

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:)Case No.
)21067910
FOROUZAN GOLSHANI,)
)
Appellant.)
_____)

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Tuesday, February 14, 2023

Reported by:

SKYY CHUNG
Hearing Reporter

Job No.:
40663 OTA(A-PM)(REV3)

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TRANSCRIPT OF PROCEEDINGS, taken at
Cerritos, California, commencing at 1:05 p.m.
on Tuesday, February 14, 2023, reported by
Skyy Chung, Hearing Reporter.

1 APPEARANCES:

2 Panel Lead: ASAF KLETTER, JUDGE
3 MIKE LE, JUDGE
4 EDDY LAM, JUDGE

5 For the Department: DAVID HUNTER
6 PARVIZ IRANPOUR
7 Franchise Tax Board
8 PO Box 942840
9 Sacramento, CA 94240
10 (800) 852-5711
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I N D E X

E X H I B I T S

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1 CERRITOS, CALIFORNIA; TUESDAY, FEBRUARY 14, 2023

2 1:05 P.M.

3
4 JUDGE KLETTER: We are now going on the record.
5 Let's go on the record. This is the appeal of Golshani,
6 Case No. 21067910. Today is Tuesday, February 14th,
7 2023, and the time is approximately 1:05 p.m. We are
8 holding this hearing today in Cerritos, California. My
9 name is Judge Kletter, and I will be the lead
10 administrative law judge for this appeal. With me are
11 administrative law judges, Mike Le and Eddy Lam.

12 Can the parties please each identify yourself.
13 Just for the record, please state your name, beginning
14 with the Appellant.

15 MR. GOLSHANI: My name is Forouzan Golshani.

16 MS. GOLSHANI: My name is Rezvanieh Golshani.

17 MR. IRANPOUR: Good afternoon, Judges. My name is
18 Parviz Iranpour. With me, David Hunter, and we will be
19 representing the Franchise Tax Board.

20 JUDGE KLETTER: This is Judge Kletter. Thank you.
21 So the issue today is whether Appellant has shown error
22 in FTB's proposed assessment of additional taxes for the
23 2015, 2016, and 2017 tax years. With respect to the
24 evidentiary record, FTB has provided Exhibits A through
25 S. Appellant did not object to the misspelling of these

1 exhibits; therefore, these exhibits are entered into the
2 record.

3 (EXHIBITS A THROUGH S WERE ADMITTED INTO THE RECORD.)

4 JUDGE KLETTER: Appellant has not provided any
5 exhibits, and no additional exhibits were presented
6 today.

7 Mr. Golshani, you will have 20 minutes for your
8 presentation. So please begin when you're ready. Thank
9 you.

10 MR. GOLSHANI: Thank you.

11
12 PRESENTATION

13 MR. GOLSHANI: This is Forouzan Golshani. Esteemed
14 panel of judges, Counsels representing the FTB, and
15 others present here for these proceedings, thank you for
16 your time and effort. I present this brief statement on
17 behalf of the Appellant, Forouzan Golshani. That would
18 be me. And my
19 wife -- and his wife -- this is Rezvanieh Golshani, who
20 is accompanying me for this evening.

21 As a preface, I would like to extend my sincere
22 thanks for the service that you are providing to the
23 public. Like you, I'm proud of my participation and
24 civic duties as a commissioner on the Los Angeles County
25 Aviation Commission. I hope, unlike me, who is being

1 paid \$25 per month for the salary service, you're
2 compensated for the true value of your important
3 service. At the time of prehearing meeting, dated
4 January 19, 2023, the Appellant was not certain that
5 there might be any additional documents that should be
6 presented to the court. After further review, I'm
7 pleased to to inform you that beyond what was presented
8 already, there will be no additional documents. As
9 such, hopefully, these proceedings should be
10 considerably shorter, specifically because I intend to
11 keep this statement to a minimum.

12 In this presentation, I intend to impart one
13 simple message, which is, the case before you is about
14 basic human rights. Yes. FTB lawyers have been keen to
15 pigeonhole the Appellant into this narrowly defined
16 minutia of tax codes, without any consideration for what
17 is universally considered to be a basic human right, and
18 then point out all of the laws that are shattered
19 because of deviations from the minutia code that they
20 have found to be applicable.

21 This presentation will attempt to show that the
22 line of reasoning pursued by FTB violate the United
23 States Bill of Rights, and more specifically, all of the
24 subsequent laws that safeguard the right to decent
25 housing. Here's the background for the statement:

1 Following President Franklin Roosevelt's declaration in
2 1944 State of Union address, that every citizen has the
3 right to a decent home. In 1948, the United States
4 signed the Universal Declaration of Human Rights, UDHR,
5 recognizing adequate housing as a component of the human
6 right to an adequate standard of living. Furthermore,
7 the right to adequate housing was codified into a
8 binding treaty law by the International Covenant on
9 Economic Social and Cultural Rights, ICESCR, in 1966.

10 As we all know, at the present time, our State of
11 California is at the forefront of making provisions, so
12 that this important social justice principal can be
13 implemented more fairly, universally, and without any
14 prejudice. Another point that I would like to emphasize
15 is that the Appellant never had a choice to be in this
16 position. And we're forced -- I'm sorry. Let's start
17 again -- never had the choice to be in this position,
18 and we're forced into a situation that was entirely
19 beyond their control. It is important to note that an
20 honest taxpayer -- as honest taxpayers, they tried at
21 all times to adhere to all applicable laws, and all
22 codes of ethics; therefore, this case is not a "got you"
23 case.

24 Until the time of this audit, their tax returns
25 were prepared by H and R Block, for which, they face

1 their friend's ridicule, that, quote, "You might be
2 better off financially if IRS itself did your taxes," in
3 reference to the facts that H and R block is highly
4 conservative in preparing their client's tax returns.

5 Allow me to begin by introducing the Appellants:
6 Mrs. Golshani is, and has always been a homemaker since
7 she and her husband immigrated to the U.S. in 1984.
8 Dr. Golshani has been a civil servant engaged in
9 university education as an academic professional. He
10 started as an assistant professor in 1984 and ascended
11 through the ranks of associate and full professor, and
12 subsequently, as a department chair and college dean.

13 During the entire time as a state employee, his
14 taxes were deducted automatically from his monthly
15 paychecks. In fact, it is important to point out that
16 with the exception of one or three years, during nearly
17 four decades, the Appellants actually overpaid their
18 federal and state withholdings, and of course, had to be
19 repaid the overage of tax repayments after filing.

20 Also, it is important to point out that, prior to
21 2009, Mr. and Mrs. Golshani, were never involved in
22 renting out any property, and indeed, never contemplated
23 any such business activity. Simply stated, other than
24 minor consulting income, which were reported on 1099
25 forms, the entire family income was reported on W-2

1 forms and was taxed before a penny was paid to Mr. and
2 Mrs. Golshani.

3 And now, onto the case at hand. The panel of
4 esteemed judges have already received the FTB's
5 interpretation of what has transpired. I will now
6 present to you the same facts, however, from the
7 Appellant's point of view. As correctly reported in the
8 FTB filing, Appellants acquired the house in Paradise
9 Valley, Arizona, in 1995. The set property was their
10 primary residence until 2017, as they didn't have any
11 other residential property. In 2004, the Appellant
12 decided to demolish the 50-plus-year-old house and
13 rebuild another that would be more suited to the needs
14 of their expanding family. The rebuilding process,
15 which had been estimated to be \$1 million, but ended up
16 being over \$1.4 million, lasted until 2008; however, in
17 2007, Dr. Golshani was offered the position of college
18 dean at California State University Long Beach, and he
19 accepted the position. The family decided to sell the
20 house and buy a new family home in California. This
21 would have been plausible and seemingly profitable once
22 the rebuilding process of the Paradise Valley house was
23 completed in 2008. The new house at that time was
24 valued at 3.5 million dollars and was placed on the
25 market for sale.

1 Unfortunately, by then, the bottom had fallen off
2 the Arizona housing market, and the property values were
3 spiraling down at an astounding pace. Within a period
4 of six months, the recession had caused a total collapse
5 of the Arizona housing market, and there was virtually
6 no sale activities for houses priced at over \$1 million.
7 Desperate to make ends meet and not by any prior design,
8 Golshanis were forced to put the house up for rent. And
9 after nearly one year, a tenant was found. FTB uses
10 such terms as "passive investor" or "landlord" to refer
11 to the Appellant, whereas this was never an investment,
12 and they were simply distressed, frantic, and desperate
13 landlords. Nothing more, and never ever active or
14 passive investors.

15 Ironically, during the entire time, when there
16 existed a tenant for that house, the mortgage was higher
17 than the rent by a margin of 30 percent at the beginning
18 and around 10 percent in the final years. As such, it
19 is not surprising that the Appellants -- the Appellant
20 is flabbergasted to have been assessed capital gains
21 tax, when in reality, they were perpetually short by as
22 much as \$3500 per month or \$42,000 per year. Where did
23 these losses go? They were poorer, because of the
24 so-called investment, and yet, they are being forced to
25 pay even more tax. The Appellant repeatedly made

1 efforts to sell the house at a price that was close to
2 what they had paid for it. Their estimate for the
3 target price was \$1.75 million, which would cover the
4 initial payment of around thirty-three hundred thousand
5 dollars, plus the additional cost of rebuilding
6 estimated at 1.4 million. It took nearly ten agonizing
7 years for the market to bounce back to a level that made
8 such a setting price possible.

9 Eventually, the house was sold in December of
10 2017 for \$1.72 million, which, after the deduction of
11 nearly \$110,000 for commission and closing costs,
12 resulted in a sheer loss of nearly \$150,000. Yet, there
13 is another relevant point here: Although the Appellant
14 had presented clear accounting of how 1.4 million-dollar
15 loan and the additional out-of-pocket investments were
16 used in building the new house, FTB, at their own will,
17 decided to disallow the significant portion of the
18 submitted expenses, even though anyone who has built or
19 rebuilt a house knows that there are numerous unexpected
20 and inevitable expenses, mostly for permanent fixtures
21 that the builder does not provide.

22 So let's sum up what happened between 2008 and
23 and 2017. The Appellants paid an annual amount in the
24 range of approximately \$12,000 in the latter years and
25 \$42,000 in earlier years to subsidize the rental and

1 sold the property at the loss of approximately \$150,000
2 thousand dollars. And yet, Appellants are being
3 assessed capital gains tax. Where is the logic? Where
4 is common sense? Where is justice? They are the
5 victims of the recession of 2008. But unlike so many
6 others who were bailed out by the government, which
7 ironically funds the bailouts by means of tax dollars
8 collected from taxpayers, such as the Appellant, they,
9 as the Appellants, are being penalized. "Why?" One
10 might ask. Because the civil servant on solely W-2
11 income -- because as a civil servant on solely W-2
12 income, none of the loopholes were available to them.
13 I'm referring to the loopholes that are used by those
14 who claim to make billions of dollars every year, but
15 paid \$750 of tax.

16 As completely inexperienced homeowners who were
17 forced at put up their home for rent, the Appellants
18 were unaware of the like-kind exchange and its formal
19 requirements. Their tax preparers H and R Block, never
20 forewarned them of this necessity. Just as the
21 transaction went through, the Appellants were informed
22 of the requirements by one of the real estate agents.
23 As honest taxpayers, who did not wish to be outside the
24 legal requirements, they attempted and successfully
25 executed all of the requirements for like-kind exchange,

1 except the use of an intermediary, which couldn't be
2 implemented when they purchased their home in
3 California. As a corollary, they put the California
4 house up for rent, albeit unsuccessfully, for six months
5 before moving into the house. FTB points out that this
6 is not acceptable, even though the spirit of law was
7 fully implemented. The Appellants accept this rigorous
8 application of law since they understand that ignorance
9 of law is not an adequate justification; however, they
10 regret the rigidity that is imposed upon them, because
11 the only difference is the lack of an intermediary and
12 paperwork and nothing else.

13 JUDGE KLETTER: Mr. Golshani, sorry to interrupt.
14 Wanted to let you know that there are five minutes left
15 remaining in your presentation.

16 MR. GOLSHANI: Thank you. I only have -- I will
17 wrap it up. There is another shocking point here, one
18 that would outrage any U.S. taxpayer: Between 2020 and
19 2022, Dr. Golshani made multiple attempts to negotiate a
20 settlement with FTB. At least three unsuccessful phone
21 calls were made to Mr. Cero D. Modeno (phonetic), who is
22 the FTB agent identified by FTB attorney, Mr. John
23 Yousef (phonetic), as the contact person; however, even
24 after multiple attempts, when Dr. Golshani succeeded to
25 get Mr. Modeno on the phone, during which he received a

1 promise that Mr. Modeno will get back to him. No action
2 or followup communication was ever received from
3 Mr. Modeno or any other FTB agent.

4 Finally, on 11/17/2022, Dr. Golshani sent an
5 email to Mr. Yousef to inform him of this oversight;
6 however, no response was received from Mr. Yousef
7 either. This horrendous lack of regards for the normal
8 FTB policy and procedures is shameful. U.S. taxpayers
9 would be appalled to note that FTB is willing to use
10 their tax dollars to prepare and send multiple agents to
11 this court to fight and appeal the honest taxpayer, and
12 that for a measly sum \$21,000, instead of negotiating
13 the settlement, whereas negotiating the settlement may
14 have taken an hour or two of one FTB agent. It seems
15 the "got you" mentality of FTB has amassed a
16 considerably larger expense than the dollar amount in
17 dispute. When one adds up, the number of days that they
18 have spent to prepare for and participate in this
19 hearing.

20 In summary, the Respondent's plea should be
21 rejected for the following reasons: One, the Respondent
22 has chosen to ignore the importance of the fact that
23 housing is a basic right of every citizen. It assumes
24 that the Paradise Valley house, which was the only home
25 owned by the Appellant, was not the Appellant's primary

1 residence. Then any fair-minded person who understands
2 basic human rights would conclude that, because housing
3 is a basic right, that California rental costs are
4 absolute necessities for a direct burden of the Arizona
5 rental property. Contrary to mischaracterization of
6 FTB, this is not a household cost issue. This is a
7 basic human right issue.

8 Number two, the Respondent has failed to show
9 that the Paradise Valley house was not the primary
10 resident of the Appellants. The term "primary" is
11 relevant only if a person owns a secondary home that can
12 be his or her residence. In the case of millions of
13 other U.S. taxpayers who own only one home and may have
14 rental income, IRS does not question whether this is a
15 primary residence or not. Should FTB choose to ignore
16 the Appellant's cost of renting an alternative place, as
17 they have, at the time of retraction of some of the
18 prior statements by the Appellant would leave no option
19 but to accept the Paradise Valley property as the
20 Appellant's primary residence.

21 Number three, the Respondent has overestimated
22 the Appellant's gains by: A, dismissing a large portion
23 of the submitted expenses associated with rebuilding the
24 house by at least \$100,000; and B, not considering the
25 perpetual deficit -- by not -- and B, not considering

1 the perpetual deficit for rent income, as compared to
2 mortgage, as a loss that should eventually be
3 reduced -- that should eventually reduce the computed
4 gains.

5 Number four, the Respondent failed to engage in a
6 good faith effort to negotiate a fair settlement for the
7 disputed amount. This seemingly arrogant violation of
8 Appellant's rights, as defined from settling the case
9 amicably, and potentially has burdened the U.S. or
10 California taxpayers with tens of thousands of dollars
11 that could have been saved by crafting the settlement
12 prior to these hearings.

13 Five, in 2020, Dr. Golshani lost his job as dean,
14 and his salary of around \$263,000 was reduced to
15 \$139,000. This involuntary deduction of income by
16 nearly one half has devastated the appellant's finances,
17 and as such, they will not be able to pay the money that
18 the government is pressuring them to pay.

19 I hope the esteemed judges will consider the
20 humanity of the situation. None of the matters
21 surrounding this case would have been relevant if it
22 weren't for the 2008 recession. The Appellant did not
23 choose to be a landlord. They intended to simply sell
24 one house and buy another; however, the circumstances
25 caused by recession forced them to rent the property at

1 a perpetual loss. When so many other foreclosed and
2 filed bankruptcy, meaning they paid no taxes, the
3 Appellant made it work out somehow, somehow. Month
4 after month, they subsidized the deficit rental income
5 by their hard-earned civil servant salary and chose not
6 to seek foreclosure and bankruptcy, which, as you all
7 know, would have further exacerbated the ongoing
8 recession. Because they are simple, honest taxpayers,
9 who earned their income via state paychecks. They did
10 not contemplate finding the loophole that so many
11 others, correctly or incorrectly, pursued, so that they
12 would pay no taxes. This is a travesty. It's a
13 travesty for the Appellants to be penalized for their
14 adherence to the basic principals for honesty.

15 On behalf of the Golshani family, I thank you for
16 your time and consideration.

17 JUDGE KLETTER: This is Judge Kletter. Thank you
18 for your presentation, Mr. Golshani.

19 I'd like to turn it over to FTB. Mr. Iranpour,
20 are you ready to begin your presentation? Please begin.

21 And just to note -- I'm so sorry. Earlier, in
22 terms of the time, you will see have 20 minutes for your
23 presentation.

24 MR. IRANPOUR: Thank you.

25 ///

1 PRESENTATION

2 MR. IRANPOUR: Good afternoon, Judges. This is a
3 tuition (phonetic) appeal spanning three taxable years.
4 The first issue, concerning tax years 2015 and 2016, is
5 whether FTB was correct to suspend Appellant's passive
6 activity losses after discovering he didn't have a
7 passive income in those years to take those losses. The
8 second issue, concerning tax year 2017, is whether
9 Appellant owed tax upon the 2017 sale of his Arizona
10 rental property.

11 Forouzan Golshani was a California resident
12 during the taxable years at issue. Prior to moving to
13 California in 2008 to start a new job, Appellant lived
14 in Arizona in a property he owned. After moving to
15 California in 2008, Appellant kept the Arizona rental
16 property and began renting it, from 2009 until it was
17 sold in 2017. For both tax years 2015 and 2016,
18 Appellant claimed nearly \$59,000 in rental losses. FTB
19 did not disallow the rental losses, but merely suspended
20 them to tax year 2017, as Appellant did not have
21 sufficient passive income in those years to take the
22 losses and had used -- had improperly applied them
23 against his W-2 wages.

24 Regarding the 2015 and 2016 passive loss
25 suspensions, Appellant has not raised illegal contention

1 showing error. In 2017, Appellant sold the Arizona
2 rental property, reporting a sales price of
3 approximately 1.72 million and an adjusted basis of
4 approximately 1.38 million. The resulting \$338,000
5 gain, Appellant excluded under Section 121, Gain
6 Exclusion, and ultimately reported zero dollars gain on
7 the sale. FTB disallowed Section 121 exclusion because
8 the Arizona rental property did not qualify as a
9 principal residence.

10 In response, Appellant represented that FTB
11 accounted for \$109,000 in selling expenses he did not
12 previously account for. FTB granted the request,
13 reducing the gain from \$338,000 to approximately
14 \$228,000. Appellant then raised the following two
15 contentions: One, that no tax was due, because he
16 executed Section 1031 like-kind exchange; and two, that
17 no tax was due, because the rent and other household
18 expenses he paid for his primary residence constituted a
19 deductible business expense, which, in turn, should
20 offset the resulting gain.

21 I will now address both issues and their company
22 contentions. Issue number one, 2015 and 2016 passive
23 loss suspensions. IRS Section 469 prohibits taxpayers
24 from using passive activity losses to reduce their
25 non-passive income. Unused passive activity losses are

1 generally suspended and carried forward to either a
2 future tax year to offset the passive income in that
3 year, or to the year of disposition. The term "passive
4 activity" expressly includes any rental activity. A
5 limited exemption allows taxpayers to deduct up to
6 \$25,000 in passive income from their non-passive income,
7 and passive losses from their non-passive income. This
8 exemption begins to phase out when a taxpayer's modified
9 adjusted gross income exceeds \$100,000 and completely
10 phases out after \$150,000.

11 Here, FTB correctly determined that Appellant's
12 rental activity constituted passive activity, subject to
13 the Section 469 rules. And as such, Appellant was not
14 allowed to use his passive activity losses to offset his
15 W-2 wages. Furthermore, Appellant did not qualify for
16 the \$25,000 exemption, because his modified adjusted
17 gross income for tax year 2015 and 2016 exceeded the
18 \$150,000 limit by nearly \$100,000. Because Appellant
19 was completely phased out of the exemption, FTB
20 correctly suspended the 2015 and 2016 rental losses and
21 properly applied them to tax year 2017, the year of
22 disposition, to offset the gain from the sale of his
23 Arizona property. Because Appellant has not and cannot
24 show error with FTB's position, the 2015 and 2016
25 tax assessments should be sustained.

1 Turning to issue number 2 and whether Appellant
2 owed tax upon the 2017 sale of his Arizona property, as
3 indicated before, Mr. Golshani raised three possible
4 contentions for why he believes he does not owe tax for
5 the 2017 sale for the Arizona property: One, because
6 the gain was excludable under Section 121; two, because
7 he executed a Section 1031 life-kind exchange; and
8 three, because his rent and other household expenses
9 constituted a deductible expense.

10 IRS Section 121 allows taxpayers to exclude up to
11 \$250,000 of gain or \$500,000 if filing jointly from the
12 sale of your principal residence, if in the last five
13 years of ownership, the taxpayer uses the property as
14 the primary residence for a period of at least two
15 years. Here, Appellant has been using the property as a
16 rental property for a period of nine years leading up to
17 the 2017 sale. During that time, Appellant was living
18 and working in California with his family and never
19 lived in the Arizona property after moving to California
20 in 2008. Because Appellant did not live in the Arizona
21 property, much less use it as his principal residence,
22 Appellant did not satisfy the principal residence test.

23 And FTB was correct. This allowed the gain
24 exclusion Appellant had previously claimed. Next,
25 Appellant argued he had executed Section 1031 life-kind

1 exchange; however, Appellant failed to meet almost every
2 requirement. One, he did not use a qualified
3 intermediary, causing him to actually and impermissibly
4 receive the cash proceeds from the Arizona property
5 sale. Two, Appellant did not follow the 45-day
6 identification rule for replacement property; and three,
7 did not prove the Rolling Hills home subsequently
8 purchased was investment property. Failing any one of
9 these requirements would have caused the exchange to
10 fail. Here, Appellant failed three.

11 Additionally, Appellant did not file a federal
12 Form 8824 with the IRS to report the alleged 1031
13 exchange. And, finally, Appellant argues that his rent
14 payments and related household expenses constituted a
15 business expense. Prior to purchasing his Rolling Hills
16 home in 2018, Appellant was a renter. Appellant argues
17 the rent he paid his landlord to house himself and
18 family and other household expenses constituted a
19 business expense because he had to vacate the Arizona
20 property in order to rent it. First, Appellant has
21 repeatedly conceded that he moved to California to 2008
22 to start a new job, not to make the Arizona property
23 available for rent, as he is now alleging. Even if he
24 had, however, IRS Section 2622 denies deductions for
25 personal household expenses.

1 Treasury rents specify that rent, among others,
2 is a personal household expense. The number of
3 properties that a taxpayer owns and offers for rent, and
4 the reasons why taxpayer pays rent for a personal
5 residence are irrelevant. Personal household expenses
6 cannot be deducted. The applicable laws, without a
7 doubt, refute his argument on appeal.

8 The only instance that allows a taxpayer to
9 deduct rental payments of similar expenses from a
10 personal residence occurs when a taxpayer uses part of
11 the personal residence as a place of business. Here, no
12 portion of Appellant's California residence was ever
13 exclusively used in a business, so that a portion of the
14 rental payments were made for a business purpose.

15 Because Appellant's recontention seeking to
16 exclude gain under Section 121, Section 1031, and
17 Section 261 all fail. GTB -- FTB correctly determined
18 that Appellant owed tax upon the 2017 sale of his
19 Arizona rental property. Accordingly, the 2017 tax
20 assessment should also be sustained.

21 This concludes FTB's presentation. I'm happy to
22 answer any questions that I may have.

23 JUDGE KLETTER: This is Judge Kletter. Thank you,
24 Mr. Iranpour. I do not have any questions. I'd like to
25 turn it over to my co-panelist. Judge Lam, do you have

1 any questions?

2 JUDGE LAM: This is Judge Lam speaking. I do not
3 have any questions.

4 JUDGE KLETTER: This is Judge Kletter. Thank you.
5 Judge Le, do you have any questions?

6 JUDGE LE: This is Judge Le. I also don't have any
7 questions.

8 JUDGE KLETTER: Okay. Thank you so much. This is
9 Judge Kletter. Mr. Golshani, would you like to make a
10 rebuttal to what Mr. Iranpour said or any final
11 statement? Please begin.

12 MR. GOLSHANI: Can I ask a question as well or not?

13 JUDGE KLETTER: You can ask a question.

14
15 CLOSING STATEMENT

16 MR. GOLSHANI: This combination of rent and other
17 household expenses that is constantly referred to, there
18 is no other household expenses that is in discussion
19 here. It's only the rent expenses caused by us being
20 forced to leave the house in Arizona and nothing else.
21 So I just want to make sure that it is clear, that we
22 never made any such presentation to FTB. And other than
23 rent, there was nothing that you wanted to be considered
24 for, basically reducing our tax burden. It was only
25 rent that we were paying.

1 The other statement I want to make is that the
2 interactions I have had with FTB, they have asked
3 questions, and I've provided them with responses. None
4 of the sections in that code mean anything to me. And
5 it's from my perspective, it is just expenses,
6 out-of-pocket expenses, over the years, that causes us
7 to feel this has been a drain on everything that we have
8 had. For ten years, we have had to put up with this.
9 The math does not make sense when you consider the
10 deficit and the monies that were collected. And I don't
11 know how or where it goes. I do not know where the
12 actual out-of-pocket money from the salary going to
13 cover the expenses in so-called investment property.
14 How come at the end of the transaction, these do not
15 show up? Because in my calculations, we are way, way
16 under money received versus what we paid out to maintain
17 this house and sell it eventually. This is what I
18 wanted to say.

19 The closing statement, again, we believe that the
20 law of the land entitle us to a place to live. If FTB
21 says, "Well, okay. You rent, you're a landlord. You're
22 renting that property," the other side of it is, where
23 do you live? What do you do? When it's the right of
24 every citizen to have housing security. How does
25 that -- how is that -- I'm sorry. I made my argument,

1 that this has been a loss, a complete loss, for many
2 years, and for us to be forced this money now is just
3 total injustice. Thank you.

4 JUDGE KLETTER: Thank you Mr. Golshani.

5 Mr. Iranpour, would you like to make a final
6 statement, or would you like to say anything before the
7 case is submitted?

8 MR. IRANPOUR: I would. Thank you.

9 JUDGE KLETTER: And this is Judge Kletter. Just
10 want to turn it over to my panelists again. No
11 questions from me, but Judge Lam, do you have questions
12 for either of the parties?

13 JUDGE KLETTER: This is Judge Lam speaking. I
14 don't have any questions, but thank you, Appellant, for
15 your wonderful presentation.

16 JUDGE KLETTER: Okay. And then, Judge Le, do you
17 have any questions?

18 JUDGE LE: I think the tax agency wants to to say
19 something.

20 MR. IRANPOUR: Yeah, I said I would.

21 JUDGE KLETTER: Oh, I'm sorry.

22 MR. IRANPOUR: Yeah, thank you.

23
24 CLOSING STATEMENT

25 MR. IRANPOUR: Appellant has moved to California to

1 2008 to start a new job. Keeping his Arizona property
2 and renting it out from 2009 through its 2017 sales
3 date. For tax years 2015 and 2016, Appellant improperly
4 uses medical activity losses to offset his W-2 wages and
5 other non-passive income. Because Appellants modified
6 AGR for tax years 2015 and 2016 exceeded the
7 \$150000-dollar-a-year limit, Appellant was completely
8 phased out of the \$25,000 passive activity loss
9 exemption. And therefore, FTB was correct to suspend
10 his 2015 and 2016 rental losses and apply them to tax
11 year 2017, the year of disposition, to offset his gain
12 from the sale of the Arizona property. Because Dr.
13 Golshani cannot show error with FTB's position, OTA
14 should sustain 2015 and 2016 tax assessments.

15 Regarding tax years 2017 and whether Appellant
16 owed tax upon his 2017 sale of his Arizona property,
17 Appellant has raised three alternative contentions: that
18 no tax was due under Section 121 gain exclusion, that no
19 tax was due under Section 1031 like-kind exchange, and
20 that no tax was due because his personal rent qualified
21 his business expenses, which, in turn, should offset the
22 gain.

23 Regarding Section 121, FTB demonstrated Appellant
24 did not qualify for gain exclusion, because the Arizona
25 property did not qualify as a principal residence.

1 Regarding Section 1031, FTB showed that Appellant did
2 not qualify for gain deferral, because he violated
3 several of the provisions, including, one, actually
4 receiving cash flow proceeds from the sale; two, failing
5 to comply with the 45-day replacement property
6 identification rule; and three, failing to prove that
7 the Rolling Hills property, subsequent to purchase, was
8 held for investment purposes. Appellant also failed to
9 file Federal Form 8824 to report the alleged temporary
10 home exchange to the IRS. And finally, regarding
11 personal rent as a qualifying business expense, FTB
12 demonstrated the law is well-settled in this area, and
13 that such expenses aren't inherently personal and do not
14 qualify as business expenses under the law. Thank you.

15 MR. HUNTER: Thank you, Judge. We're done.

16 JUDGE KLETTER: This is Judge Kletter. Thank you
17 so much. Sorry. I misheard you earlier. I have no
18 questions. Just wanted to ask my panelists again.

19 Judge Lam, do you have any questions?

20 JUDGE LAM: This is Judge Lam speaking. No
21 questions.

22 JUDGE KLETTER: And then, Judge Le, do you have any
23 questions?

24 JUDGE LE: No questions. Thank you.

25 JUDGE KLETTER: Okay. Thank you to both of the

1 parties for their presentation today. This concludes
2 the hearing, and the administrative law judges will meet
3 and decide the case based on the arguments that were
4 presented today and the documents in the record. We
5 will issue our written decision no later than 100 days
6 from today. This case is submitted and the record is
7 now closed. This concludes this hearing session, and
8 the incident hearing session will begin at 2:00 P M.
9 Thanks to everyone.

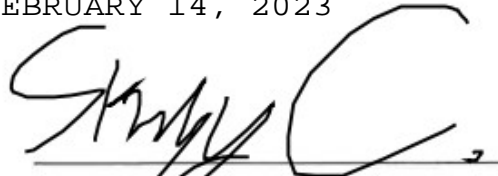
10 (HEARING CONCLUDED AT 1:47 P.M.)
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1 REPORTER'S CERTIFICATE

2
3 STATE OF CALIFORNIA)
4) ss
COUNTY OF LOS ANGELES)
5
6
7

8 I, SKYY CHUNG, hearing reporter in and for the
9 State of California, county of Los Angeles, do hereby
10 certify that the foregoing transcript is a full, true,
11 and correct statement of the proceedings had in said
12 cause.
13
14

15 DATED: FEBRUARY 14, 2023

16
17 
18 _____
Hearing Reporter
19

20 SKYY CHUNG
21
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