

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
A. WARDAK and H. WARDAK,) OTA NO. 220610698
)
 APPELLANT.)
)
)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Tuesday, July 18, 2023

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 9:33 a.m. and concluding at 11:17 a.m. on
Tuesday, July 18, 2023, reported by Ernalyn M.
Alonzo, Hearing Reporter, in and for the
State of California.

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APPEARANCES:

Administrative Law Judge: JUDGE NATASHA RALSTON

For the Appellant: A. WARDAK

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

ERIC BROWN
ERIC YADAO

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-4 were received at page 16.)

(Department's Exhibits A-L were received at page 7.)

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

	<u>P A G E</u>
By Mr. Wardak	18
By Mr. Brown	20

C L O S I N G S T A T E M E N T

	<u>P A G E</u>
By Mr. Wardak	24

1 Sacramento, California; Tuesday, July 18, 2023

2 9:33 a.m.

3
4
5 JUDGE RALSTON: So we are here today in the
6 hearing in Asef and Hamida Wardak, Office of Tax Appeals
7 Case Number 220610698. The date is Tuesday -- excuse
8 me -- July 18th, 2023, and the time is approximately
9 9:33 a.m. My name is Natasha Ralston, and I am the
10 Administrative Law Judge who will be conducting the
11 hearing for this case.

12 As I noted, this hearing is being live streamed
13 to the public and is being recorded. The transcript and
14 video recordings will be part of the public record and
15 will be posted on our website. Because we are being live
16 streamed and to ensure that we have an accurate record, we
17 ask that everyone speak one at a time and not to speak
18 over each other and also to speak clearly and loudly.
19 Speak into the microphone when it's your turn. If you
20 turn it on, you'll see the little button that says push
21 and a green light will come on when it's time. And then
22 when you're not speaking, you can turn it off and the
23 green light should go off.

24 The prehearing conference in this matter was held
25 on June 27th, 2023. Appellant did not attend the

1 prehearing conference and has not submitted any exhibits.
2 Respondent FTB has submitted Exhibits A through K.

3 Mr. Wardak, did you have any objections to FTB's
4 exhibits?

5 MR. WARDAK: No. I have not seen it in detail,
6 but the exhibits that I saw -- what I submitted to them
7 they had it, and some of the exhibits needed an accountant
8 or somebody that can -- do know the tax regulations.
9 Those I don't know, but some of the exhibits that I give
10 it to them --

11 JUDGE RALSTON: Okay.

12 MR. WARDAK: -- I understand what is in there.

13 JUDGE RALSTON: Okay. So Respondent's Exhibits A
14 through K will be admitted without objection. And --

15 Oh, did you have a question? Sorry.

16 MR. BROWN: I did, Judge. We had proposed
17 Exhibit L, which is an account transcript. We submitted
18 that following the prehearing conference.

19 JUDGE RALSTON: That's right. Thank you.
20 Exhibits A through L.

21 Mr. Wardak, did you receive their exhibit? It
22 was the Exhibit L, and it was the account transcript that
23 was submitted after the prehearing conference?

24 MR. WARDAK: I did receive yesterday. Yes.

25 JUDGE RALSTON: Okay. Thank you.

1 MR. WARDAK: Yesterday late in the evening when I
2 got home.

3 JUDGE RALSTON: Okay. And no objection to their
4 exhibit?

5 MR. WARDAK: No. This is for the exhibit that
6 IRS, like, balance. The evidence that I submitted to the
7 IRS, and IRS balance was zero. I was audited by IRS also
8 previous to the State Franchise Tax Board. And when I
9 submitted the document, they send me that one that balance
10 is zero.

11 JUDGE RALSTON: Okay.

12 MR. WARDAK: Yeah.

13 JUDGE RALSTON: Yeah. We'll get to that in a
14 minute. I'm going over some kind of administrative things
15 right now. And I'll ask that when you speak, if you could
16 pull the microphone a little bit closer to you.

17 MR. WARDAK: Okay. Oh, sorry, ma'am. Thank you.
18 Thank you.

19 JUDGE RALSTON: Okay. So I will go over your --
20 looks like you have some papers there, so we'll talk about
21 that in a minute.

22 So we're going to admit Respondent's Exhibits A
23 through L without objection.

24 (Department's Exhibits A-L were received in
25 evidence by the Administrative Law Judge.)

1 JUDGE RALSTON: And Respondent does not intend to
2 call any witnesses?

3 MR. BROWN: That's correct.

4 JUDGE RALSTON: Okay. So Mr. Wardak, when you
5 speak today, are you intending to speak under oath? Like,
6 are you going to be telling us any facts that you want me
7 to consider?

8 MR. WARDAK: Of course. Of course.

9 JUDGE RALSTON: Okay. So when we get to that
10 point --

11 Well first, does FTB have any objection to
12 Mr. Wardak testifying under oath?

13 MR. BROWN: No objection.

14 JUDGE RALSTON: Thank you.

15 So when we get to that point, I'm going to swear
16 you in, but we're not quite there yet. So I see that you
17 have some documents with you. Are those documents that
18 you intend to submit, or that you want me to consider when
19 making my decision or --

20 MR. WARDAK: Yeah. I believe I give them all to
21 the California Franchise Tax Board. They have it.

22 JUDGE RALSTON: Okay.

23 MR. WARDAK: Yeah. Only the opening statement
24 that I wrote them, they don't have.

25 JUDGE RALSTON: Okay.

1 MR. WARDAK: Yeah. Which is just about my work
2 history and my life and something like that.

3 JUDGE RALSTON: Okay. So you submitted some
4 documents to FTB during the course of your appeal.

5 MR. WARDAK: Yeah.

6 JUDGE RALSTON: Now, FTB is a separate agency
7 than the Office of Tax Appeals. So did you submit these
8 documents to the Office of Tax Appeals, which is my
9 office, also.

10 MR. WARDAK: I have no idea. I received so many
11 emails, and there was one FTB office. There was another
12 they call -- what they call that one? That there was some
13 student from law school to help me in this case, and I
14 think some of the document I submitted to them.

15 JUDGE RALSTON: Okay. What -- what documents did
16 you bring with you today that you -- and I'm -- and are
17 those documents that you want me to consider when I'm
18 writing my decision?

19 MR. WARDAK: I think the documents that I give it
20 to them I have that document --

21 JUDGE RALSTON: Okay.

22 MR. WARDAK: -- except the --

23 JUDGE RALSTON: The opening statement.

24 MR. WARDAK: -- opening statement. Yeah.

25 JUDGE RALSTON: Okay. Right. But I'm -- I want

1 to make sure that my file is complete so that when I write
2 my decision that I have all the documents. So -- so
3 anything that you submitted to FTB --

4 MR. WARDAK: Yes.

5 JUDGE RALSTON: -- through the course of the
6 appeal --

7 MR. WARDAK: Yes.

8 JUDGE RALSTON: -- FTB is a separate agency. So
9 they will do, you know, what they do with that
10 information.

11 MR. WARDAK: Yes.

12 JUDGE RALSTON: So now we're here, and we're at
13 the Office of Tax Appeals. And so I'm a separate agency.
14 We're a third party. So just because you gave something
15 to FTB doesn't mean that I have seen it. So if -- if
16 there's something that -- so what's going to happen is I'm
17 going to look at all your evidence and listen to your
18 statement today. I'm going to look at all of FTB's
19 evidence and listen to their statement today. And then
20 I'm going to review the law, and I'm going to issue a
21 decision.

22 So if there's something that you need me to look
23 at, just because you gave it to FTB doesn't mean that I've
24 seen it. So if you have something with you that you want
25 me to consider, what I think we should do is I'm going to

1 have someone from my office come take a look at those
2 documents, and we can make a copy of them, get a copy to
3 me for my file, and a copy for FTB just to make sure
4 everyone is on the same page, give everyone a few minutes
5 to take a look at those documents and then we can proceed.

6 MR. WARDAK: Yes. During the -- maybe I talk,
7 can you hear me? No?

8 JUDGE RALSTON: Yes, I can hear you.

9 MR. WARDAK: Yeah. During when the IRS ask me
10 for some document --

11 JUDGE RALSTON: Yes.

12 MR. WARDAK: -- I did send some documents to the
13 IRS. Those documents, I don't have access to that at this
14 time because the case close. The balance was zero. And I
15 may have the Excel sheet of that expense with me, but not
16 right now here. I can provide you any time the expense
17 sheet, but there was some document. I thought when the --
18 when the IRS case close, things will be all closed.

19 JUDGE RALSTON: Right.

20 MR. WARDAK: Yeah. Because you cannot file taxes
21 of the state if you don't file taxes for the IRS.

22 JUDGE RALSTON: Right. I understand. So yeah.
23 So the IRS is also a separate agency.

24 MR. WARDAK: Yes.

25 JUDGE RALSTON: So anything that you gave to the

1 IRS --

2 MR. WARDAK: Yeah.

3 JUDGE RALSTON: -- FTB may -- FTB would only have
4 it if you gave it to them, and I would only have it if you
5 gave it to me. So what we're going to do is someone from
6 my office is going to come take a look at anything you
7 have that you want me to consider.

8 MR. WARDAK: Okay.

9 JUDGE RALSTON: And then we're going to make some
10 copies of those and distribute those and take a look. So
11 we're going to take a short break.

12 MR. BROWN: Judge, may I be heard?

13 JUDGE RALSTON: Oh, yes. Yeah.

14 MR. BROWN: What we have in our records is only
15 the documents from the appeal and some correspondence that
16 preexisted that. And as to that correspondence, some of
17 which was from the IRS, we have included that in our
18 brief.

19 JUDGE RALSTON: Okay. So basically you think
20 that some of the documents that he's referring to might
21 have already been submitted?

22 MR. BROWN: Oh, I believe so. But having not
23 seen his documents that he has with him today, I'm only --
24 yeah, that's my guess.

25 JUDGE RALSTON: Okay. Yeah. So they're saying

1 that, you know, they may have some of this information
2 already, but I'm still -- we're going to take a short
3 break. We're going to look at what you have today, and
4 then we'll give everyone a chance to review it, and then
5 we'll come back and talk about it.

6 MR. WARDAK: Yeah. Okay.

7 JUDGE RALSTON: Okay. Thank you.

8 MR. WARDAK: Thank you.

9 JUDGE RALSTON: So we're going to go off the
10 record.

11 (There is a pause in the proceedings.)

12 JUDGE RALSTON: Okay. Thank you, everyone. We
13 are ready to get started again and go back on the record.

14 Okay. So it looks like, Mr. Wardak, you had two
15 documents with you today. Did --

16 Mr. Brown, did you get a chance to look at those
17 documents?

18 MR. BROWN: We did, Judge.

19 JUDGE RALSTON: Okay. And did you have any
20 objection to those documents?

21 MR. BROWN: We would object to Appellant's
22 Exhibit 1 because it postdates the tax year in question
23 and therefore, has no relevance.

24 JUDGE RALSTON: Is that the business operations
25 certificate or the IRS letter?

1 MR. BROWN: The business operations tax
2 certificate.

3 JUDGE RALSTON: Okay. And then I also noted in
4 the file that with your opening brief you had also
5 attached two documents. Let me see. They were -- I had
6 just written it down. So it was a letter from the IRS
7 dated November 23rd, 2020, and a copy of the Notice of
8 Action dated June 3rd, 2022. Okay.

9 Mr. Brown, did you see those documents that were
10 attached to Appellant's opening brief?

11 MR. BROWN: We did.

12 JUDGE RALSTON: Okay. And did you have any
13 objection to either of those documents?

14 MR. BROWN: No objections.

15 JUDGE RALSTON: Okay. Thank you.

16 So Mr. Wardak --

17 MR. WARDAK: Yeah.

18 JUDGE RALSTON: So with the documents that you
19 submitted today and then the two documents that you
20 attached to your opening brief, I'm assuming that you want
21 me to consider those when I write my decision. So you
22 want to submit them as exhibits for this case; is that
23 correct?

24 MR. WARDAK: [INAUDIBLE]

25 JUDGE RALSTON: Can you lean a little closer?

1 Yes. Thank you.

2 MR. WARDAK: I said if it's applicable, if it's
3 not applicable, it's your decision.

4 JUDGE RALSTON: Well, you are entitled to present
5 documents that you think support your case, and whatever
6 you submit that that ends up getting admitted into the
7 evidence, I will consider it when I write my decision and
8 decide the appropriate weight to give it in relevance. So
9 at this point, if these are documents that you want me to
10 consider, then you let me know if you want to submit them
11 as exhibits so that I can consider.

12 MR. WARDAK: Please consider.

13 JUDGE RALSTON: Okay.

14 MR. BROWN: Judge?

15 JUDGE RALSTON: Yes.

16 MR. BROWN: Good morning. Eric Yadao.

17 JUDGE RALSTON: Yes.

18 MR. BROWN: We just -- his Exhibit 1, just to
19 elaborate on our objection, if he's offering that for the
20 purpose that the business existed during the tax year
21 2018, we object to that because the exhibit bears a
22 date -- although, it doesn't have a clear date on it, it
23 has language at the bottom of it that says, "Starting
24 January 1st, 2021," which means that this document is
25 newer than the tax year at issue. So if he's offering it

1 for the proposition that the business existed in 2018, we
2 object to that because there's no evidence of it.

3 JUDGE RALSTON: Okay. Thank you.

4 Okay. So I'm going to go ahead and admit these
5 exhibits, and when making my decision I will assign the
6 appropriate weight to them. So we're going to label the
7 letter from the IRS dated November 23rd, 2020, that was
8 attached to the opening brief, we're going to admit that
9 as Exhibit 1. The Notice of Action dated June 3rd, 2022,
10 which was also attached to the opening brief, we're going
11 to admit as Exhibit 2. We will label the business
12 operations tax certificate as Exhibit 3, and the
13 Department -- or the letter from the IRS dated
14 January 17th, 2020, that was submitted today, we'll label
15 that Exhibit 4.

16 (Appellant's Exhibits 1-4 were received
17 in evidence by the Administrative Law Judge.)

18 Okay. So and we've already admitted Respondent's
19 Exhibits A through L without objection. Respondent
20 doesn't intend to call any witnesses. Mr. Wardak is going
21 to testify under oath, and today's hearing is expected to
22 last about 30 minutes.

23 We're going to give you -- Mr. Wardak, you're
24 going to go first, and we're going to give you ten minutes
25 for your opening presentation. I may have some questions

1 for you after that. And because you're testifying under
2 oath, FTB's representatives may have some questions for
3 you also. After your presentation, Mr. Brown will have
4 ten minutes for his presentation. And then after that
5 you'll have about five minutes for rebuttal, and then we
6 will go ahead and wrap things up.

7 Okay. So does anyone have any questions before
8 we begin?

9 MR. BROWN: No questions, Judge.

10 JUDGE RALSTON: Okay. Thank you.

11 So Mr. Wardak, can you raise your right hand
12 please.

13

14 A. WARDAK,

15 produced as a witness, and having been first duly sworn by
16 the Administrative Law Judge, was examined and testified
17 as follows:

18

19 JUDGE RALSTON: Okay. Thank you very much. So
20 you have about ten minutes. If you want to pull your
21 microphone a little bit closer, and you can go ahead and
22 begin when you're ready.

23

24 PRESENTATION

25 MR. WARDAK: Okay. Yeah. Good morning, everyone

1 and Your Honor. My name is Asef Wardak and my wife's name
2 is Hamida Wardak, resident of Sacramento, California, and
3 we are the dependent in this case before you this morning.

4 We are a law-abiding citizen, and I work for the
5 State of California as a field engineer in the Department
6 of Transportation they call Caltrans, for the last
7 25 years -- about 25 years. Prior to that, I work on the
8 construction of lock and dams in Olmsted, Illinois for the
9 Army Corps Engineers stationed in Illinois. And during
10 that 2018 years, my wife was a homemaker and didn't work.
11 At this time, she worked for the San Juan District Unified
12 District School, and we have about -- we have three
13 children.

14 And I would like to start this -- since we
15 started work, we have always filed taxes and paid our
16 income tax on time. In the period of the review, we had
17 always employed the services of professional tax preparer
18 to file our annual income tax. My 2018 annual tax was
19 filed on our behalf by a registered certified public
20 accountant, Mrs. Joyce Richard with registration number
21 PTIN, number is P01499476 of Grand Chain Accounting and
22 Tax Services [sic].

23 The address is P.O. Box 204 Vienna, Illinois,
24 62993. And the telephone at that time was 916-634-2301,
25 and the cell number was 9 -- 618-771-2301. Her firm filed

1 my taxes from 2006 when I start working on the dam -- lock
2 and dam project in Illinois until 2018. During this
3 period, she was filing my taxes.

4 I have provided all the requirement documents she
5 needed to file my tax -- annual taxes, including W-2s,
6 Form 1099-G and Form 1099 ITN, and all the income from
7 the -- my side businesses and the expenses from that,
8 provided to her to file my taxes. In addition, to income
9 from our regular job -- okay. In addition to income from
10 regular job, 1099-G and 1099 ITN, I also ran a side
11 business called Avis Business Operation, tax certificate
12 1108108. That generate about \$5,000 during the
13 2018 years.

14 During the 2018, she filed to report the
15 additional income -- she failed to report the additional
16 income from my side business without my knowledge, even
17 though I supply the needed information to her. In January
18 2020, two years later, we received notification from that
19 Internal Revenue Service, which is called IRS, about the
20 discrepancy in my 2018 tax filing.

21 I immediately contacted my tax preparer about the
22 omission, but she never responded to my call again. I
23 responded to the IRS with the explanation, and the IRS
24 reevaluate my 2018 filing and arrived at the zero balance
25 upon the evaluation -- upon the IRS re-evaluation of my

1 tax document and the paper I submitted to the IRS.

2 However, on March 16th, 2022, more than four
3 years later, we receive a letter from the Franchise Tax
4 Board, they call FTB of California, that we owe additional
5 tax total of \$1,769 -- \$1,769.69, which was \$1,511 was the
6 tax, and \$189 was the interest from April 15th, 2019, to
7 December 2nd, 2021. Even though the IRS evaluate -- show
8 a balance of zero.

9 Dear judge, this is why I'm standing in front of
10 you this morning. I'm willing to prepare to present my
11 explanation in evidence why I believe I do not owe the FTB
12 any additional claim. Thank you so much.

13 JUDGE RALSTON: Okay. Thank you.

14 Mr. Brown, did you have any questions for
15 Mr. Wardak?

16 MR. BROWN: No, I don't.

17 JUDGE RALSTON: Okay. So you have approximately
18 ten minutes, and you can begin when you're ready.

19

20 PRESENTATION

21 MR. BROWN: Thank you. Good morning. I'm Eric
22 Brown Tax Counsel with the Franchise Tax Board. Also
23 appearing on behalf of the Franchise Tax Board is Eric
24 Yadao.

25 In the present appeal, Appellants have failed to

1 show error in the Franchise Tax Board's proposed
2 assessment of additional tax, which is based on federal
3 adjustments. This is a federal action and the tax year is
4 2018. The Internal Revenue Service made adjustments to
5 Appellants' federal tax return and assessed additional
6 tax. California follows federal law, and so FTB proposed
7 an assessment of additional tax based on the federal
8 adjustments.

9 The specific adjustment involved the disallowance
10 of miscellaneous itemized deductions and more
11 specifically, un-reimbursed employee business expenses.
12 The IRS' disallowance reduced the amount of Appellants'
13 itemized deductions and the effect was to make it more
14 favorable to Appellants for the IRS to instead allow the
15 standard deduction of \$24,000. Nevertheless, the IRS'
16 substitution of the standard deduction still resulted in a
17 lower amount of deductions to offset the taxable income.
18 And so the result was increased taxable income and
19 increased tax liability.

20 FTB's adjustment followed the federal
21 disallowance of itemized deductions. And since it was
22 likewise more favorable to Appellants to substitute the
23 standard deduction of \$8,802, FTB did so. The result was
24 to increase Appellants' taxable income and to
25 correspondingly increase Appellants' tax liability.

1 Appellants do not dispute the specific adjustments but
2 argue that the FTB erred in its proposed assessment of
3 additional tax, and argue their belief that since the IRS
4 concluded its audit and did not assess additional tax that
5 FTB's proposed assessment of additional tax must
6 therefore, be erroneous.

7 FTB explained to Appellants why its proposed
8 assessment is correct and even provided a pro forma tax
9 return to explain the details. FTB explained that the
10 proposed assessment used the same adjustment the IRS made
11 and showed how the adjustment resulted in increased
12 taxable income and increased tax liability. Appellants
13 have the burden of showing error in the federal adjustment
14 or error in FTB's proposed assessment of additional tax
15 based on the federal adjustments.

16 Appellants have failed to establish error in
17 either the federal adjustment or in the FTB's proposed
18 assessment of additional tax based on the federal
19 adjustment. Appellant apparently believes that since the
20 IRS sent correspondence indicating a zero-balance due,
21 that Appellants owed nothing to the Franchise Tax Board or
22 the Internal Revenue Service, but this is incorrect.

23 Correspondence from the IRS indicated that
24 Appellants' federal tax account had sufficient credits,
25 which were applied to Appellants' deficiency, to cover the

1 entire amount of the deficiency of \$3,446. That's
2 Exhibit E, page 4, and the letter is dated November 23rd,
3 2020, from the IRS.

4 The appellant discussed income from a side
5 business, but there's no evidence of this business or of
6 income from the business. And there is no evidence that
7 the IRS erred in its adjustments based on that, nor that
8 FTB erred in proposing additional tax based on the federal
9 adjustments.

10 Accordingly, FTB's action should be sustained,
11 and I would be happy to respond to any of the Judge's
12 questions.

13 JUDGE RALSTON: Okay. Thank you.

14 I'm just going to check my notes. So just to
15 confirm, you're stating that part of the reason that he
16 had -- that Mr. Wardak had a zero balance with the IRS is
17 because he had credits already in his account that the IRS
18 used to apply to those balance -- to that balance; is that
19 correct?

20 MR. BROWN: That is correct.

21 JUDGE RALSTON: Okay. Thank you.

22 MR. BROWN: And I'd cited the evidentiary exhibit
23 in particular, but it's also represented in the record.

24 JUDGE RALSTON: Okay. Thank you.

25 Mr. Wardak, you have five minutes to respond if

1 there's anything you want to say in closing.

2

3 CLOSING STATEMENT

4 MR. WARDAK: Yeah. Of course there are two
5 organization. One is the IRS, and one is the FTB. I know
6 they are two different organizations. IRS wanted also
7 additional money from the tax. That lady was making the
8 error, the lady that she filed -- prepared my taxes. I
9 did not make the -- prepare the taxes, but I was willing
10 to give her all the documents. So based on the documents
11 she has to prepare my taxes.

12 Those documents I did provide them to the IRS
13 after they asked for the additional money and the result
14 was zero. They account -- they counted all those
15 document. The document was like the expenses. Where the
16 document was -- where all the expenses, all the document I
17 send in to the IRS, and they came out with the balance of
18 zero.

19 So what I say, so that state tax is based on the
20 result of the IRS. After four years, I received a letter
21 from the IRS asking for additional money. We know in this
22 dynamics of time, it's very hard to keep all the document.
23 I requested from the IRS the document that I presented to
24 them, but they didn't disclose to me that one. This is
25 your balance. It's zero. You don't have to look for that

1 anymore.

2 And then it was very hard to contact them, and
3 finally we contacted them with the IRS representative.
4 They say your balance is zero. We cannot point to the
5 documents right now. But what document I got it from the
6 IRS, honestly, I provide it all to the Franchise Tax Board
7 of California.

8 JUDGE RALSTON: Okay. If understand correctly,
9 you're stating that you had some additional documents that
10 you provided to the IRS that you think if you provided
11 them to FTB it might also affect your liability, but you
12 don't have those documents because the IRS has them and
13 hasn't returned them to you; is that correct?

14 MR. WARDAK: Some of the document I provided to
15 the FTB --

16 JUDGE RALSTON: Okay.

17 MR. WARDAK: -- which I had it. I still have the
18 Excel sheet of my expenses. I'll be happy to provide to
19 them. But the document, which was the business expenses,
20 the way that I use those -- those income from the
21 business, those documents, unfortunately, I don't have it
22 right now. But IRS may have it. I don't know about that.

23 And the lady that I provided all the documents
24 that she prepared my tax based on that, she may have it,
25 but unfortunately, it's hard. I have tried so many times.

1 I have sent them a letter, call him so many times. Even I
2 find her business telephone number, the cell phone number,
3 she planned to give me the document to provide me with
4 some information to provide to him. I'll be happy to
5 provide.

6 JUDGE RALSTON: Okay.

7 MR. WARDAK: Yeah. And -- and you know people
8 that prepare your taxes --

9 JUDGE RALSTON: Yes.

10 MR. WARDAK: -- they will -- they want the
11 document. They cannot close or prepare your tax -- taxes,
12 file taxes. They need your document. And once you come
13 to the -- what I had income during the 2018 years, I
14 honestly provided to the IRS and IRS knows. There's no
15 question that they will ask me that you didn't report the
16 income tax enough or the G-1099 or whatever additional
17 income was from my business in other places. If they had
18 that error, they will be questioning me. I provided all
19 income tax during that year.

20 JUDGE RALSTON: Okay. Thank you.

21 Did you have a question, Mr. Brown? Or --

22 MR. BROWN: Only a comment. The final federal
23 determination was November 23rd, 2020, as indicated in the
24 transaction or the account transcript, which is Exhibit L.
25 And we also have the -- we don't have the federal tax

1 return. What we have is the revenue agent's report as
2 substantiated in the account transcript. So that
3 indicates what the nature of the adjustments were, and
4 based on those adjustments, FTB made adjustments as well.

5 MR. YADAO: Judge Ralston, if I could add a
6 comment as well?

7 JUDGE RALSTON: Yes.

8 MR. YADAO: Our Exhibit G, page 105, is the
9 Appellants' letter dated May 12th, 2022. And in this last
10 paragraph -- there were five pages attached to that, and
11 we have them all as part of Exhibit G. And his last
12 sentence is, "Therefore, we have no additional documents
13 for clarification besides their conclusion as mentioned
14 above."

15 And I think Appellants' belief is that there was
16 no tax assessed at the end of the day. Exhibit L shows
17 different, as well as I believe it's Exhibit E, the --
18 which is the -- well, it's the IRS letter dated
19 November 23rd, 2020, and that shows that he had a \$3,446
20 credit in his account. And then they applied that much
21 tax assessed, and that's why that reflects zero balance
22 due.

23 And you could follow that on Exhibit L, the
24 account transcript as well, where his federal return he
25 reported a liability of \$2,646. He had tax withheld of

1 \$8,858. They issued him a partial refund of \$2,783 and
2 some change, and they withheld the remainder of that
3 refund of \$3,446. When they finished their examination
4 and posted that the account -- to the account transcript
5 on November 23rd, 2020, they applied that credit to his
6 balance due of 3446, and that's why that letter dated
7 November 23rd, 2020, shows zero balance due.

8 JUDGE RALSTON: Okay. Thank you.

9 Just a minute. I'm checking my notes. Thank
10 you.

11 Did you have any -- Mr. Wardak, did you have any
12 response to Mr. Brown and Mr. Yadao's last comments?

13 MR. WARDAK: Yeah. I don't have any question
14 about them because I don't know the tax law, and I have no
15 idea what they are talking about. But what I know -- what
16 I had the document I prepared -- I prepared and send it to
17 both of the organization. And the way that they talking
18 like mentioning some -- I have no idea. I'm so sorry. I
19 wish I was an accountant to understand those language. I
20 don't know.

21 Yeah. I paid the tax preparer. I submitted the
22 document, and I -- whatever I had I submitted it to the
23 IRS, and they came out with the result. And I submitted
24 those documents to the FTB if they have any question. I
25 don't know. I'm so sorry. I cannot say that they are

1 right, or they or wrong. It's very hard for me to
2 understand the language that they talking.

3 JUDGE RALSTON: I understand.

4 MR. WARDAK: Yeah.

5 JUDGE RALSTON: And we -- and we don't expect you
6 to -- to be an accountant, just to present your case. So
7 at this point, I think we are ready to conclude this
8 hearing. I've heard both sides and have the information.

9 So today's hearing in the Appeal of Wardak is now
10 adjourned, and the record is closed.

11 So I will decide your case later on and review
12 all the evidence, and you will receive a written opinion
13 of our decision within 100 days.

14 So thank you everyone for attending.

15 (Proceedings adjourned at 11:17 a.m.)
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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for
the State of California, do hereby certify:

That the foregoing transcript of proceedings was
taken before me at the time and place set forth, that the
testimony and proceedings were reported stenographically
by me and later transcribed by computer-aided
transcription under my direction and supervision, that the
foregoing is a true record of the testimony and
proceedings taken at that time.

I further certify that I am in no way interested
in the outcome of said action.

I have hereunto subscribed my name this 7th day
of August, 2023.

ERNALYN M. ALONZO
HEARING REPORTER