

IN THE MATTER OF THE APPEAL OF,)
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DOOMID, INC.,) File No. 19054812
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 APPELLANT)
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TRANSCRIPT OF PROCEEDINGS
Cerritos, California
Thursday, July 13, 2023

Job No. :
42731OTA(A)

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
)
DOOMID, INC.,) File No. 19054812
)
 APPELLANT)
)
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)

TRANSCRIPT OF PROCEEDINGS,
taken at 12900 Park Plaza Drive, Suite 300, Cerritos,
California, commencing at 9:30 a.m. and concluding at
11:50 a.m. on Thursday, July 13, 2023, reported by
HANNA JENKIN, Hearing Reporter.

1 APPEARANCES:

2 Panel Lead: ANDREW KWEE

3 Panel Members: JOSH ALDRICH

4 SHERIENE RIDENOUR

5
6 For the Appellant: SHAHRIAR "SHAWN" NAZARI

7
8 For the Department: STATE OF CALIFORNIA
9 DEPARTMENT OF TAX AND
FEE ADMINISTRATION

10
11 NALAN SAMARAWICKREMA, HEARING REP.

12 RAVENDER SHARMA, HEARING REP.

13 JASON PARKER, HEARING REP.

14 CHRISTOPHER BROOKS, TAX COUNSEL

I N D E X

E X H I B I T S

(Department's Exhibits A-S were received at page 8.)

(Appellant's Exhibits 1-4 were received at page 9.)

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By Mr. Samarawickrema 46

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By Mr. Nazari 65

1 Cerritos, California, Thursday, July 13, 2023

2 9:30 a.m.

3
4
5 JUDGE KWEE: Opening the record in the Appeal of
6 Doomid, Inc., the rehearing matter. This matter is being
7 held before the Office of Tax Appeals, the OTA Case Number
8 is 19054812. Today is Thursday, July 13th, 2023 and the
9 time is approximately 9:36 a.m.

10 Today's hearing is being live-streamed on OTA's
11 YouTube channel. It is also been conducted in person in
12 OTA's Cerritos, California Hearing offices.

13 Today's hearing is being heard by a panel of
14 three Administrative Law Judges. My name is Andrew Kwee
15 and I'll be the lead ALJ. Judge Josh Aldrich is to my
16 right, he is the second member of this panel, and the
17 third member of this panel is Judge Sheriene Ridenour, on
18 my right.

19 All three judges will meet after the hearing and
20 produce a written decision as equal participant and
21 although I, as the lead judge, will be conducting this
22 hearing, any judge on this panel may interrupt or ask
23 questions at any time and otherwise participate equally to
24 ensure that we have all the information needed to decide
25 this appeal.

1 For the record, I'm going to ask the parties to
2 please identify themselves and who they represent.

3 And I'll start with the representatives for the
4 tax agency.

5 MR. SAMARAWICKREMA: Nalan Samarawickrema, hearing
6 representative for the Department.

7 MR. PARKER: Jason Parker, Heath Chief of Operations
8 Bureau Headquarters, CDTFA.

9 MR. BROOKS: Christopher Brooks, attorney for CDTFA.

10 JUDGE KWEE: Okay. Thank you. And the
11 representatives for Doomid Inc. -- the representative for
12 Doomid Inc?

13 MR. NAZARI: Shawn Nazari for Doomid, Inc.

14 JUDGE KWEE: Okay. Thank you. And I understand for
15 Doomid, Inc., the representative -- that you will also be
16 testifying, so you'll be the witness today.

17 So I will swear you in if you would raise your
18 hand.

19 S. NAZARI,
20 Produced as a witness, and having been first duly sworn by
21 The Administrative Law Judge, was examined and testified
22 as follows:

23 JUDGE KWEE: Thank you. You can put your hand down.

24 I'm just going to go over a couple of preliminary
25 matters, the first is the exhibits. For CDTFA we started

1 with an exhibit binder consisting of 1,146 pages -- 1,146
2 consisting of Exhibits A through R, those were the ones
3 discussed at the prehearing conference. And Appellant had
4 no procedural objections to admitting those exhibits into
5 the evidentiary record.

6 After the prehearing conference, CDTFA submitted
7 Exhibit S which brings the page count to 1,206 and that
8 was in income tax returns for the entity.

9 CDTFA, did you have any additional exhibits? Or
10 did that accurately summarize all of your exhibits for
11 today's hearing?

12 MR. SAMARAWICKREMA: Judge, you've correctly
13 identified our exhibits.

14 JUDGE KWEE: Okay. For Doomid, Inc., Mr. Nazari, did
15 you receive the Exhibit S? And did you have any
16 objections to admitting the additional exhibits into the
17 evidentiary record?

18 MR. NAZARI: No.

19 JUDGE KWEE: Okay. No objections?

20 MR. NAZARI: No.

21 JUDGE KWEE: Okay. CDTFA's exhibit binder consisting
22 of Exhibits A through S, which was distributed to the
23 parties after the prehearing conference is admitted
24 without objection.

25 ///

1 (Department's Exhibit A-S was received in
2 evidence by the Administrative Law Judge.)

3 JUDGE KWEE: I'll turn it over to Appellant's
4 exhibits. And Appellant also timely submitted exhibits
5 after the prehearing conference and that was 11 pages
6 consisting of exhibits marked as A through D. Those
7 documents were documents which had previously been
8 submitted in the Petition for Rehearing Appeal before OTA.

9 Mr. Nazari, do you have any additional exhibits
10 or does that consist of all the exhibits you have for
11 today.

12 MR. NAZARI: No. Other exhibits I have are in the
13 state with the file. It's okay. We'll go by that.

14 JUDGE KWEE: Okay. Great.

15 CDTFA, do you have any objections to these four
16 documents being admitted as evidence?

17 MR. SAMARAWICKREMA: No objection.

18 JUDGE KWEE: Okay. And before I admit them I'm going
19 to mark them as Exhibits 1 through 4 just because we can't
20 have two Exhibit A's, and two Exhibit B's and two Exhibit
21 C's and D's.

22 So taxpayers exhibits are just going to be marked
23 as A is going to be 1, B is 2, C is Exhibit 3, and D is
24 going to be marked as Exhibit 4 in OTA 's evidentiary
25 record for purposes of identification only.

1 And those documents are admitted as Exhibits 1
2 through 4 for the taxpayer without objection.

3 (Appellant's Exhibit 1-4 was received in
4 evidence by the Administrative Law Judge.)

5 JUDGE KWEE: Okay. During the prehearing conference,
6 we had discussed the issues that were in appeal, and we
7 had also listed some additional items for clarification,
8 and sub-issues. The issues are also listed on the agenda,
9 they are listed in the minutes in order, so I'm not going
10 to repeat them right now, but I will ask the parties to
11 confirm that the minutes and orders correctly summarize
12 the issues and the clarifications that were listed with
13 respect to those issues.

14 CDTFA, is that also your understanding of that?
15 And it's an minutes and orders correctly summarized the
16 issues for appeal?

17 MR. SAMARAWICKREMA: Yes, Judge.

18 JUDGE KWEE: For Appellant is that also your
19 understanding?

20 MR. NAZARI: Yes.

21 JUDGE KWEE: Okay. With that said, I have one
22 clarification to make to the minutes and order. I noticed
23 that our -- OTA's opinion on the Petition for Rehearing
24 matter noted that CDTFA withdrew their Petition for
25 Rehearing of the \$532 claim of refund for the 2000 -- the

1 first quarter of 2012, so I think that a sub-issue is
2 outside of our jurisdiction, but I would like to confirm
3 with CDTFA did you have any understanding of that?

4 MR. SAMARAWICKREMA: The claim for a refund is for the
5 first quarter of 2012.

6 JUDGE KWEE: Yes.

7 MR. SAMARAWICKREMA: Yeah. And that is within the
8 audit period and we are going to explain how we did the
9 audit to show that we are disallowing that claim for
10 refund.

11 JUDGE KWEE: Okay. So I guess my question was that
12 CDTFA had previously withdrew the Petition for Rehearing
13 of that claim for a refund, so I wasn't sure then if OTA
14 still had jurisdiction over that specific sub-issue. That
15 was the question I had because we had in our opinion -- we
16 had included a footnote too which had said that the board
17 concurrently voted to deny a related claim for refund \$532
18 in tax for this matter, Board Case 626011, CDTFA timely
19 Petition for Rehearing about decisions.

20 However, by a later date of November 8th, 2018
21 CDTFA withdrew its Petition for Rehearing of the board's
22 decision to deny the refund claim. That was in OTA's
23 opinion that is published on our website. So I wanted to
24 -- so I was thinking that OTA might not have jurisdiction
25 to hear that current appeal.

1 Did CDTFA have any objection with me pulling that
2 as a sub-issue?

3 MR. SAMARAWICKREMA: No objections.

4 JUDGE KWEE: And Mr. Nazari, is that also your
5 understanding? Or do you have any objections with that
6 being pulled as a sub-issue?

7 MR. NAZARI: I'm sorry. I didn't --

8 JUDGE KWEE: The \$532 claim for refund. I think
9 that's outside of OTA's jurisdiction because that wasn't
10 subject to this Petition for Rehearing of CDTFA. I listed
11 that as a sub-issue, but I think that we do not have
12 jurisdiction. Do you have any objections?

13 MR. NAZARI: No.

14 JUDGE KWEE: Great. Again, I apologize for the
15 confusion and that sub-issue \$532 claim for refund is
16 struck as a sub-issue.

17 Okay. The last issue I was going to go over
18 before we get into the substance and turn over to the
19 parties is just a recap of the order of presentation. I
20 have 40 minutes for Appellant's opening presentation and
21 testimony. And then after that, we will turn it over to
22 CDTFA and they have 30 minutes for their opening
23 presentation. After that, each party would be provided
24 five minutes for any closing remarks that they may have.

25 Is that CDTFA 's understanding of the order of

1 presentation for today?

2 MR. NAZARI: Yes, Judge, but we would like to combine
3 the opening and the closing remarks and use 35 minutes for
4 the opening.

5 JUDGE KWEE: Okay. We can strike CDTFA's final
6 rebuttal period and shift the time over to CDTFA's opening
7 presentation. The total time for the hearing is
8 unchanged.

9 Appellant, with that modification did you have
10 any changes that you would like to request?

11 MR. NAZARI: No, your Honor.

12 JUDGE KWEE: Okay. Then we are ready to proceed. The
13 time estimate is still an hour thirty. And I will turn it
14 over -- actually, I will first start with CDTFA.

15 CDTFA, did you have any other questions or
16 comments before we start the hearing?

17 MR. SAMARAWICKREMA: No, Judge.

18 JUDGE KWEE: Mr. Nazari, did you have any questions
19 before we turn it over to you for your opening
20 presentation?

21 MR. NAZARI: No, Judge.

22 JUDGE KWEE: Okay. The floor is yours, you may
23 proceed, you have 40 minutes.

24 PRESENTATION

25 MR. NAZARI: This audit is coming from a long story

1 with the background, it started in 2003 when I had opened
2 the shop, it was doing just a mechanic and repair shop.
3 In 2005, we decided to --

4 JUDGE KWEE: Sorry. I'm getting feedback that they
5 can't hear you on the livestream if you don't mind just
6 moving the microphone a little closer to you it would be
7 much appreciated. Thank you.

8 MR. NAZARI: In 2005 we decided -- I decided to get in
9 the fuel business and I had no place to retail the fuel
10 it, was all a hundred percent wholesale business.

11 And during 2006, we had a customer and we had two
12 issues with this customer, some of them it was our fault
13 and we didn't charge him, the person was wasn't charged an
14 invoice and didn't charge the invoice for pre-prepayment
15 sales tax. And when we corrected that part, we had an
16 outstanding balance of 523 -- something thousand dollars.

17 The customer filed chapter 7 on us and we
18 couldn't collect our money. It was kind of like,
19 actually, we were hurting, the money out. We were owed
20 the money for the fuel, the customer didn't pay, and the
21 taxes we paid we can't collect.

22 We discussed it with our accountant, our
23 accountant said, "You might be able to collect your
24 prepayment sales tax, you pay it's uncollectible from the
25 state." So we filed with the state, claimed \$64,000 of

1 taxes, then we paid and we could not collect it because
2 the customer filed chapter 7.

3 We tried to kind of like salvage whatever we can
4 because after a big loss we had, and we went and borrowed
5 money on the property to pay the creditors and everything
6 else. And at that time, we claimed \$64,000 refund from
7 the state to pay the taxes that we couldn't collect. That
8 resulted, we get the audit report -- audit notice, they
9 were going to audit us, the books and records.

10 The first audit started, a state auditor looked
11 at the situation we are in with the documents, they didn't
12 show no interest in looking at the documents and what we
13 were talking about. What they did, they sent some lady
14 auditor to go through the books, add all the labor, parts,
15 fuel, everything we sold, multiply by seven and a quarter
16 tax rate, and hand us the bill, another \$500,000 on top of
17 it.

18 So we contacted her supervisor, Mr. Prieto and
19 told him this situation was happening, you know, she
20 instead of looking at the claim, she's charging us another
21 \$500,000 while we don't have no retail sale, everything
22 was wholesale. So he admitted she has no experience and
23 assigned another auditor to look at it.

24 And from the 2003 2006 says, "Okay. There was no
25 tax due you guys are clean, but it's still the \$64,000

1 claim was a standard." So we finished that portion of it.

2 Then they came back, they wanted to audit us from
3 the 6th to 8 in one year, we had his truck stop at that
4 time, we opened a retail outlet to retail fuel. And 12,
5 14 months business, it wasn't that much paperwork. Just
6 12 month review report.

7 You easily can look at it look at the invoice.
8 They wanted interest to look at the books and records.
9 And as usual, they said, "Taxpayer didn't provide any
10 books and records." We keep showing the papers, they keep
11 saying, "Taxpayer didn't provide books and records. And
12 we expect him to sell to so much and we get an average
13 pricing multiply the gallons you sold," and not only they
14 didn't credit us what we originally asked, they added
15 another \$18,000 or \$20,000 liability on top of that.

16 So we dispute that determination and it was
17 ongoing. I went to hearing board, and it's still going
18 after 10, 20 years.

19 Then we get another notice for an audit from 9 to
20 -- 9 to June 2012 because we actually asked they because
21 as we got tired, we wanted to get out of the business.
22 You know, fuel business is no good, no profit.

23 They say we're going to audit it, so we received
24 another audit notice, and they assigned the auditor,
25 Daniel Flores. And he started to audit our books and

1 records, he's the only one from the last 20 years kind of
2 like acting fair and understanding.

3 Looked at the books, looked at the purchase sales
4 data, and the fuel business has an excise tax goes on the
5 SG report, it was like about a dollar difference with the
6 -- what the vendor reported and what we reported. And
7 everything else was a minor differences changed, you know,
8 a few dollars here and there.

9 And the next thing we hear, we got a call from
10 the Mr. Prieto, the supervisor, that he's no longer going
11 to be your auditor. We're going to sign you another
12 auditor.

13 So they assigned another auditor for the period
14 of 2009 to June -- middle of 2012, Mr. Richard Consigli.
15 He, from the beginning, he was kind of like had no
16 interest in anything. We send him an e-mail, we sent him
17 the paper, and we asked, "When would you like to see our
18 books and records?" Then we can get down with this
19 auditing nonsense.

20 And he gave us a date and he said he would like
21 to see we can meet on such and such date. He also sent us
22 an e-mail what he wants, what his requirement is, what he
23 would like to see for the audit. He wanted to see 14 days
24 of the pay period. He didn't want to see any books and
25 records. He just wanted to see 14 shift paper, daily

1 sales in the audit period -- excuse me -- in that audit
2 period and he wanted it all to be Mondays.

3 We were getting everything ready from the bank
4 statement, to the income tax returns, they just recently
5 produced that as Exhibit S. We had income tax returns
6 from '09, '10, '11, '12 -- '11 because there was no '12
7 then because the audit was through June 2012.

8 We had boxes of the paper and everything was
9 sitting right there ready, but he didn't want to look at
10 it. He just wanted to see 12 Mondays.

11 So we don't know about the audit -- audit
12 procedure, how it works. We were surprised that they were
13 going to figure the whole business, three years of
14 business by 12 weeks -- 12 days.

15 And I started to hire an attorney, I started to
16 hire a CPA to do the audit with the state and get us out
17 of. Anybody we had retained, CPA, after talking to
18 auditors, they said that man doesn't like you, he really
19 don't like you.

20 And other auditor was involved, I just don't want
21 to throw the name in at this time. Because one of them,
22 even in front of the employees, said, "I don't like
23 Arabs." I said, "Good. I'm not Arab, I'm Persian." And
24 he said, "Well, you guys all sand n-word," and the people
25 all said, "What is what the hell is he talking about?"

1 He's really angry for what reason?"

2 Well first, accountant we had -- she said, "I
3 can't handle it. This guy doesn't really like you." I
4 said okay. So we pulled our papers back another week and
5 discussed it with another CPA.

6 And this CPA -- we said, "Okay. We can retain
7 him, we'll give him \$12,000, he takes the files and review
8 it, everything." He calls and says, "I talk to auditor,
9 he doesn't like you." What he is saying, you know, we
10 can't do business with him.

11 So we took our paper back from him, went back to
12 original accountant when he was doing all the income tax
13 paperwork, Mr. Hoffman. So Mr. Hoffman sent a letter
14 asking him for an appointment, when he would like to meet,
15 And that was the original inquiry from us page 1086.
16 Because the history of the paperwork, the date is backed
17 up for like June 6th of 2012 in Exhibit A, the other one
18 is Exhibit M. And he responded, page number 458, the
19 auditor responded to us what he would like.

20 On page 239, Mr. Hoffman, the CPA, proposed the
21 Doomid audit at the time would be at his office on
22 Thursday, November 12, at 1:30 p.m. They responded back
23 from the auditor, it says, "I do not need to set any
24 appointment. The information which was provided is not
25 accurate," so he doesn't want to meet based on 12 Mondays

1 paper we gave him.

2 And if you look at page 171 and 172, that CPA,
3 Mr. Hoffman, questioning him that how can you say the
4 liability -- whatever, the accuracy of the audit without
5 looking at other documents, like sales reports, or
6 purchases.

7 You know, the grocery store we were paid to
8 Pepsi, Frito Lay, the audit was out there. Income tax
9 returns, bank statements, pay record. How can you finish
10 your audit without looking at those, but there is no
11 response from that guy. He didn't want to see it.

12 Prior to all this thing, we met with the auditor
13 and he had us to sign the paper the extended time for
14 audit period. We had to sign it and we are setting an
15 appointment then he changed his mind, he didn't want to
16 meet no more.

17 Then we get the audit results without examining
18 any of the paperwork, any of the books, any discussion at
19 all, and it started with him and it says he did three
20 field tests a hundred percent agree with it. I personally
21 think he is just lying, based on animosity, he doesn't
22 like us.

23 He say he did three field tests on 8/16/2012
24 while we were waiting for him to come to the audit and
25 8/27/12 and 9/17/2012. And he has three readings and he

1 observed the prices at 4.17, 4.33 and 4.35 on those days
2 and he compared it to the nation average pricing and he
3 figured out -- the way he figured it out we were up
4 average of \$0.07 below the national average pricing.

5 Then he got that figure, applies it to prior
6 three years audit period and based on average he reported
7 from the supplier and the garnishment reported from the
8 purchase for retail. So they have a base gallonage, so he
9 got the difference in national average goes back applied
10 to three and a half years before that. And he create
11 another \$500,000 liability.

12 So we asked for the determination and he said,
13 "Well this was an ad hoc report." He just had to do the
14 audit by what he had, even though he refused to look at
15 the paperwork, he had to estimate and finish his audit.
16 And you could find the determination that we can audit --
17 look at your book later on, at a later date that is
18 paperwork.

19 With the information we went to the -- the page
20 we were missing from the field audit -- he was an audit
21 officer, and he looked at it, he looked at the paperwork
22 he issued a DNR, he asked the auditor to recommend to be
23 re-audit and let's look at the people's paper then and
24 show me where the problem is.

25 So we waited for him to re-audit, but at that

1 time, he no longer -- I think he was no longer field
2 auditor he became a supervisor, so he assigned another
3 auditor for a re-audit named Mr. Dital (phonetic) and he
4 manipulated the audit so bad. One of his file is like
5 page 342.

6 He, instead of looked at the books -- the audit
7 records because the audit man, you know, I'll say audit
8 man also looked at point of sale electronic-generated
9 paperwork, everything, so they were not interested to do
10 that.

11 What he does, he goes and calls the suppliers get
12 the invoices directly from suppliers. Then what he did is
13 he left the sales tax in, left all the non-taxable fees
14 and excise in, at \$0.02 per gallon for underground storage
15 tank fee to come up with a cost. Then he compares the
16 cost to the taxpayer filing taxable sale, so the taxable
17 sale since you're selling fuel, like gasoline, is not
18 something that I could buy \$10 gas and they charge me
19 Okay. \$10 of gas and 82.50 -- \$0.83 for example --
20 whatever sales tax, now pay me \$10-- \$11.

21 The price you see on the pump is all taxes
22 included, excise tax, sales tax, fuel tax, fuel,
23 everything, sales tax, so you get all the tax included
24 plus the \$0.02 additional, even the fee, come up with the
25 cost comparing the taxable sales.

1 And then he says that, you know, what he sold was
2 less than his purchase price, less than his cost. So
3 validating the original audit that happened by the
4 supervisor. Supervisor recommended the original first
5 audit of 400 -- \$500,000 is good, no adjustment needed.

6 So we complain about that, we filed the petition.
7 So the issue of the DNR and recommended reduce the taxes
8 by so much. The SDNR recommended the reduced tax by so
9 much and I don't know, bring it to three hundred-some
10 thousand dollars and if you don't -- we looked at the SDNR
11 was issued and we'll sit down and talk about it.

12 At the time we're paying it's 20,000, 30,000
13 bookkeeper, 20,000 just for that period. Just take your
14 losses, accept this DNR, and hopefully we can go and
15 compromise, see if we can somehow settle the debt with the
16 state and go after our life.

17 We signed this DNR, accept it and send it in, and
18 for some reason somebody, some person they didn't take it,
19 they didn't accept it.

20 Next thing happened, we ended up to have a
21 hearing from the state board member. We put all the
22 documents back to the board and they look at it, they
23 listen to argument, they recommended 30-30-30. Thirty
24 days for us to send some paper to the state, thirty days
25 for them to look at it, and then provide the result to the

1 board.

2 Again, they did the same thing. Instead of
3 looking at the paper, they start to estimating and setting
4 up the markup. They don't want to look at the actual
5 sales because something is wrong with it, they don't like
6 it. But they're trying to sell a purchases, plus markup,
7 and anything else they can think of and send out the
8 original audit by Richard Consigli is okay.

9 So the state -- we back to the board. The board
10 members -- that was my exhibit that I send you. The board
11 member, again, listened to -- they're going to have their
12 own since they're still refusing to do the audit, they're
13 going to have their own staff looked at it.

14 The staff looked at it with what they had and
15 they made a decision on December, hearing in Sacramento
16 and they run by the SDNR to reduce the tax 500 to 300, and
17 to waive the penalty, and the original, the prior audit,
18 they give me credit on that because half of half of what I
19 was asking and I thought it was done.

20 Next thing I hear, they appealed it again. Now I
21 look at the exhibit that provided, the second auditor kept
22 saying that he didn't want to look at our paperwork, he
23 collected his taken invoices from the supplier.

24 And if you look at the invoices, some of it is
25 not even related to our purchases, like if you look at the

1 page 1081, going to the invoices, their auditor been using
2 it to figure the cost.

3 It says, "Bill to Doomid, Inc., DBA Speedway
4 Travel Center," it's been the location we have been
5 retailing Mojave, California. The address on the bottom
6 of it, and then ship it to Doomid, Inc., DBA Speedway
7 Travel Center 6660 Sierra Highway, Mojave, California.

8 If you look at the invoice 1027 -- page 1027 from
9 Mr. Strong, again, it says, "Speedway Doomid, Inc., PO box
10 752 Mojave, California, shipped sent to Speedway Truck
11 Stop, Doomid, Inc., 6666 Sierra Highway, Mojave,
12 California." So this part actually went to the location.

13 Then if you look at the page 1030, the majority
14 of the evidence they sent in -- it says, "Bill to Doomid,
15 Inc., PO box. I shipped to Doomid, Inc., Colton Truck
16 Stop." Colton Truck Stop is -- I don't know -- 200 miles
17 away from Mojave.

18 And if you look at page 1029, invoice says,
19 "Shipped to Montebello Truck Stop," Montebello is far away
20 from Mojave.

21 We been arguing from the first audit, you know,
22 when I was trying to -- when we lost money and the person
23 filed chapter 7 on us and made a mistake never going to do
24 that again if I stay in business. I'm too old right now
25 to start a new business, I've wasted 20 years on this

1 thing. And --

2 If you look at page 361, they knew the credit
3 owes to us, but they've been holding it back and telling
4 the other auditor he's entitled to \$30,040.52, but hold on
5 because we have another issue, issue number two. So this
6 guy definitely was biased, definitely didn't like us,
7 everything to him was personal, I don't know why.

8 Where we are, the very simplest thing is one of
9 the -- a very simple thing, is one of the -- if you want
10 to see what price per gallon is, if I buy, pay \$20 for the
11 gas and I get just seven gallons, the most commonsense,
12 easiest way to divide \$20 by seven dollars gallon. I
13 said, "Well, they charge me 3.95 for gas."

14 And one of his, Mr. Dital's audit, page 1126,
15 he's making an average weekly selling prices, I give him
16 the shift papers -- let me get there. He says on his
17 report for 1/3/2010, my cost was \$2.58 -- six, something
18 like that and I was \$2.30 point nine, right?

19 Now, if you look at page 1119, that report from
20 the POS system for January 10, '10, if you divide the
21 dollar amount by the gallon, forget the cash sale,
22 discount sale, any discount, or any extra, just add the
23 dollar amount by gallons, it was sold for \$3.07 point
24 nine.

25 I don't -- I still, to this day, I can't figure

1 out how he came up that I was selling for \$2.30. Then
2 you're telling me I was selling -- I don't know, like a
3 \$0.27 cents below my cost, when clearly, you can see on
4 the point of sale, generally, day-by-day electronic cash
5 assistance, the selling price was \$3.07.

6 Same thing since he was doing it weekly, for
7 month of June 22, 2010. He said I was selling my
8 customers 2.44 and I was selling 2.20 -- something, that I
9 was 2.1 cent below my cost, my sale was. My actual sale
10 was \$2.79 point nine, not 2.45 the way he calculated it.

11 I still couldn't figure out how he came up with
12 that amount, that my cost was 2.60, I was selling 2.40.
13 My POS system says -- page 1128 on 6/21/10, sales was
14 \$2.79 he's saying I was selling it for 2.45. So he keep
15 manipulating, adding this tax to this one, deducted from
16 that one, or saying California State Excise Tax is sales
17 tax actually, it's not sales taxable.

18 When you're doing your sales tax report, you take
19 sales tax, include you sales out, you take the \$0.18 a
20 gallon, at that time, as I remember, follow the state
21 excise tax out -- the tax by the state law itself. Then
22 you multiply that amount to the tax rate and so that's how
23 much is the sales tax due on the sale, was included in the
24 sale, and they deduct at the amount you paid as a
25 prepayment for the sales tax. And if you have any

1 balance, you pay it.

2 Once the prepayment, I was looking at the paper,
3 I prepaid prepayment sales tax on the sale is almost a
4 million dollars or better a year for taxes upfront. How
5 -- why would I want to short the state for a thousand
6 dollars or five thousand dollars -- ten thousand dollars?
7 It's all black and white.

8 When I am looking at paperwork and it's kind of,
9 like, make me feel bad because like, I looking at what
10 they have report from audit credit card issuer -- how much
11 the gross credit card clearing house -- is like
12 transportation companies, everything, how much on the
13 annual report how much they paid me, how much gross, how
14 much they took and how much they gave me.

15 But then we offered the same thing to look at it
16 individually because when you purchase on the credit card
17 when you buy gasoline put your card in the cart -- in the
18 cartridge there, your invoice tell you how much per
19 gallon, how many gallons you bought, how much money you
20 paid, but they're not interested in that one, they keep
21 sticking with national average.

22 And national average is one of the most
23 inaccurate figure you can use because of outliers, like
24 the locations are different, some gas stations sells 5.79,
25 Arco down the street, five miles away says 3.99. You

1 cannot use the outlier because -- I even provided to the
2 -- I provide all the audit the reports and everything to
3 the board, was disputing the national average pricing.

4 Even in Bakersfield, my local area, we're looking
5 at the gas board where they posted fuel prices, the
6 average \$3.39, but the lowest is 2.49, highest was \$9.90.
7 So they make an average almost \$1.50 gallon difference
8 than the guy actually selling \$2.49.

9 So I went and gave it to the auditor, I said, "I
10 feel sorry for this guy if you want to audit him. He's
11 going to lose his house, his family too." Actually, it's
12 right here, look at it.

13 Then if I didn't charge enough, it's my fault.
14 If I sell \$1.50 or 2.50 we are talking about the tax rate,
15 based on that, you got all your taxes. Based on what I
16 sold, I know right now the gas station or truck stop will
17 they're working in like 50, 60, 70, cents a gallon markup,
18 some gas stations make a dollar gallon right now. But in
19 my day, if you're making \$0.02 a gallon, you're doing
20 good.

21 Everybody saying, you know, like you make it in
22 the garage, you make it in the store, the mini market,
23 everything else, gas is just bringing the customers in.
24 Now these days it is different, after all these years they
25 started actually making money. They're making 50, 60

1 cents a gallon.

2 But on it whatever it is, I didn't see all -- all
3 day to print those, they are printed by the POS system
4 automatically, the people at the pump buying it, and all
5 the reports are electronically-generated for credit card
6 receipts per sale or clearing houses. When they pay me,
7 they bring me price per gallon purchase for cash discount
8 if you pay some of them, get to buy in a load to share.

9 It is all present if you look at it, but they
10 show no interest and they just want to see what the gross
11 was, if it matches the national average pricing profit
12 markup. And five different people, they working for tax
13 supervisor audit the paper, if you look at they came back
14 with the five different results. Now, two of them are the
15 same, one of them in Bakersfield, and I think it was
16 Ventura, she came up when I'm selling \$1.58 below my cost.
17 How could that possibly happen? I wouldn't be lasting
18 business for a week.

19 Mr. Dital, at least he comes up like about \$0.02
20 difference, \$0.21 difference. And when you look at it,
21 that is because taking an \$0.18 for the excise tax -- the
22 state excise tax, I have add \$0.02 to it so that's \$0.20
23 right there, plus what the sales tax add to it.

24 I don't know how she came up with \$1.20 below my
25 cost, almost make the original audit by Mr. Consigli, the

1 best audit we had the first one.

2 I don't know. You know, 2012 we offered the
3 auditors state, bank statements, showed deleted cash, and
4 all the credit card deposit, then you think, kind of like
5 you had it, we didn't know you have it, the way he was
6 acting. It shows deposit in the bank, income tax return
7 we file is right there.

8 And then after 20 years -- 12 years, the state
9 coming up Exhibit S as an income tax but, the income tax,
10 if you look at it, it was filed by Mr. Hoffman, the income
11 tax filer, the CPA.

12 2011 was Mr. Hoffman, 2012 I think, Mr. Avari
13 (phonetic), they both same office, he's working for the
14 CPA, Mr. Hoffman. Actually, he was the one who filed that
15 income tax, he was the one offering that the auditor
16 please come look at the paper documents we have and how
17 can you do the audit by looking at just 12 Mondays, and he
18 refused to look at it.

19 Now they are coming back after 10, 12 years, they
20 say, "Oh, we got him. We have Exhibit S income tax shows
21 that he sold \$8,000,000. Do you have a backup to show
22 where the sale was coming from?" Like 2012 is not part of
23 the audit because the audit ends June of 2012.

24 But if you look at it, June 2012 says \$8,000,000.
25 But look at the page, the \$547,000 of it was sales of

1 equipment that we got off our business. We sold the
2 equipment to pay the loans. Even -- then add it to the
3 income tax added to gross sales.

4 I don't know. It's your decision, Judge. You
5 can look at the papers all over again, you know. At this
6 time I really cannot afford to hire an attorney or a pay a
7 another bookkeeper, another \$50-\$60,000 expenses to get
8 the same result. Because they are in the driver's seat.

9 They say you're guilty, you're guilty. But on
10 the other hand, they won't allow you to prove you are not
11 guilty. They want to do the data for you too. If you say
12 I owe you like \$500,000 underreported tax, let me bring my
13 paper and show you that I did not.

14 They wouldn't even allow me to defend myself.
15 You go yourself, get the invoices, get the information,
16 and say, "Oh, national average and some papers. Yeah, you
17 are guilty." So they are actually like doing the
18 plaintiff and the defendant at the same time.

19 So to this day, I cannot defend myself, I cannot
20 prove that I am guilty. They actually say there is some
21 kind of excuse to send back the \$500,000. And every time
22 they audit, they come back with a different number. If
23 you show me two audit that comes up same, that is okay.

24 JUDGE KWEE: I'm sorry. Did that conclude your --

25 MR. NAZARI: Yeah. I'm done. I'm done.

1 JUDGE KWEE: I did want to get clarification. You had
2 pointed to a couple invoices such as the page 1030, 1029
3 with the ship to address for the truck stops in -- I
4 believe it was Bloomington and Montebello. I wasn't fully
5 understanding. Were you saying you didn't make the -- is
6 that an allegation of --

7 MR. NAZARI: My opinion is there is more invoices,
8 okay? There is more invoices because our shipping
9 address. Do you see what I'm talking about? You cannot
10 pick and choose which one you want to use to make the guy
11 guilty.

12 JUDGE KWEE: Right. So were you saying that is not
13 your address?

14 MR. NAZARI: No, my store was not in Bloomington, it's
15 not Colton. Colton is by Los Angeles, we are in the
16 desert. So if you -- what I'm trying to say, if you're
17 doing the audit and saying I'm an underreported sale, at
18 least let me show you my side to prove to you that I did
19 not.

20 Instead of that, you cannot pick and choose and
21 say, "Okay. I am going to use that one. I don't need to
22 prove no more. I got you." You see? Or I owe so much
23 money. When I am looking at it I see everything is wrong
24 and every paper because I'm the one did it, but if I'm
25 trying to tell him, "Hey. This is -- that's how he was.

1 You can't use this paper, this is the actual one."

2 They're not interested. We have been through
3 three differed audits, four different hearings, they said
4 they told the state to do the audit. I get in my car,
5 drive to Bakersfield in the middle of summer in the heat,
6 boxes, sweating, carrying the boxes. They are not
7 interested.

8 JUDGE KWEE: Okay. So for those particular invoices
9 are you saying that it is not relevant because it is a
10 different location and they are looking at incorrect --

11 MR. NAZARI: Yeah, they could be wholesale, they could
12 be sold to somebody else, they were not shipped for
13 retail.

14 JUDGE KWEE: Okay. But it was charged to Doomid,
15 Inc., so was there any question that someone else was
16 using your account to make those purchases.

17 MR. NAZARI: No -- no. I am not talking about
18 somebody else using my account.

19 JUDGE KWEE: Okay.

20 MR. NAZARI: I can buy a million gallons of fuel,
21 okay? And give it to somebody else retail it.

22 JUDGE KWEE: Okay. So --

23 MR. NAZARI: You follow what I'm saying?

24 JUDGE KWEE: Yes.

25 MR. NAZARI: We are selling it at Colton they are

1 passing it on. Because when you doing business with the
2 refineries, okay? The refineries -- you have those
3 invoices have what they call you have spot buy, you got
4 rack price, then you got discount off of that one. If you
5 pulled 200,000 gallons then you come back all the invoices
6 they give you credit back, like \$0.11, \$0.15, \$0.16 a
7 gallon. T.

8 Hat's why, you know, the prices are different,
9 even though the wholesale of the job is they are doing
10 business. For example, we assuming, make a case of it you
11 are Chevron, or you are Arco, I get an offer from you if
12 you pull 20 loads, 20 times 8, \$7,500, that would be like
13 what? 300,000 gallons. By Friday, you get \$0.21 off.

14 But every road I pull, I get the right price,
15 transportation or the same. So it's just like -- how it
16 works it is just like they are on the promotion. Let's
17 say you can buy this laptop \$1,000, zero interest period
18 for 12 months, but if you don't pay your 12 months we
19 charge you interest from the day one. That is how it
20 works.

21 So you pull 300,000 gallons by Friday, Saturday
22 morning if you have 295,000 they are all going to go back
23 to rack price. So sometimes you give it to another
24 retailer at the cost to save the discount. You follow
25 what I am doing?

1 JUDGE KWEE: Right.

2 MR. NAZARI: Because I don't -- you know, like
3 changing money. Like you said, another independent truck
4 stop, another independency, everybody markets like buying
5 from the other wholesalers still like \$1.95 a gallon, plus
6 taxes.

7 You say, "I have fuel left, I can give it to you
8 for \$1.78. Go pull it." So that is what I am talking
9 about. So you cannot be pick and chose so if you have
10 those papers, let me bring all the documents to you, share
11 in front of you, then do the real audit.

12 If you think -- I always assumed that there's
13 something -- I think your paperwork is not right. The
14 state should work with the people and say, "Okay. Let me
15 see what you did. If you did it wrong. Oh, this. You
16 messed up here. Now, see you owe \$10.00." But they never
17 allow you to do that, they never allow you to show them
18 the true paper to prove the history of it. This is the
19 dollar this, is the \$50, this is the paperwork. That's
20 what happen.

21 If you look at what the requirement it's the 112,
22 one-day old, we got the paper form the distributor or we
23 got the invoices from the oil company, but that's not
24 accurate prices. We could pay accurate prices. It maybe
25 was wholesale, these are documents in it, go look at the

1 income tax return, let the CPA who filed the income tax,
2 let them put the paper in front of you.

3 They refused to meet anybody. And anybody we
4 hired I have it as a witness if we end up litigated in the
5 real -- in the court, I have witnesses, they can come up
6 say what the auditor told them. They come to me, well,
7 this guy really, really, really hates your guts.

8 JUDGE KWEE: So I see now. Those were to take care of
9 -- take advantage of add a rack or promotional allowances
10 so the wholesale transactions to other retailers --

11 MR. NAZARI: Yeah, it was passed down period because
12 see, it's kind of like I'm doing the other guy a favor by
13 saving him like about \$0.15, \$0.18 a gallon. He's happy,
14 jumping up and down, you are my friend, thank you, thank
15 you, thank you. But he doesn't know he's saving me about
16 \$4,000, \$5,000 this week if he doesn't pull it. It works
17 both ways, you know, help everybody.

18 JUDGE KWEE: So my next question then is because that
19 would have impacted -- it seems like that would have
20 impacted the your SG account, but this --

21 MR. NAZARI: No, it's a set money.

22 JUDGE KWEE: Right. But this is a wholesale
23 transaction, so it would --

24 MR. NAZARI: It would not make difference. SG is the
25 same amount of money, it's not a percentage.

1 JUDGE KWEE: Okay. So I guess my question though is
2 how do these invoices impact the audit --

3 MR. NAZARI: There are other invoices that they don't
4 look at it. That is how they came up, they said I
5 overstated by SG report by \$10,000 because they don't want
6 to look at the papers. Did you look at the audit? It
7 says they adjusted my SG report by almost \$12,000 'cause I
8 overstated my SG report.

9 JUDGE KWEE: Okay. So but the audit before us is the
10 retail account not the --

11 MR. NAZARI: Right.

12 JUDGE KWEE: -- so I guess my question is I guess I
13 wasn't sure --

14 MR. NAZARI: -- but the thing is -- okay. They
15 adjusted my retail, they said my SG are overstated by
16 \$12,000 because they didn't look at the actual papers.
17 They just estimated, they're going by what they want to
18 see.

19 JUDGE KWEE: Okay.

20 MR. NAZARI: If they would just see the actual paper,
21 meet with the CPA, then I would ask them you know, when
22 they file I bring them all the papers.

23 Okay. I get a monthly bank statement and I have
24 a month to sell, it's just like this, I give it to CPA and
25 he's separating them with his machine at about 50

1 different number for -- accounts, different accounts. And
2 I pay him every month and he does the income tax at the
3 end of the year. Let's see what he has.

4 They refused to meet the guy, they refused. None
5 of them even wanted to see the papers. We are going
6 around, around, around, around, the hearing, hearing, four
7 hearings. How many people are got to tell me audit, look
8 at the papers.

9 Instead of 12 years, they just need to spend 6
10 hours. If they would spend 6, 8 hours, meet with the CPA,
11 look at the income tax then, look at all the schedule to
12 the penny, he's the one doing it. If I was made mistake,
13 I was come back short in doing something wrong, I would
14 know it then, but then I wouldn't be here.

15 If I owe them a hundred thousand, five hundred
16 thousand I would make a payment, I would make a
17 settlement, go away, over. You know, my life, my time
18 were poured in this, it's aggravating me for 20 years.

19 Since 2003, I got in the wrong business to have
20 to deal with a State Board of Equalization. Because if
21 they would said instead for 10 years we're going around
22 back and forth, court, court, court, hearing, if they
23 would just spend eight hours, they would know where the
24 problem is then.

25 And if you look at the papers today, it's still

1 estimating. They are still guessing. We got the income
2 tax, 2012. Okay. What that prove? Look at my escrow
3 paper, I sold the property, shows in the contract on
4 September of 2012.

5 But still I was collecting rent of a little shop
6 we had the -- it was road service business and all this
7 thing -- one of the contingencies was the buyer want to
8 buy property, we had to do an environmental report to make
9 sure it's clean. Because we couldn't sell the business if
10 we couldn't get the clearance, so we just sold the
11 equipment.

12 And the property we sold, the contingency was it
13 was going to run a business for three months to make sure
14 he can make enough money to make a payment because of the
15 Mojave condition, they put a new 58 bypass the city. And
16 so actually, I wasn't even in control of the truck stop
17 for three months.

18 But yes, I received money for that three months.
19 I was during operation, controlling the business, they
20 couldn't keep the profit, they had to give me rent. They
21 said, "Okay. You run the business, but I've got so much a
22 month for three months while you operating," so everything
23 you can trace it, you can document it. You sit right
24 there, look at it. You can't just say we expect you sell
25 that much and we expect so much percentage marked off.

1 Like one other thing I was looking at is it
2 started in 2005, they're coming up saying the shop if you
3 say 50 percent -- \$50 what is it? Parts. We assume the
4 labor was \$50, fifty-fifty. I mean, that's another thing
5 far away from the truth.

6 I just did a tune up on my pickup truck. The
7 spark plugs were \$6 -- \$36, labor was \$950 because they
8 have to take half the engine apart to get this spark plugs
9 to cover that dealer for two days for changing spark
10 plugs. You can sell a \$36 part to get \$36 labor, that's
11 the way they do the audit. I'm not gonna look at the
12 documents.

13 I don't know. If we're going to end up take our
14 papers to litigation, believe me, I already lost
15 everything I have, why stop post the bond and go to court.

16 JUDGE KWEE: Okay. Thank you.

17 I will turn it over to -- well first, CDTFA
18 because got to check, CDTFA, did you have any questions as
19 far as that testimony portion?

20 MR. SAMARAWICKREMA: No, Judge.

21 JUDGE KWEE: Okay. Then I will turn it over to my
22 co-panelist to see if they have any questions.

23 Judge Aldrich, did you have any questions for the
24 taxpayer?

25 JUDGE ALDRICH: Good morning. I did have a few

1 questions for you. So you had referenced a few of the
2 invoices that Judge Kwee referred to. There was one from
3 Chevron that said the Colton location, et cetera, and your
4 argument was that you were incentivize to buy large
5 volumes and for buying those large volumes you received a
6 reduction in the per gallon price, is that correct?

7 MR. NAZARI: Yes. I -- I think they were short. They
8 never shared anything with the taxpayer. In the last 10
9 years, they did not share anything until I get it in the
10 mail or what they're doing. Because I know that there is
11 more invoices but, why don't you put them all out, don't
12 be picking, choosing.

13 JUDGE ALDRICH: So my question is, your assertion is
14 that you're getting -- you would get a discount of the per
15 gallon price.

16 MR. NAZARI: Right.

17 JUDGE ALDRICH: Okay. In evidence, so in the exhibit
18 binder, will I find any document that shows what that per
19 gallon price discount was?

20 MR. NAZARI: They never -- they were not interested.
21 That's why if you look at it, that's what I was showing
22 page 171. The CPA that has all the documents in his
23 office, he didn't ask how do you want to figure out the
24 whole thing by 12 days, they have the papers. I set the
25 appointment for audit, setting a date for his office, the

1 e-mail is up here the answer is, "Well, I don't think I
2 need to see any documents."

3 JUDGE ALDRICH: Do you understand -- so do you
4 understand that part of this process allowed you to submit
5 documents into evidence?

6 MR. NAZARI: No.

7 JUDGE ALDRICH: So you were --

8 MR. NAZARI: The way I'm looking at it -- apologize,
9 just being honest how I feel, okay? This is state, okay?
10 And a state hearing and administrative judges is a part of
11 the state. That's the way my impression is.

12 For 12 years or better experience I took every
13 single document to the auditor, to Bakersfield, to Fresno,
14 and everything else then nobody interested to do anything,
15 nobody to look at it, I even got in an argument with them
16 telling me, "You're being picky and choosy, you're leaving
17 the \$10 one out. You are picking up the \$12.50, adding it
18 to this one." When I listen to an explanation or
19 something --

20 JUDGE ALDRICH: So an example of those invoices that
21 were from the provider is do you have the documents, the
22 other invoices?

23 MR. NAZARI: Well, there are 30 invoices, okay? They
24 are not the invoices, they are estimate. If those don't
25 watch, you're being charged so much, rebate you so much.

1 JUDGE ALDRICH: So you are saying the documents you
2 were referring to from Chevron are estimates or --

3 MR. NAZARI: Yeah. Everything -- everything I showed
4 them is lie. They have the wrong, they have the wrong
5 paperwork. Everything showed to the state -- to the
6 auditor is lie, it is not -- I just want this, I just want
7 that, that is it.

8 JUDGE ALDRICH: Okay.

9 MR. NAZARI: I mean, it got to the point they start to
10 accost you, call you names, making racist remarks and
11 everything else, how else are you gonna deal with these
12 people like that?

13 JUDGE ALDRICH: Yeah. So just as a point of
14 clarification, I believe it's already been indicated and
15 has probably addressed in the prehearing conference, but
16 we are a separate and independent agency from CDTFA, just
17 so that's clear.

18 At this time I'm going to refer over to Judge
19 Kwee.

20 JUDGE KWEE: Yes. Thank you. I'm gonna turn it over
21 then to Judge Ridenour.

22 Judge Ridenour do you have any questions for the
23 witness?

24 JUDGE RIDENOUR: Yes. Actually, it's just a piggyback
25 on Judge Aldrich's question. So just to confirm, these

1 boxes that you gave to the CPA that you say substantiate
2 your cost, you have not provided them to the OTA?

3 MR. NAZARI: No, it was -- that's why I was saying
4 area page 239, page 1110, all the communications -- e-mail
5 communications that we asking the auditor to come and
6 audit, set the date, you come to the office, look at it.

7 And he was agree -- he agreed to do it, he set
8 the date, and he went even in there so we can start, we're
9 looking at the shift paper, we can look at your -- what is
10 it? Daily shift, your purchases, and everything.

11 So what we do, we make sure everything is out
12 there, we contacted Pepsi, I remember. I personally went
13 to Frito Lay distributor sat there for -- I don't know,
14 about an hour. They had to print out all the sales to
15 that location.

16 JUDGE RIDENOUR: Right. Actually, my question is all
17 those documents you're referring though, you have not
18 submitted to OTA. That was ultimately my question.

19 MR. NAZARI: The State Board got it, but the OTA, no.

20 JUDGE RIDENOUR: Not the OTA? Okay. Thank you.

21 No more questions.

22 MR. NAZARI: You know, we submitted it for the audit
23 as a part of audit requirement, but he changed his mind to
24 look at it.

25 JUDGE KWEE: Okay. This is Judge Kwee. Just I guess

1 a clarification then, do you still have those documents?

2 MR. NAZARI: More or less, yes. We can find it.

3 JUDGE KWEE: Okay.

4 MR. NAZARI: I can look for it.

5 JUDGE KWEE: And my next question before I turn it
6 over to CDTFA, during CDTFA's presentation could you all
7 address whether or not a review of the source documents
8 would help or potentially change any of the adjustments
9 warranted by CDTFA during their re-audit?

10 MR. SAMARAWICKREMA: We will.

11 MR. NAZARI: May I? If you look through the exhibit,
12 actually, I contacted the suppliers to get the invoices.
13 It was my idea, my suggestion to Mr. Dital because I went
14 to get my purchase invoices and it was in storage, sitting
15 in storage for five years, six years. When I went to the
16 storage, they were infested with bugs and rats and very
17 smelly really bad, so I took a picture of them, and I took
18 it to the auditor in Bakersfield.

19 I said, "Portion of boxes is like this. I can
20 bring with me or we can get a fresh one, copy from the
21 suppliers." So instead of discuss it further, he called
22 the suppliers and it's in his report even though the
23 document shows clearly invoices from Chevron, you know,
24 same thing. And he said that the taxpayer said that the
25 documents were destroyed.

1 They've never been destroyed, I had it, but it's
2 infested with bugs and spider webs and rats got into it
3 somehow, it smells, it's unbearable. You want to look at
4 those? Okay. We can get a copy from the original
5 matchbooks.

6 It's one of the things responded to if I ever
7 represent it him, give it to the auditor, I even took it
8 to Bakersfield. If you look at his report, it says,
9 "Taxpayer said that the documents not available, they are
10 destroyed." Even the pictures in his own file shows it's
11 not destroyed.

12 JUDGE KWEE: Okay. I think I understand the issue and
13 aside -- yeah, with the documents. Thank you. If the
14 panel's ready to turn over to CDTFA. Questions?

15 Judge Aldrich, do you have any further questions?

16 JUDGE ALDRICH: No. Thank you.

17 JUDGE KWEE: Okay. Judge Ridenour, do you have any
18 further questions before we proceed?

19 JUDGE RIDENOUR: No. Thank you.

20 JUDGE KWEE: Then I will turn it over to CDTFA.

21 CDTFA, I believe you had requested a combined
22 opening and closing for 35 minutes, so I will turn it over
23 to you now. The floor is yours. Thanks.

24 PRESENTATION

25 MR. SAMARAWICKREMA: Thank you, Judge.

1 Appellant is a California corporation that
2 operated a truck stop with a minimart in Mojave,
3 California. Appellant made both retail and wholesale sale
4 of diesel fuel. Appellate did not sell gasoline, the mini
5 mart sold miscellaneous taxable and nontaxable items.

6 Appellant commenced business on July 1st, 2003
7 and seized operation on December 31st, 2012 with no known
8 successor.

9 The Department audited Appellant's business for
10 the period of January 1st, 2009 through June 30th, 2012.
11 During the audit period, Appellant reported around
12 \$20,000,000 as total sales and claimed various types of
13 deductions, resulting in reported taxable sales of around
14 \$16,000,000, and that will be on your exhibit A pages 20
15 and 21.

16 In addition, Appellant claimed around 1.3 million
17 dollars in prepaid sales tax on purchases of diesel fuel,
18 and that will be on your Exhibit C page 103.

19 During our presentation, we will explain why the
20 Department rejected Appellant's reported and recorded
21 taxable sales. Why the Department used an indirect audit
22 approach. How the Department determined Appellant's
23 unreported sales tax for the audit period. And why the
24 Department recommended a 10 percent negligence penalty.

25 Appellant stated its sales and use tax returns

1 were prepared using sales summary worksheets compiled from
2 his POS systems daily sales reports but, during the audit
3 Appellant failed to provide complete sales records.

4 Appellate did not provide complete sales
5 documents of original entry such as, POS sales information
6 with all folders for the audit period, nor did Appellant
7 provide complete sales report or sales journals. In
8 addition, Appellant failed to provide complete purchase
9 journals or other information about its diesel and
10 merchandise purchases.

11 Due to lack of reliable records and negative
12 reported and recorded full markups, the Department did not
13 accept reported and recorded taxable sales.

14 The Department also determined that Appellant's
15 record was such that taxable sales could not be verified
16 by a direct audit approach. Therefore, the Department
17 used an indirect audit approach to estimate Appellant's
18 taxable sale of fuel and minimart items.

19 The Department completed four verification
20 methods to verify the reasonableness of Appellant's
21 reported taxable sales. First, since Appellant did not
22 provide its federal income tax returns, the Department
23 requested and received appellants 2011 and 2012 Federal
24 Income Tax Returns from the Franchise Tax Board, and that
25 will be on your Exhibit S.

1 Comparing the federal income tax return gross
2 receipt for those two years with Appellant's reported
3 total sale of around 12.1 million dollars for the same
4 period showed an overall difference of around 4.6 million
5 dollars, and that will be on your Exhibit S, page 1148.

6 The Department also compared reported total sale
7 of around 12.1 million dollars to the cost of goods sold
8 of around 15.4 million dollars reflected on Appellant's
9 available federal income tax returns and calculated in
10 overall negative reported book markup of around 22
11 percent, and that will be on your Exhibit S, page 1149.

12 Based on the negative reported book markup,
13 Appellant would have been losing money every time he made
14 a sale. However, based on audited sales and cost of goods
15 sold reflected on Appellant's 2011 Federal Income Tax
16 Return, the Appellant's post markup was a little less than
17 5 percent, and that will be on your Exhibit S, page 1150.

18 Second, as a retail of diesel fuel, Appellant was
19 required to prepay a portion of the sales tax on each
20 gallon of fuel purchased. Then Appellant was required to
21 report and claim the prepaid sales tax on a Schedule G.

22 In addition, as a wholesale of diesel fuel,
23 Appellant was required to collect a prepaid portion of the
24 sales tax from other wholesalers, suppliers, or retailers
25 who purchased fuel from Appellant. Then Appellant was

1 required to report and remit the paid sales tax if
2 collected using a prepayment of sales tax on fuel sales
3 return, which is commonly referred to as an ASG return.

4 The ASG return has a Schedule A for reporting the
5 quantity of fuel sold to retailers and it has a Schedule B
6 for reporting the quantity of fuel it purchased and the
7 amount of prepaid sales tax paid to its suppliers. Based
8 on this information, the Department compared
9 Appellant-claimed prepaid sales tax on diesel fuel with a
10 prepaid sales tax that Appellant diesel vendors reported
11 to have collected from Appellant and calculated difference
12 of around \$11,000, that will be on your Exhibit C, page
13 103.

14 Third, the Department compared the claim prepaid
15 sales tax of around 1.3 million dollars with applicable
16 diesel prepayment tax rate per gallon and determined
17 Appellant purchased around 7.5 million gallons of diesel
18 fuel during the audit period, and that will be on Exhibit
19 A, page 28.

20 The Department compared the reported taxable
21 sales for the audit period of around \$16,000,000 with the
22 total number of gallons to estimate an oral quarterly
23 diesel selling price per gallon of \$2.19, ranging from as
24 low as \$1.72, to as high as \$2.87, and that will be on
25 your Exhibit A, page 32.

1 This computed average diesel prices also include
2 the Appellant's minimart taxes full sales because
3 Appellant did not provide any sales information to support
4 Appellant's reported taxable mini mart sales for the audit
5 period, and that will be on your Exhibit A, page 32.

6 Therefore, the Department was not able to exclude
7 the minimart taxable sales from Appellant's reported
8 taxable sales to calculate Appellant's reported diesel
9 sales for the audit period.

10 From the fuel observations, the auditor net tax
11 price per gallon range from as low as \$1.85, to as high as
12 \$3.76 for the audit period, and that will be on your
13 Exhibit C, page 86.

14 Fourth, Appellant did not provide complete
15 purchase invoices for the audit period. Therefore, the
16 Department opted available purchase information from
17 appellants fuel vendors, and that will be on your Exhibit
18 N through Exhibit P.

19 The Department uses available fuel purchase
20 information to determine the overall cost of goods sold
21 for the diesel fuel was \$3.09 per gallon, ranging from as
22 low as \$1.71, to as high as \$3.91 for the audit period,
23 and that will be on your Exhibit A, page 36.

24 These overall reported selling prices and cost
25 prices of diesel fuel were compared to calculate reported

1 book markup of diesel fuel for the audit period. And that
2 will be on your Exhibit A, page 32.

3 The Department noted negative reported book
4 markups for every reported quarter of the audit period,
5 except first quarter 2009, and that will be on your
6 Exhibit A, page 32.

7 If these reported amounts are accurate then
8 Appellant lost money every time it sold a gallon of fuel
9 and that will be on your Exhibit A, page 32.

10 The Department also calculated the recorded
11 diesel fuel markup using available sales summary
12 worksheets and diesel fuel purchase invoices for the
13 period October 1st, 2010 through December 31st, 2011, and
14 that will be on your Exhibit A, page 41.

15 The Department also noted negative reported book
16 markups for those five quarters of the audit period, and
17 that will be on Exhibit A, page 41.

18 Appellant was unable to explain the federal
19 income tax return sales differences, prepaid sales tax
20 differences, low reported average fuel selling prices, and
21 negative reported and recorded diesel fuel markups.
22 Therefore, the Department conducted further investigation
23 using the US Department of Energy's database list average
24 weekly diesel retail prices and using Appellant's claim
25 prepaid sales tax for the audit period.

1 The Department of Energy provides independent
2 statistics and analyses of statewide diesel selling
3 prices. It accomplished these activities through the
4 Energy Information Administration, one of the numerous
5 entities within the agency. This administration is
6 responsible for collecting and analyzing energy
7 information, including the average weekly retail prices in
8 California and other regions.

9 On one day each week, the Department of Energy
10 surveys diesel stations in various areas and determines an
11 average selling price for that week. Appellant did not
12 provide complete sales records, so the Department obtained
13 California's average weekly prices for diesel from the
14 federal database, and that will be on your Exhibit C,
15 pages 93 to 97.

16 The Department established audited diesel fuel
17 selling prices per gallon using retail prices the
18 Department observed posted at Appellant's business
19 location on Thursday, August 16, 2012; Monday, August 27,
20 2012; and Monday, September 17, 2012, and that will be on
21 your Exhibit C, page 89.

22 The Department observed different selling prices
23 for purchases paid by cash and paid by credit card. The
24 Department noted that Appellant's selling prices for
25 purchases paid by credit cards were \$0.08 to \$0.10 more

1 than the cash retail prices.

2 For Appellant's benefit, the Department only
3 relied upon the cheaper cash retail prices. The
4 Department compared the cash retail prices to the
5 corresponding average weekly prices, including sales tax
6 reimbursement and state excise tax reimbursement in order
7 to find any price differentials.

8 The Department determined a Appellant's prices on
9 those observation days was \$0.07 lower than the average
10 weekly prices, published by the Department of Energy, and
11 that will be on your Exhibit C, page 89. Therefore, the
12 price differential was \$0.07.

13 For each quarterly period in the audit period,
14 the Department of Energy average weekly prices were
15 average to calculate an average quarterly price for diesel
16 fuel, and that will be on Exhibit C, page 88.

17 Then the Department reduced the average quarterly
18 selling in price differential of by \$0.07 and by the
19 exempt California Excise Tax to determine the auditors
20 selling price of diesel fuel, including sales tax
21 reimbursement, and that will be on Exhibit A, page 28.

22 The Department divided this figure by applicable
23 sales tax rate factors to determine the audited tax
24 selling price for diesel fuel for each quarter, and that
25 will be on Exhibit A, page 28.

1 The Department calculated the audited gallon of
2 diesel fuel purchased of around 7.5 million gallons for
3 the audit period by dividing the prepaid sales tax
4 Appellant claimed on sales and use tax return by the
5 applicable prepaid sales tax rate, and that will be on
6 Exhibit A page 28.

7 The Department also calculated the audited
8 gallons of diesel fuel sold for resale of around 38,000
9 gallons by dividing the prepaid sales tax on diesel fuel
10 Appellant reported on its SG permit by applicable prepaid
11 sales tax rate for the audit period, and that will be on
12 Exhibit C, page 99.

13 The diesel fuel gallons that Appellant sold for
14 resale were deducted from the total gallons that Appellant
15 purchased to determine the total gallon of around 7.5
16 million gallons for available to sell at retail, and that
17 will be on Exhibit A, page 28.

18 Based on those 7.5 million gallons, and the
19 ex-tax average quarterly diesel selling prices, the
20 Department determined the audited ex-tax diesel sale of
21 around \$22,000,000 for the audit period, and that will be
22 on Exhibit A, page 28.

23 Appellant did not provide sales and purchase
24 information for his minimart, therefore, the Department
25 relied upon Appellant's claim exempt minimart merchandise

1 sale of around \$344,000 and that would be on Exhibit C,
2 page 91.

3 Based on audit of similar businesses, the
4 Department expected taxable minimart merchandise sales to
5 be 59 percent of total minimart sales and exempt minimart
6 merchandise sales to be 41 percent of total minimart
7 sales.

8 The Department calculated a ratio of taxable
9 minimart merchandise sales to accept minimart merchandise
10 sale of around 144 percent, and that will be on Exhibit C,
11 page 91.

12 The Department applied this ratio to determine
13 audited ex-tax taxable minimarket merchandise sale of
14 around \$496,000 for the audit period, and that will be on
15 Exhibit C, page 91.

16 The Department recalculated the reported diesel
17 selling price per gallon by adjusting the reported taxable
18 sale of around \$16,000,000 with audited minimart taxable
19 sales of around \$496,000 for the audit period, and that
20 will be on Exhibit A, page 33.

21 The Department noted an overall reported selling
22 price per gallon of \$2.12, ranging from as low as \$1.65,
23 to as high as \$2.79, and that will be on Exhibit A, page
24 33.

25 The Department also recalculated the reported

1 diesel fuel book markups for the audit period, and that
2 will be on Exhibit A, page 33.

3 The Department combined audited diesel sales and
4 audited taxable minimart sales to determine audited
5 taxable sale of around \$22,000,000 for the audit period.
6 And that will be on Exhibit A, page 27.

7 Audited taxable sales were compared with reported
8 taxable sales of around \$16,000,000 to determine
9 unreported taxable sales of around 5.7 million dollars for
10 the audit period, and that will be on Exhibit A, page 26.

11 The Department then compared the unreported
12 taxable sales with the reported taxable sale of around
13 \$16,00,000 to calculate the error rate of around 35
14 percent for the audit period.

15 In preparation for this hearing, the Department
16 discovered an error in Schedule A, page 30, Appellant's
17 observed sales values and average weekly prices published
18 by the Department of Energy were placed in the wrong
19 columns, making it appear that Appellant's observed
20 selling prices were \$0.07 more than the average weekly
21 prices published by the Department of Energy.

22 The placement was an error, but the calculation
23 used in the audit correctly subtracted differential and
24 Schedule A, page 28 and the liability figures are correct.

25 The Department performed a markup analysis to

1 verify the reasonableness of audited taxable sales. The
2 Department compared the audited sales with a cost of goods
3 so reflected on a Appellant's 2011 Federal Income Tax
4 Return to calculate the audited markup of around 5
5 percent, and that will be on Exhibit S, page 1150.

6 The Department determined that the audited
7 taxable sale markup of around 5 percent was reasonable and
8 that the audited taxable sales were likewise reasonable.

9 Had the Department used the reported sales
10 reflected on Appellant's 2011 Federal Income Tax Return
11 then the unreported taxable sales would have increased by
12 around 2.6 million dollars for the audit period, and that
13 will be on your Exhibit S, page 1151.

14 Therefore, the Department finds that the
15 estimated amount as is in this audit is not only
16 reasonable, but benefits the Appellant.

17 The audit calculation of unreported taxable sales
18 based on the best available information was reasonable and
19 was in Appellant's favor since it was the lowest of the
20 differences determined.

21 When the Department is not satisfied with the
22 accuracy of the tax return file, it may rely upon any
23 facts contained in those returns or upon any information
24 that comes into the Department's position to determine if
25 any tax liability exists.

1 A taxpayer shall maintain and make available for
2 examination on request by the Department all records
3 necessary to determine the correct tax liability under the
4 Sales and Use Tax Law and all records necessary for the
5 proper completion of the sales and use tax return.

6 When a taxpayer challenges an Notice of
7 Determination, the Department has a burden to explain the
8 basis for that deficiency. When the Department
9 explanation appears reasonable, the burden of proof shifts
10 to the taxpayer to explain why the Department asserted
11 deficiencies not valued.

12 Appellate contends that Department has not
13 conducted an audit of his books and records and the
14 liability is based on estimates and arbitrary averages
15 that resulted in inflating the Department's expected
16 taxable sales.

17 However, Appellant now contends that the
18 Department issued a supplemental deficient which reduced
19 the taxable measure by 1.6 million dollars from 5.6
20 million dollars to around \$4,000,000, and that will be on
21 your Exhibit B, pages 54 through 56, and Exhibit H.

22 Appellant indicated that it would like to accept
23 the liability as determined in the first re-audit, but the
24 Department was no longer willing to accept this amount.

25 Appellant asserts that it provided the

1 documentation that was required to support his taxable
2 sales for the audit period, and that will be on your
3 Exhibit G, Exhibit M, and Exhibit Q. As support,
4 Appellant provided various sales and use tax returns,
5 second quarter 2011, sales summary worksheets, some daily
6 sales reconciliation reports, some clearing house
7 statement transmission from T-Chek, and some fuel purchase
8 invoices from Ramos and Strong, Inc., five total stacks of
9 documents, data for 2007 and 2009, crude oil prices from
10 an unspecified source, diesel fuel prices for December
11 1st, 2015 published on the website of California Gas
12 Buddy, and other additional documents, and that will be on
13 Exhibit G, Exhibit N, and Exhibit Q.

14 The Department analyzed these arguments and
15 ultimately rejected them and that will be on Exhibit J and
16 Exhibit r.

17 As mentioned earlier, the Department determined
18 the cost per gallon using purchase invoices provided by
19 Appellant's vendors, and that will be on Exhibit A, page
20 36.

21 Using these cost prices and the selling prices
22 determined in the first re-audit per supplemental decision
23 negative markups for the audit period in the cost per
24 gallon exceeded the selling prices determined in the first
25 re-audit, and that will be on Exhibit A, page 34, Exhibit

1 B, page 59, Exhibit J and Exhibit S, page 1150.

2 The Department also compared the quarterly cost
3 per gallon to the audited selling price per gallon
4 determined in the second re-audit which disclosed a markup
5 of less than 5 percent for 6 out of 14 quarters, and that
6 will be on Exhibit A, page 34.

7 It is likely that the low markups occurred
8 because the Department used Appellant's low cash selling
9 prices without making an adjustment for higher credit card
10 selling prices when determining the price differential of
11 \$0.07, and that will be on Exhibit C, page 89.

12 Therefore, the Department determined it is
13 unreasonable for Appellant to sell its diesel fuel at a
14 price that is below the cost of diesel fuel and rejected
15 Appellant's argument.

16 Finally, the Department imposed a negligence
17 penalty based upon its determination that Appellant books
18 and records were incomplete and inaccurate for sales and
19 use tax purposes and because Appellant failed to
20 accurately report its taxable sales. Appellant was
21 previously audited, in the prior audit, the Department
22 concluded that Appellant's books and records were
23 incomplete and inadequate for sales and use tax purposes.

24 For this audit period, Appellant did not provide
25 complete source documents, such as the POS sales data with

1 all folders, POS sales reports, complete POS daily reports
2 to support its reported sales on its sales and use tax
3 returns.

4 Appellant also did not provide its diesel fuel
5 and merchandise purchase invoices for the audit period.
6 The Department finds that the Appellant's failure to
7 provide its complete books and records is evidence of
8 negligence. As a result, the Department had to determine
9 Appellant's taxable sales based upon an analysis of
10 California average weekly prices published by the
11 Department of Energy and Appellant's claim prepaid sales
12 tax for the audit period.

13 In addition, the audit examination disclosed on
14 reported taxable sales of around 5.7 million dollars,
15 which when compared with a reported taxable sale of around
16 \$16,000,000 for the audit period resulted in an error rate
17 of 35 percent. This error rate is higher than the error
18 rate found in the prior audit, which is further evidence
19 of negligence.

20 In conclusion, when Appellant did not provide
21 complete source documentation, the Department was unable
22 to verify the accuracy of reported sales taxes using a
23 direct audit method. Therefore, an alternate audit method
24 was used to determine unreported sales tax.

25 Accordingly, the Department determined the

1 unreported sales tax based upon the best available
2 information. The evidence shows that the audit produced
3 fair and reasonable results.

4 The audit calculation of diesel fuel based on
5 Appellant's low cash selling crisis was not only
6 reasonable, but benefited the Appellant since it was the
7 lowest of the differences determined. Ultimately, the
8 Department used an audit method which yield the lowest
9 deficiency measure to give a benefit to the Appellant.

10 Appellant has not provided any reasonable
11 documentation or evidence to support an adjustment to the
12 audit finding. Therefore, the Department requests the
13 appeal be denied.

14 This concludes our presentation. We are
15 available to answer any questions the panel may have.
16 Thank you.

17 JUDGE KWEE: Okay. Thank you. I will start with
18 Judge Aldrich.

19 Did you have any questions for CDTFA?

20 JUDGE ALDRICH: No questions. Thank you.

21 JUDGE KWEE: Okay. Judge Ridenour, did you have any
22 questions for CDTFA?

23 JUDGE RIDENOUR: No questions. Thank you.

24 JUDGE KWEE: I'm just going to follow up on the
25 discussion that we had about the add rack allowances that

1 they got for, I guess the volume discounts that they got
2 for -- in exchange for making purchases delivered to other
3 retailers to increase their volume purchases. Is that
4 something CDTFA considered? Would that have that impacted
5 on the audit on any way? I think they have referenced
6 invoices on page 1026 and 1027, I believe.

7 MR. SAMARAWICKREMA: Judge, you already -- you already
8 questioned that. You know, it's shipped it to a different
9 location relative to the taxpayer, but our objective here
10 of using the purchase information just to identify the
11 cost per gallon.

12 And the Department used the taxpayer's claim
13 prepayment to use a number of gallons that they purchased
14 during the audit period and used the average -- the
15 selling prices after giving adjustment of the cash selling
16 prices.

17 So it doesn't make a difference because we base
18 -- the Department basically used the claimed prepayment.

19 MR. PARKER: Judge Kwee, I just want to add the claim
20 prepayment on the Schedule G, as part of the gas sellers
21 return, is the prepayment for the gallons sold at retail.
22 So the amount that the taxpayer claim were gallons sold at
23 retail and claimed the credit for are the gallons that we
24 use to calculate the audit liability.

25 JUDGE KWEE: Okay. Great. Thank you.

1 I guess I will turn it over to Mr. Nazari, did --
2 you have five minutes for any closing remarks you wish to
3 make.

4 CLOSING STATEMENT

5 MR. NAZARI: Thank you, sir.

6 We heard the state has we discussed before,
7 taxpayer never provided books and records. That's the
8 problem we have from the beginning.

9 If you look at the page 904, that's a sample.
10 Okay. 904 through 912 and 865 is complete study, even the
11 cashier handling the record of what he sells, electronic
12 property, and detail of sale of the store, the merchandise
13 sold from a pack of gum and a bottle of Pepsi, to what
14 they sell what's a credit card, or cash or what it was.

15 Everyday for five years it's available it was in
16 the boxes, they refused to look at it. They were
17 summarized weekly, monthly, quarterly, and yearly.

18 Because to pay the quarterly taxes, they had to
19 summarize all those papers, they have to pay income tax,
20 they have to summarize it annually. They never looked at
21 it, per the e-mails that we discussed, but always the
22 taxpayer never provided complete books and never had the
23 books.

24 Then if we're looking at the first when disagreed
25 with the auditors when he observed the selling prices at

1 three different days, the state just talked about it, the
2 reason I knew it was a wrong statement because the truck
3 stop from day one, even today as we are still right here.
4 Cash different, cash price and sell price is \$0.06 a
5 gallon, always been \$0.06 a gallon.

6 And if you want to get the evidence before we all
7 get the cell phone, every state agent had his camera in
8 the trunk, he didn't have no single picture of the price
9 sign, it's visually sitting big 24 by 24 feet, sitting by
10 the highway. No single camera. If you want evidence the
11 audit manual sell says you go by a dollar with the
12 gasoline and then dispose of the gasoline per requirement
13 -- blah, blah, blah -- to show that you have an invoice,
14 you bought the gas.

15 He has no purchase, no evidence, no photos, and
16 then what I did, if you go to page 562 to challenge that
17 idea that he was visit the place, I included further
18 copies -- Google Earth of the truck stop. Even you can
19 see the prices in the Google photos when you look at
20 actual.

21 And there is a brochure flyer for selling of the
22 truck stop, some of it has a date on it, even shows the
23 date what the price was on it, then the difference was
24 \$0.06 or something.

25 And he said that state rejected the Gas Buddy.

1 If you look at the SDNR, the footnotes, the Gas Buddy is
2 very verifiable and verified by the state, the auditor, if
3 you read it under SDR footnotes report, he estimated as
4 accurate. That is why he recommends to reduce \$0.30 of
5 the prices.

6 Then, I mean, I thank him for reading the report
7 because he has no knowledge of the report. He actually
8 had never done it, he just reads whatever the paper says.
9 He shows the auditor did this, and shows the auditor said
10 he has no books and records, but actually I'm the one went
11 through the process one-by-one and there is evidence.

12 The books and records was available, they refused
13 to look at it, they said that actually observe the area in
14 three different days and the price was \$0.10 difference
15 cash price than actually any person, second grade
16 elementary, can see the numbers 6 is different \$1.03,
17 \$1.09 is \$0.06 difference. That wouldn't be eight to ten
18 cents estimating. It's a benefit I give the taxpayer cash
19 prices.

20 Everything is right here is and it's the audit
21 and this report is biased. That is why the people kept
22 saying this guy hates your guts and didn't want to take my
23 case. The page 562 shows the flyer -- you look at you can
24 see the store, the complete store is about 100 square feet
25 with a total inventory at any given time within the total

1 inventory in the store wouldn't be \$300, \$500, mostly
2 would be drinks in the refrigerator.

3 And they're saying like that a source of
4 \$3,000,000. I mean, that's supply is showing it as big as
5 possible to make -- expand the picture to make attractive
6 to the buyer.

7 If you look at the page 643 -- yeah, 643 and 645
8 -- 44 this the store. This is the estimated sell over
9 three and a half million dollars but, they refuse to look
10 at the actual sale, sitting right there, right in front of
11 them shows how many Pepsi they sold, how many cigarettes
12 they sold, how many packs of gun they sold and inventory
13 how many they had and how many added was deducted.

14 I'm done. Thank you.

15 JUDGE KWEE: Okay. Thank you. I believe we are ready
16 to conclude the hearing.

17 Judge Aldrich, did you have any final questions
18 for either party before we conclude?

19 JUDGE ALDRICH: No. Thank you.

20 JUDGE KWEE: Okay. Judge Ridenour, did you have any
21 final questions for either party before we conclude today?

22 JUDGE RIDENOUR: No. Thank you.

23 JUDGE KWEE: Okay. Then I believe we will submit this
24 case for decision on Thursday, July 13th, 2023. The
25 record -- evidentiary record is now closed.

1 Thank you, everyone, for coming in today. The
2 judges, the three of us, will meet after today's hearing.
3 We will provide a written decision within 100 days of
4 today's date. Today's hearing in the Appeal of Doomid,
5 Inc. -- the rehearing matter is now concluded.

6 (Hearing concluded at 11:50 a.m.)
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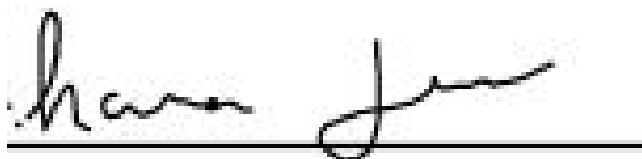
CERTIFICATE
OF
HEARING REPORTER

The undersigned hearing reporter does hereby certify:
That the foregoing was taken before me at the time and
place therein that any witnesses in the foregoing
proceedings were duly sworn; that a record was made of the
proceedings by me using a machine shorthand, recorded
stenographically, which was thereafter transcribed under
my direction.

I further certify I am neither financially interested
in the action nor a relative or employee of any attorney
or party to this action.

Dated July 13, 2023

Hanna Jenkin

A handwritten signature in cursive script, appearing to read 'Hanna Jenkin', is written over a solid horizontal line.

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\$1.20 29:24	\$20,000,000 47:12	1 8:19,23 9:1	144 56:10
\$1.50 28:7,14	\$22,000,000 55:21 57:5	1,146 7:1	15.4 49:8
\$1.58 29:16	\$3.07 25:23 26:5	1,206 7:7	16 53:19
\$1.65 56:22	\$3.09 51:21	1-4 4:5 9:3	17 53:20
\$1.71 51:22	\$3.39 28:6	1.3 47:16 50:15	171 19:2 41:22
\$1.72 50:24	\$3.76 51:12	1.6 59:19	172 19:2
\$1.78 35:8	\$3.91 51:22	1/3/2010 25:17	19054812 2:6 5:8
\$1.85 51:11	\$30,040.52 25:4	10 15:18 17:6 25:20 30:19 38:21 41:8 47:24	1:30 18:22
\$1.95 35:5	\$344,000 56:1	1027 24:8	1st 47:6,10 52:13 60:11
\$10 21:18,19 42:17	\$36 40:7,10	1029 24:18 32:2	<hr/>
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