
18 pay for the car when it's broken. We're talking a buy  
19 here, pay here people. Okay? So when the car broke it,  
20 come and get your car.

21 I can get in the car broken and sometimes to tow  
22 it to auction. Some of these cars I sell it to copart.  
23 Some of them I sell them to, like, some little auction.  
24 And some cars I sell to public which is the DMV allow me  
25 if I am selling it as junk or for parts or has major

1 things wrong and I hand the title.

2 JUDGE LONG: Right. I'm sorry, I don't necessarily  
3 want to interrupt, but what I'm trying to ask is this:  
4 You submitted a little over 1,200 pages of exhibits.  
5 And what -- and the audit measure is in dispute, the  
6 amount of unreported taxable sales is in dispute. And  
7 what I'm really looking for is specifics as to which  
8 cars are disputed. An example of a -- an example of  
9 where in the audit work papers you believe there to be  
10 an incorrect transaction.

11 MR. KAMEL: We don't know, your Honor. We didn't have  
12 a report from Board of Equalization say "you are doing  
13 this wrong and this wrong and this wrong" so we can  
14 talk. We were wait for somebody to come and talk to us,  
15 but nobody did.

16 MR. ABDELMALEK: I think when we get the report we  
17 will know which cars are in the report. It's not on  
18 the -- in our report.

19 JUDGE LONG: Okay. Thank you. I don't have anymore  
20 questions.

21 JUDGE ALDRICH: Judge Akopchikyan, do you have any  
22 questions?

23 JUDGE AKOPCHIKYAN: Ovsep Akopchikyan speaking. I  
24 have no questions. Thank you.

25 JUDGE ALDRICH: Okay. At this time you have five to

1 10 minutes to make a rebuttal, or if some there's  
2 something else that you'd like to add. Or are you done?

3 MR. ABDELMALEK: I'm done.

4 MR. KAMEL: I'm just -- what I'm trying to say the  
5 difference between the DMV reports and the reported for  
6 the Board of Equalization, what the difference is. Some  
7 of the cars was bought back from the get-go. Some cars,  
8 like, say, people promise me to give me 500 next week  
9 and you see them running away, I got to chase them to  
10 get my car back.

11 If this car showed I pay all the sales tax for it,  
12 I can't, because it was just like a no deal. That's  
13 what makes a lot of differences in amount of DMV and  
14 Board of Equalization. That's why I would like to see  
15 where -- what I submitted is everything I have. Every  
16 stock number, that's why I submitted. And in every page  
17 or every car I sold I write my bad debt, "this amount."  
18 So at least they can see how much bad debt I'm having.  
19 But if they are claiming that because of timely manner I  
20 cannot claim bad debts, nobody has talked to me about  
21 it. I would love to.

22 MR. ABDELMALEK: Just -- I want to submit the DMV  
23 report. And I can get example of that that has human  
24 mistake due to adding some cars with the wrong dealer  
25 number. And we had this problem with other dealers and

1 it was corrected.

2 Sometimes the name, it seems similar, but it has  
3 dealer ID number or -- so they are located in their  
4 computer with the wrong dealer ID number. So what we  
5 will do, we'll go through the DMV report and the actual  
6 ones and everyone it's not ours we will bring it. What  
7 kind of proof to prove it's not ours? We will contact  
8 the auction, you know. So that's what we'll -- how  
9 we'll prove it, you know. So our report came from the  
10 computer, not as it was found by the department. It's  
11 unreliable report. That's the actual report. The other  
12 report is the unreliable one.

13 JUDGE ALDRICH: Thank you.

14 So I think we have everyone's arguments on the  
15 record. Are there any final comments? I'm seeing a no  
16 from Judge Long. No? Okay.

17 Thank you, everyone, for your time. We're ready  
18 to conclude the hearing for this afternoon. The record  
19 is going to be held open. I'll issue some post-hearing  
20 orders to give clarification, but the general premise is  
21 that there's 30 days from today for Appellant's  
22 representative to, I guess, respond to the department's  
23 exhibits. And then the department will have 30 days  
24 thereafter to respond, as far as the briefing schedule  
25 goes.

1           So once those -- once the additional briefing  
2 period has concluded the 100 days in which we have to  
3 send out opinion will start then.

4           I just wanted to thank everyone for your time this  
5 afternoon and I hope you have a wonderful afternoon.  
6 This concludes today's hearing calendar.

7                       (Proceedings concluded at 3:00 p.m.)  
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1 REPORTER'S CERTIFICATE

2  
3 I, CYNTHIA P. HERNANDEZ, CSR NO. 13521, Certified  
4 Shorthand Reporter, certify;

5 That the foregoing proceedings were taken before me  
6 at the time and place therein set forth.

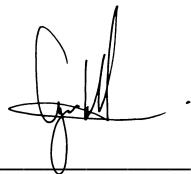
7 That the testimony of the witness, the questions  
8 propounded, and all objections and statements made were  
9 recorded stenographically by me and were thereafter  
10 transcribed;

11 That the foregoing is a true and correct transcript  
12 of my shorthand notes so taken.

13 I further certify that I am not a relative or  
14 employee of any of the parties, nor financially  
15 interested in the action.

16 I declare under penalty of perjury under the laws of  
17 California that the foregoing is true and correct.

18 Dated this 23rd day of October, 2022.

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22 CYNTHIA P. HERNANDEZ, CSR NO. 13521  
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