

## STATE OF CALIFORNIA

**CERTIFIED COPY**

Tuesday, October 10, 2023

Job No. :  
44374 OTA(A)

1                               BEFORE OFFICE OF TAX APPEALS

2                               STATE OF CALIFORNIA

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4  
5   IN THE MATTER OF THE APPEAL OF:   )  
6   PETER MARCO, LLC.,                    )   OTA CASE NO. 20086569  
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15                   TRANSCRIPT OF PROCEEDINGS, taken at  
16                   12900 Park Plaza Drive, Suite 300, Cerritos,  
17                   California, commencing at 9:30 a.m. and  
18                   adjourning at 10:38 a.m. on Tuesday,  
19                   October 10, 2023, reported by Shelby K. Maaske,  
20                   Hearing Reporter.  
21  
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23  
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25

1 APPEARANCES:

2  
3 Panel Lead: Hon. Keith Long

4  
5 Panel Members: Hon. Teresa Stanley  
6 Hon. Joshua Aldrich

7  
8 For the Appellant: Michael Shaff  
9 Peter Voutsas  
Shirin Husnani

10  
11 For the Respondent: Jarrett Noble,  
12 CDTFA Attorney  
13 Cary Huxoll,  
14 CDTFA Attorney  
15 Jason Parker,  
16 Hearing Representative  
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I N D E X

E X H I B I T S

(CDTFA's exhibits were received at pages 8)

(Appellant's exhibits were received at page 10)

1 Cerritos, California; Tuesday, October 10, 2023

2 9:30 a.m.

3  
4  
5 ADMINISTRATIVE LAW JUDGE LONG: We are opening  
6 the record in the appeal of Peter Mark, LLC., OTA Case  
7 No. 20086569. This matter is being held before the Office  
8 of Tax Appeals. Today's date is Tuesday, October 10,  
9 2023, and the time is approximately 9:30 a.m. This  
10 hearing is being convened in Cerritos, California.

11 Today's hearing is being heard by a panel of  
12 three administrative law judges. My name is Keith Long,  
13 and I will be the lead administrative law judge. Judge  
14 Theresa Stanley and Judge Josh Aldrich are the other  
15 members of this tax appeals panel. All three judges will  
16 meet after the hearing and produce a written decision as  
17 equal participants.

18 Although the lead judge will conduct the hearing,  
19 any judge on this panel may ask questions or otherwise  
20 participate to ensure we have all of the information  
21 needed to decide this appeal. Also present is our  
22 stenographer, Ms. Maaske, who is reporting this hearing  
23 verbatim. To ensure we have an accurate record, we ask  
24 that everyone speaks one at a time and does not speak over  
25 each other. Also, speak clearly and loudly.

1           When needed, Ms. Maaske will stop the hearing  
2 process and ask for clarification. After the hearing,  
3 Ms. Maaske will produce the official hearing transcript  
4 which will be available at the Office of Tax Appeals  
5 website.

6           The Office of Tax Appeals is an independent and  
7 neutral agency. It is not a tax court. All three judges  
8 are co-equal decision makers, and we can ask questions at  
9 any time. I'd like to offer a few reminders to help the  
10 process run as smoothly as possible. Please ensure your  
11 microphone is not muted when you speak, otherwise, your  
12 voice will not be picked up on the live stream and we may  
13 not be able to hear you in the room.

14          As a reminder, these proceedings are being  
15 broadcast live, and anything said today and information  
16 shared today is publicly viewable on the live stream.

17          For the record, will the parties please state  
18 their names and who they represent, starting with the  
19 representatives from CDTFA.

20           MR. NOBLE: Hello, I'm Jarett Noble with CDTFA.

21           MR. HUXSOLL: Cary Huxsoll with CDTFA's legal  
22 division.

23           MR. PARKER: Jason Parker, chief of Operations  
24 Headquarters with CDTFA.

25           ADMINISTRATIVE LAW JUDGE LONG: And for

1 Appellant?

2 MR. SHAFF: Michael Shaff, counsel for  
3 Petitioner, Peter Marco, LLC.

4 MR. VOUTSAS: Peter Voutsas, the owner of Peter  
5 Marco, LLC.

6 MS. HUSNANI: Shirin Husnani, I'm the accountant  
7 for Peter Marco, LLC.

8 ADMINISTRATIVE LAW JUDGE LONG: Thank you.

9 Today, my understanding is that, with respect to  
10 witnesses, we have as follows: At the prehearing  
11 conference, Appellant stated that it would provide sworn  
12 declarations from Peter Voutsas and Shirin Husnani in  
13 place of direct testimony. In addition, both Mr. Voutsas  
14 and Ms. Husnani were going to be made available for  
15 cross-examination. For the cross-examination, we will  
16 have to swear both people in.

17 Would you please raise your right hand.

18 (The witnesses were sworn.)

19 MR. VOUTSAS: I do.

20 MS. HUSNANI: I do.

21 ADMINISTRATIVE LAW JUDGE LONG: Thank you. And,  
22 actually, when it comes time to speak, please move the  
23 microphones a little closer to yourselves. Thank you.

24 Following our prehearing conference, CDTFA  
25 provided a revised exhibit index consisting of Exhibits A

1 through O. At the prehearing conference, Appellant did  
2 not have any objections to Exhibits A through M, and they  
3 are admitted without objection.

4 (CDTFA's exhibits were received in evidence.)

5 ADMINISTRATIVE LAW JUDGE LONG: My understanding  
6 is that Exhibits N and O are re-audit working papers which  
7 reduced the taxable measure. Exhibits N and O were  
8 inadvertently left out of the exhibit binder, however that  
9 does not affect their status as exhibits. Does Appellant  
10 have any objections to CDTFA Exhibits N through O?

11 MR. SHAFF: No, your Honor.

12 ADMINISTRATIVE LAW JUDGE LONG: Thank you.

13 In addition, Appellant's exhibits were identified  
14 in an exhibit index at the pre-hearing conference as  
15 Exhibits 1 through 68. At the prehearing conference,  
16 CDTFA had no objections to the exhibits, however, by  
17 e-mail, dated September 20th, OTA informed Appellant that  
18 it was missing certain exhibits, including Exhibits 34 for  
19 Monaz Yashari, and 36 for Mary Beth Brown.

20 OTA did not receive a response by the due date of  
21 September 25th with respect to this e-mail. In addition,  
22 Appellant stated that it would make a submission in  
23 response to CDTFA's re-audits No. 5 and 6 by the  
24 September 25, 2023, deadline, however, nothing was  
25 received.

1           Is there an explanation for what happened with  
2 these exhibits?

3           MR. SHAFF: Yes. We did respond to the e-mail  
4 that we received for the two missing exhibits the day we  
5 got that e-mail, absolutely, and it was acknowledged  
6 received. And we provided detailed work papers in  
7 response to the -- absolutely. We absolutely did.

8           Ms. Husnani prepared a response to the re-audit  
9 and we submitted that timely. I'm rather surprised, to be  
10 honest with you.

11           ADMINISTRATIVE LAW JUDGE LONG: My apologies. I  
12 only see the two declarations, so I will have to follow up  
13 and make sure I can have them. And if I don't have them,  
14 I will follow up in a post-hearing order. Okay. And we  
15 will get a different copy, and we will give OTA additional  
16 time to respond if that is the case. Okay?

17           MR. SHAFF: It was the case, I can assure you.  
18 Thank you.

19           ADMINISTRATIVE LAW JUDGE LONG: Okay. All right.  
20 With respect to the timely statements from Mr. Voutsas and  
21 Ms. Husnani, we are labeling these as Exhibits 69 through  
22 70, and they were discussed in the context of the witness  
23 presentation.

24           Does CDTFA have any objections to these  
25 documents?

1 MR. NOBLE: No, Judge Long, no objections.

2 ADMINISTRATIVE LAW JUDGE LONG: Thank you. As a  
3 result, Exhibits 1 through 69 -- I'm sorry. 1 through 33,  
4 35, 36 through 70 are admitted into the record, and  
5 Exhibits 34 and 36 will be admitted into the record  
6 pending the review that we receive them, and if they -- if  
7 we do not have a copy upon my review, I will request them  
8 through a prehearing order.

9 I'm being told that Exhibits 34 and 36 are in the  
10 prehearing binder. They may have been mislabeled. So it  
11 looks like everything is there. So we have the exhibits.  
12 That's great.

13 (Appellant's exhibits were received in evidence.)

14 ADMINISTRATIVE LAW JUDGE LONG: As to issues.  
15 There is one issue in this appeal and it is whether  
16 further adjustments are warranted to the measure of  
17 disallowed claimed nontaxable sales in interstate  
18 commerce.

19 OTA notes that during the prehearing conference,  
20 CDTFA stated that, as a result of the fifth and sixth  
21 re-audit of the Appellant, the taxable measure has been  
22 reduced to \$2,778,460.00. Today's hearing is expected to  
23 take approximately two hours, with Appellant's opening  
24 presentation being allowed 80 minutes, CDTFA's opening  
25 presentation 25 minutes, and Appellant's final statement

1 being 25 minutes.

2 Does anyone have any questions before we move on  
3 to opening presentations?

4 MR. SHAFF: No judge.

5 ADMINISTRATIVE LAW JUDGE LONG: Okay. Then we  
6 are ready to begin. When Appellant is ready, you may  
7 begin your presentation.

8 MR. SHAFF: Thank you. I have a brief opening  
9 statement.

10  
11 OPENING PRESENTATION

12 MR. SHAFF: Peter Marco, LLC operates a jewelry  
13 store on Rodeo Drive in Beverly Hills. It's a  
14 world-renowned tourist magnet for potential shoppers  
15 around the country and around the world. A substantial  
16 portion of the taxpayer's business consists of sales from  
17 people outside California.

18 ADMINISTRATIVE LAW JUDGE ALDRICH: Mr. Shaff?  
19 I'm sorry to interject, but would you move the microphone  
20 a little closer.

21 MR. SHAFF: Sorry. While some customers elect to  
22 take their purchases with them, the majority do not. For  
23 some, the taxpayer obtains a GIA gem appraisal for the  
24 customer's insurance. Others intend on continuing their  
25 travels and do not wish to have valuable jewelry with

1    them.  And for others -- rings, watches, and other  
2    items -- have to be sized and personalized before they can  
3    be delivered.

4           The taxpayer maintains insurance of up to  
5    \$100,000.00 per shipment.  Jewelry valued at a higher  
6    rate, the taxpayer may charge separately for the cost of  
7    insurance.  The taxpayer maintains a copy of the  
8    out-of-state shipping statement and of the common carrier,  
9    usually Federal Express, shipping label.

10          The CDTFA's own website offers the following  
11    guidelines for substantiating out-of-state shipments:  
12    "Deliveries made for you by a common carrier, bills of  
13    lading, express or parcel post receipts, express company  
14    invoices, sales invoices showing postage, record of parcel  
15    posted shipment charges, freight invoices."

16          The taxpayer would obtain out-of-state shipping  
17    instructions on a form intended to apply with Revenue and  
18    Taxation Code 6247 at the time of the sale consistent with  
19    the Board's holding in Holiday World.

20          The facts of this case are not completely  
21    analogous of Holiday World in that the taxpayer's  
22    customers would have their purchases shipped out of state,  
23    Holiday World sold RVs that were driven off the lot.

24          At this time, I will yield my time to allow the  
25    CDTFA to cross-examine our two witnesses.

1           MR. NOBLE: Sorry. Just a brief discussion. We  
2 don't have any questions for the witnesses. Thank you.

3           ADMINISTRATIVE LAW JUDGE LONG: Thank you.

4           MR. SHAFF: For the record, have their  
5 declarations been accepted into evidence as their direct  
6 testimony?

7           ADMINISTRATIVE LAW JUDGE LONG: Yes.

8           MR. SHAFF: This is not going to take two hours  
9 then. I would just draw the Panel's attention to  
10 publication 101 of the CDTFA, which advises members of the  
11 public and vendors on how to document sales, delivery out  
12 of state. The petitioner has done that in every case --  
13 every case that we documented in our exhibits.

14           And the fact that there have been six re-audits  
15 speaks loudly to the -- with each one coming in at a lower  
16 deficiency speaks loudly to the fact that the CDTFA and  
17 its predecessor agency are coming closer to the truth of  
18 this case, and that is that they have documented  
19 completely that they have -- when they have shipped out of  
20 state, they have done so properly and in compliance with  
21 the sales tax laws.

22           ADMINISTRATIVE LAW JUDGE LONG: Does that  
23 conclude your presentation?

24           MR. SHAFF: It does. I'm kind of taken aback  
25 there's no cross-examination. I assume at this point that

1     their declarations are going to be taken as fact.

2             ADMINISTRATIVE LAW JUDGE LONG:   Okay.   The ALJ  
3     Panel will hold its question until after CDTFA's  
4     presentation.

5             CDTFA, you have 25 minutes.   You may begin when  
6     you are ready.

7             MR. NOBLE:   Thank you.

8  
9                     OPENING PRESENTATION

10            MR. NOBLE:   Appellant operates a high-end jewelry  
11     store in Beverly Hills.   On June 4, 2018, the Department  
12     issued a notice of determination to Appellant for  
13     approximately \$1.3 million in tax, plus interest.   The tax  
14     liability is based on an audit for the period July 1st  
15     through June 30, 2015, which disclosed a deficiency  
16     measure of around \$14.8 million for unreported sales  
17     subject to use tax.

18            Upon audit, the Department found that many of  
19     Appellant's claimed exempt sales in interstate commerce  
20     involve customers who paid by checks to have shown a  
21     California address.   The Department concluded that these  
22     sales were made to known California residents and that,  
23     therefore, these sales were presumed to be made for use in  
24     California pursuant to Section 6247, and Appellant had an  
25     obligation to obtain use tax from the customer or obtain

1 documentation establishing that the jewelry was not  
2 purchased for use in California.

3 The Department examined all available check  
4 deposits for the third quarter of 2013 through the second  
5 quarter of 2016 totaling around \$10.7 million and found  
6 that about 67 percent of Appellant's interstate sales were  
7 to known California residents.

8 The Department applied the 67 percent error rate  
9 to audited total sales of around \$23.3 million, which,  
10 after accounting for Appellant's reportable taxable sales  
11 of about a million, disclosed the measure of \$14.8 million  
12 that is at issue here today.

13 Now, as a result of several re-audits, which I  
14 will explain in a moment, the error rate has since been  
15 reduced to just over 16 percent with a corresponding  
16 disputed measure of about \$2.7 million. This represents  
17 an approximate reduction to the taxable measure of \$12.1  
18 million.

19 Under the sales and use tax law, sales tax is  
20 imposed on retailer's retail sale of tangible personal  
21 property in the state measured by their gross receipts  
22 unless the sale is specifically exempt or excluded from  
23 taxation. All of the retailer's gross receipts are  
24 presumed subject to tax unless the retailer can prove  
25 otherwise.

1           When sales tax does not apply, use tax is imposed  
2 on the store's use of TTP in California. While the use  
3 tax is imposed on the consumer, a retailer that is engaged  
4 in business in this state must collect the tax from their  
5 customers and remit that tax to the State.

6           Second 6396, in Regulation 1620, Subdivision  
7 (a)(3)(b) provide an exemption from sales tax for sales  
8 that are made in interstate or foreign commerce. To  
9 qualify for this exemption, the contract of sale must  
10 require shipment to a point outside California and the  
11 property must be shipped to the purchaser out of state.

12           Section 6247 provides that when a retailer  
13 delivers property out of state to a purchaser known to the  
14 retailer to be a California resident, it is presumed the  
15 purchase is for use in California and the retailer is  
16 responsible for collecting and remitting the tax.

17           Sections 6247 and Regulations 1620, Subdivision  
18 (b)(3) state that the retailer can rebut this presumption  
19 by taking a statement signed by the purchaser that the  
20 property was purchased for use outside of California.

21           The Board's memorandum opinion in Holiday World  
22 provides objective indications of California residency,  
23 such as the customer maintaining a family home, business,  
24 or bank accounts in California.

25           The taxpayer bears the burden of establishing its

1 right to exemption or exclusion from tax. When a taxpayer  
2 challenges a deficiency determination, the Department has  
3 the burden to explain the basis for the deficiency. And  
4 where that explanation is reasonable, the burden of proof  
5 shifts to the taxpayer to establish it is more likely than  
6 not that adjustments are warranted.

7 Now, in the present appeal, Appellant provided  
8 limited records for the audit, such as some federal income  
9 tax returns, a sample of bank statements, and copies of  
10 deposited checks, as well as handwritten, non-sequential  
11 sales invoices and shipping documents for some quarters.

12 In addition, Appellant's markup rates were  
13 considered inconsistent and there were material difference  
14 between the amounts that Appellant reported on its sales  
15 and use tax returns and its federal income tax returns.  
16 Due to the inadequate documentation and noted differences  
17 with the markup and reported sales, the Department was  
18 justified in using an indirect audit method to verify  
19 Appellant's taxable sales.

20 With respect to the actual measure, as previously  
21 noted, the Department has conducted several re-audits to  
22 remove sales from the measure. Initially during the  
23 audit, that Department concluded that when a customer paid  
24 for property by a cashier's check issued by a California  
25 bank, that the sale was made to a known California

1 resident, however, this finding was an error as there is  
2 no indication on the face of a cashier's check that the  
3 person is a California resident, as such, during the  
4 re-audits, the Department removed sales where the payment  
5 was made by a cashier's check and there was documentation  
6 establishing that the sale otherwise qualified for the  
7 interstate commerce exemption.

8           The Department also removed sales from the  
9 taxable measure where Appellant was able to show that  
10 there were duplicate payments or payments to replace a  
11 canceled check, return merchandise, and canceled sales.  
12 Appellant also asserted that approximately seven of the  
13 transactions were repair invoices, however, there's no  
14 indication from the invoice which portion of the charge  
15 was for repair labor and which was for parts in accordance  
16 with Regulation 1553.

17           Absent further documentation, the Department did  
18 allow 20 percent of the price in the invoices as  
19 non-taxable repair labor. Because the check deposit data  
20 used by the Department represents actual payments to  
21 Appellant during the liability period, and considering the  
22 numerous adjustments the Department has made in its  
23 re-audits, the current measure at issue represents the  
24 best available evidence of Appellant's additional taxable  
25 sales during the liability period and, thus, is

1 reasonable.

2           Accordingly, the burden shifts to the Appellant  
3 to establish that further adjustments are warranted. The  
4 majority of the sales remaining in dispute involve  
5 transactions where the purchaser paid by a check listing  
6 either a personal or business address in California.

7           The address information showing a California  
8 residence serves as an objective indication to Appellant  
9 that the purchaser is a California resident, and  
10 therefore, pursuant to Section 6247, it is presumed that  
11 the property was purchased for use in this state, and  
12 appellant, as a California retailer, is liable for use tax  
13 on those transactions, unless it secured a signed  
14 statement from the purchaser that the property was not  
15 purchased for use in this state.

16           The out-of-state mailing form statements that the  
17 Appellant has provided indicate that the property is  
18 exempt from California sales tax and that the buyer agrees  
19 to pay any tax imposed by the state the property is  
20 shipped to. However, the statements do not in any way  
21 state that the property was not purchased for use in  
22 California; therefore, these statements do not overcome  
23 the presumption set forth in Section 6247, and the  
24 Appellant is liable for use tax on these sales.

25           In this regard, I also note that the Appeals

1 Division accepted these statements for purposes of 6247 so  
2 long as they were signed and dated. However, for the  
3 reasons just noted, this was also an error, and the  
4 Department will not make further adjustments based on its  
5 premise.

6           There are also a few sales remaining in the audit  
7 where there was no indication that payment was made by a  
8 California resident; however, these sales do not qualify  
9 for the interstate commerce exemption because there is no  
10 evidence that the contract called for shipment out of  
11 state or documentation showing that the sales were, in  
12 fact, shipped to the purchaser at that destination.

13           Lastly, there are a couple of sales where the  
14 documentation provided by Appellant is insufficient to  
15 conclude that the sale was exempt because there are either  
16 shipment dates that do not correspond with the invoice or  
17 payment amounts that can't be traced back.

18           To the extent that Appellant asserts there were  
19 additional sales to a few customers that were allowed in  
20 the re-audits, the invoice states for the sales remaining  
21 are for September and November 2017, and do not contain  
22 any addresses, whereas, the only shipping documents  
23 Appellant provided for those sales occurred on August 22,  
24 2015.

25           There's nothing tying the shipping documents to

1 the invoice dated almost one year before. Accordingly,  
2 without further documentation, Appellant has failed to  
3 establish these sales are exempt sales on interstate  
4 commerce.

5 Based on the foregoing, the measure established  
6 on audit, or more specifically, the re-audits, is  
7 reasonable and based on the best available evidence,  
8 especially considering the adjustments that were made.  
9 Appellant has not met its burden in establishing that  
10 additional adjustments are warranted and, accordingly,  
11 this appeal should be denied. Thank you.

12 ADMINISTRATIVE LAW JUDGE LONG: Thank you. I  
13 just want to open it to my co-panelists to see if there's  
14 any questions for either Appellant or CDTFA, starting with  
15 Judge Stanley.

16 ADMINISTRATIVE LAW JUDGE STANLEY: I just have a  
17 clarifying question about one of the documents that was  
18 discussed earlier. When you said that Ms. Husnani  
19 provided is a complete response to the re-audit 5 and 6,  
20 was that the same thing as her declaration? Because it  
21 looks like she addresses it in her declaration, or is  
22 there an additional document that we are missing?

23 MR. SHAFF: Can she answer that?

24 ADMINISTRATIVE LAW JUDGE STANLEY: Yes,  
25 absolutely.

1 MS. HUSNANI: Coinciding with my declaration, I  
2 had sent an Excel sheet showing exactly -- it shows the  
3 six auditors' comments, and then on the column L, I put in  
4 my response describing where -- like, the dates were --  
5 like, for example, one of them was the auditor put in '15  
6 for the backup, whereas if you look at the backup, it's  
7 actually 2020 or vice versa, so I put my comments on  
8 column L. And then the declaration is explaining the same  
9 thing on there, and it was an Excel sheet, which was  
10 Exhibit -- I think it was I. One second. Yes. I have it  
11 color coded. It was Exhibit J.

12 MR. SHAFF: Exhibit J to Exhibit 70.

13 ADMINISTRATIVE LAW JUDGE STANLEY: And I see that  
14 here. Thank you for clarifying, Ms. Husnani.

15 I don't have any further questions, Judge Long.

16 ADMINISTRATIVE LAW JUDGE LONG: Thank you for  
17 clarifying that. It appears we did receive all of the  
18 documents. There was some confusion with respect to the  
19 declaration.

20 Judge Aldrich, do you have any questions?

21 ADMINISTRATIVE LAW JUDGE ALDRICH: Good morning.  
22 Yes, I do have a couple of questions. So for the  
23 Department, you briefly indicated that certain sales that  
24 were paid via cashier's check were removed from the  
25 determined measure during one of the re-audits?

1           MR. NOBLE: Yes, sir. There wasn't too many  
2 cashier's check transactions where we had supporting  
3 shipping documentation, but if we had a transaction that  
4 was paid for by cashier's check and we had shipping  
5 documents that showed it was shipped out of state and  
6 everything was close in time or reasonable, we removed  
7 those from audit. Sometimes in the re-audits, we got more  
8 invoices or more documentation or got an image for a  
9 check, so we continued to evaluate what was in the audit  
10 and removed things where the documentation warranted it.

11           ADMINISTRATIVE LAW JUDGE ALDRICH: Okay. Thank  
12 you. Do you have the exhibit binder in front of you?

13           MR. NOBLE: I do.

14           ADMINISTRATIVE LAW JUDGE ALDRICH: Could I direct  
15 your attention to Exhibit 28.

16           MR. NOBLE: If it's okay with you, I'm going to  
17 go off a word document that I prepared going through all  
18 of the exhibits they provided.

19           ADMINISTRATIVE LAW JUDGE ALDRICH: Okay.

20           MR. NOBLE: My screen just closed with the  
21 digital binder. This was Exhibit 28.

22           ADMINISTRATIVE LAW JUDGE ALDRICH: On Exhibit 28,  
23 I noted that on the sales invoice it says that it was paid  
24 via cashier's check.

25           MR. NOBLE: Uh-huh.

1 ADMINISTRATIVE LAW JUDGE ALDRICH: And then,  
2 likewise, there appears to be a Chase Bank cashier's check  
3 in the same amount as the invoice, and so I wanted to  
4 inquire whether or not that transaction was still in  
5 dispute.

6 MR. NOBLE: Just to make sure we are talking  
7 about the same transaction, is this the one for  
8 \$39,000.00?

9 ADMINISTRATIVE LAW JUDGE ALDRICH: That is  
10 correct.

11 MR. NOBLE: This was removed in the fourth or  
12 fifth re-audit. What it was -- my notes indicate that we  
13 had not seen the cashier's check before, and then they  
14 provided an image of the cashier's check and some of the  
15 shipping documents, and everything matched up.

16 ADMINISTRATIVE LAW JUDGE ALDRICH: So similar  
17 questions -- there are a few other exhibits from  
18 Appellant -- for example, Exhibit 63 and 55, those both  
19 denote repairs on those exhibits. I believe there's a  
20 couple other in evidence. Could you address whether those  
21 are in dispute as well, the ones that indicated had been  
22 repaired?

23 MR. NOBLE: So I kind of noted it at the end of  
24 my presentation, for the repair invoices, it wasn't  
25 possible to determine which amount of the invoice was for

1 parts, which would be considered nontaxable repair labor.  
2 We couldn't tell from the face of the invoice so we did  
3 allow 20 percent of any invoice that was claimed as repair  
4 as nontaxable labor.

5 ADMINISTRATIVE LAW JUDGE ALDRICH: Okay. And the  
6 basis for the 20 percent?

7 MR. NOBLE: We acknowledged that there probably  
8 was some nontaxable repair labor, and in the absence of  
9 anything showing that it should have been higher, we were  
10 giving them the benefit of the doubt on that.

11 ADMINISTRATIVE LAW JUDGE ALDRICH: Okay. Thank  
12 you. At this time, I will refer it back to Judge Long.

13 ADMINISTRATIVE LAW JUDGE LONG: I just want to  
14 verify. So we are looking at -- after re-audit 6, 57  
15 transactions remain at issue; is that correct?

16 MR. NOBLE: Approximately. I can provide you  
17 with a specific number. Transaction wise, I'm kind of  
18 looking that based upon the invoices that were provided by  
19 them, and I would say out of 68, there's probably around  
20 55, but if you can give me time after the hearing, I can  
21 give you the exact number on what remains from the invoice  
22 that were provided.

23 ADMINISTRATIVE LAW JUDGE LONG: Yes, that would  
24 be great. Is 60 days good?

25 MR. NOBLE: More than enough. Thank you.

1 ADMINISTRATIVE LAW JUDGE LONG: And we will  
2 provide Appellant with opportunity to respond to that as  
3 well.

4 MR. NOBLE: I'm sorry. I would also like to  
5 note, for the two invoices where there was some confusion  
6 as to whether they had been provided by today, I haven't  
7 seen those invoices in the documents yet. I will look at  
8 those after the hearing and include a response in the  
9 post-hearing brief. But if those meet the criteria, we  
10 will remove them from the measure as well.

11 ADMINISTRATIVE LAW JUDGE LONG: Thank you. I  
12 have no further questions.

13 Yes, Mr. Voutsas?

14 MR. VOUTSAS: I know this is unconventional, but  
15 please, ask me questions, because there's things that were  
16 said that if you are not a jeweler and you are not in the  
17 jewelry business, you won't understand. But there were  
18 many things that were said that I would love the  
19 opportunity to explain. I just want everything to be  
20 crystal clear to all of you. Please ask me questions.

21 ADMINISTRATIVE LAW JUDGE LONG: Well, we were  
22 just about to turn it over to you -- your representative  
23 for his closing presentation, which means that it is  
24 absolutely your opportunity to clarify any points that you  
25 would like to make, and we have 25 minutes allotted for

1     that time, so please go ahead.

2             MR. SHAFF: Go ahead.

3             MR. VOUTSAS: We have -- there was a comment  
4     made, you know -- I don't want to say word for word, but  
5     there was a comment made about dates and the invoice date  
6     and the shipping date didn't coincide. We have  
7     contracting shops all over the world. Being a  
8     family-owned business, I don't have, you know, banks,  
9     lines of credit, partners or anything, it's just me.

10            And I -- years ago, you couldn't do business with  
11   companies in China or Hong Kong or India because the  
12   quality was not up to the standards of, let's say, the  
13   Italians, which, it was done really well. So at this  
14   point, they've come a long way. We have contracting shops  
15   in India and China, and it's a minimum of three to four  
16   months when you place an order with them.

17            So to clarify, if the invoice doesn't match the  
18   shipping dates, it's probably because it was a special or  
19   a custom-made piece -- and sometimes it's five or six  
20   months. In addition to that, we do a lot of custom work.  
21   If you went on my social media -- we're on all platforms  
22   from YouTube to TikTok to Instagram. We are well known.  
23   I have a video running now where I have seven million  
24   views.

25            And when I humbly speak -- and I mean this

1 humbly -- 20 to 30 people a day come in my store and ask,  
2 "Can I take a picture of you?" And they come in from  
3 India and China and Korea and Taiwan -- people from Egypt.  
4 Like, it's not the United States, it's all over the world.  
5 We are just very well known. We do a lot of custom work  
6 and a lot of special order work.

7           When you do custom work -- we might make a sale  
8 on a day, but by the time it goes through the processing  
9 of designs and you send it to the client and you have to  
10 change this and tweak this, sometimes the product is not  
11 received until six or eight months later.

12           In addition to that, if you don't know my store,  
13 and you -- I have been put in a category of jewelers  
14 during the other times that I went to hearings that  
15 were -- we were up for -- I don't remember what they were  
16 called. We've done this before. They always put me in  
17 the category of a jeweler. Yes, I'm a jeweler, but every  
18 business is different.

19           If you went to any store on Rodeo Drive in  
20 Beverly Hills -- I will tell you, I'm a part of all of the  
21 groups in Beverly Hills. The majority of all of the  
22 stores that have businesses is tourism. And with the  
23 tourism, someone comes in -- and here I am, trying to  
24 compete with other jewelers in downtown, and many other  
25 people in the business -- the internet -- and people come

1 in, and you want to keep it on the up and up and positive.

2 When they say to me, "I live in Chicago," and  
3 they give me an ID or they sign a paper saying that "I'm  
4 going to be there at this location. I'm going to sign for  
5 the package" -- because we can't ship. You're not insured  
6 if you don't have a direct signature.

7 So think about what I'm saying. I can't just  
8 ship something, it has to be with a direct signature for  
9 me to have insurance, because if a package goes lost and I  
10 didn't require a direct signature, I would not be covered.  
11 So they are -- and then they are at that location and  
12 they're signing for it and they sign a paper saying that.

13 I don't know how far -- do I ask them all for  
14 their tax returns to see where they're claiming their main  
15 residence? And as far as wearing the jewelry back in  
16 California, how do I know their travels? How do I know  
17 where they are going to go over the next year or two or  
18 three, and what parts of the world they are going to go  
19 to, and if they should have a layover and come back into  
20 California. That is unfair. How do I police that?

21 The local people -- we are on Rodeo Drive in  
22 Beverly Hills. If you wanted Tiffany or you wanted Louis  
23 Vuitton, you can go a half mile to Century City, you can  
24 go a half mile or mile to Beverly Center, you can go four  
25 or five miles or whatever it is to Santa Monica Promenade,

1 and they all have Louis Vuitton and Tiffany's.

2 And my point is that that's why Rodeo Drive  
3 survives on tourism because when it comes to the local  
4 people, there's many, many choices in a small proximity.  
5 They've flooded the market with these stores. They're  
6 everywhere. So it's not a lot of local people.

7 In the beginning, I was put in a category as a  
8 jeweler, but you don't know that I'm making things  
9 overseas. You don't know unless you have a store on Rodeo  
10 Drive that a majority of your business tourism. You don't  
11 know that you are doing specials. You know, when you look  
12 at most jewelry stores in the mall or in a small area,  
13 city, or town -- which, I can't expect anyone here today  
14 to understand my business -- they are selling to people  
15 they run into at church or the supermarket or the gym.

16 They're selling to their local people. They're  
17 not getting people from Saudi Arabia or Dubai or Kuwait or  
18 Iran. And because we are such a high-end store, a lot of  
19 these people have homes -- multiple homes all over the  
20 world. And these banks that we are dealing with are all  
21 over. I had customers coming in from Florida asking where  
22 is there a Chase? Where is there a Wells Fargo? Let me  
23 just go down the block and come back and give you a check,  
24 but they don't reside here and they have a bank that's  
25 located throughout the whole United States and maybe in

1 certain parts of the world.

2 And unless you understand my business and how I  
3 operate, it's hard for me to just be put in a category of  
4 a jeweler who just does whatever other jeweler might do.  
5 Besides the fact that the amounts have come down, it's  
6 because -- I really feel if I had an opportunity to do  
7 another two or three re-audits, I believe the number is  
8 going to keep going down.

9 I tend to be very organized. I tend to do things  
10 the right way because it's my family and it's my wife and  
11 I and my children, and I have a couple of employees. And  
12 so by nature, I've always been very thorough and very  
13 organized, and I try to do the best I can. Sometimes  
14 business gets a little overwhelming and something slips  
15 through the crack or a mistake is made, of course, we are  
16 not perfect. We really are very organized and we do  
17 things the right way.

18 And this whole thing, from the beginning, the  
19 numbers keep going down, just shows me how unorganized it  
20 was. And how the third audit found mistakes that the  
21 second and first made, and the fifth audit found mistakes  
22 that the fourth, third, second, and first made. The sixth  
23 audit found mistakes that the fifth, the fourth, and the  
24 third made. Can you imagine?

25 Somebody walks in my store and buys a piece --

1 don't hold me to it -- about \$40,000.00 or \$50,000.00, and  
2 what happened is -- I want the judges, the honors, to  
3 understand how all of this came about -- and I made a  
4 sale. Two or three years later, they were in  
5 San Francisco and, I guess, there was a problem with  
6 something on the ring, and they went to a jeweler and they  
7 asked for an appraisal.

8           The jeweler, in order to do an appraisal, wanted  
9 to see their receipt. And so a competitor in  
10 San Francisco gets the receipt and sees that there was no  
11 tax charged, and the competitor is the one that sent the  
12 e-mail to the Tax Appeals of California in an e-mail  
13 saying, "Please, I want to remain confidential. Please,  
14 do not say that I'm sending this e-mail." And they said,  
15 "We know that this client lives in San Francisco, and we  
16 are upset that jewelers do this."

17           That's how this started. How do I know this?  
18 Because the Department gave me the e-mail. Now, can you  
19 imagine how unorganized -- think of what could happen in  
20 the world today when you give someone information like  
21 that? That's how unorganized this has been from Day 1.  
22 They gave me the e-mail of the jeweler in San Francisco  
23 reporting me because he thinks that that client lives in  
24 San Francisco. That's how this started.

25           He was jealous about the sale -- and I would ask

1 everyone here to just use logic and common sense. How  
2 does he know where their main residence is or where they  
3 put on their tax return where they live? Yes, they might  
4 reside in San Francisco, but I am telling you that that  
5 client was in my store, and I'm telling you we shipped it,  
6 and we had insurance, and they signed for it, and they  
7 signed the affidavit form, and they told me that they  
8 lived out of state.

9 So now he goes to a jeweler, this jeweler says,  
10 Oh, a local person made \$50,000.00 from another jeweler,  
11 and he reports me. How do I have that document? They  
12 sent it to me. Because from the beginning, this -- it's  
13 been comical because it's been so unorganized.

14 I will testify -- I will take a polygraph test if  
15 you let me, and Shirin will tell you as well, when we gave  
16 all of the papers to them, when we got back the files from  
17 the first audit, Shirin immediately said we are missing  
18 this and missing this and missing this. Things -- she had  
19 a list of what we submitted, and when we got that  
20 paperwork back, there was a tremendous amount of paperwork  
21 missing. That's how unorganized this has been. This has  
22 been eight to nine years of my life living with this over  
23 me. Thank you.

24 ADMINISTRATIVE LAW JUDGE LONG: Thank you. I  
25 just wanted to circle back. With respect to your custom

1 special order work --

2 MR. VOUTSAS: Please.

3 ADMINISTRATIVE LAW JUDGE LONG: You mentioned --  
4 what would be the longest wait time between an order and  
5 actually shipment of that order?

6 MR. VOUTSAS: It's really hard to say because it  
7 depends on how complex it is. And it also depends on -- I  
8 need the client to be home so we can communicate. So the  
9 special custom piece can go back and forth a dozen times,  
10 change this and change this, put diamonds here -- we can  
11 go back and forth for a long time. Once it's completed, I  
12 call the client, because they need to be at their home so  
13 that I can ship it because, again, they have to sign for  
14 it.

15 So a lot of these people, because of the price  
16 points -- they are very wealthy people, and they travel.  
17 So, now, not only is the product done, now I might have to  
18 wait for them to be back home. In addition to that, when  
19 a product is done, they say to me -- a lot of times this  
20 happens where they say, "Don't ship me the product yet  
21 because I want to take out insurance." So we produce an  
22 appraisal, we send an appraisal to them, they send it to  
23 the insurance company, and they then have to get  
24 insurance, and then I get the green light to ship it when  
25 they might be back from their travels.

1           So in answer to your question, I'm going to try  
2 and say, it could be, as I stated before, up to four,  
3 five, or six months, especially if we are dealing with  
4 India and China. It's got to go through Customs and go  
5 through duties and taxes. And I'm waiting for a piece  
6 right now from India, a yellow diamond bracelet that I  
7 made a sale on, and this has got to be four months  
8 because -- what happened was, they sent it to me -- again,  
9 if you are not in the business, it will be, like -- it's  
10 hard to understand.

11           They sent it to me, but because of taxes and  
12 duties, it comes in on what we call carnet. So a carnet  
13 is when another country wants to bring product in here --  
14 any country in the world doesn't want them delivering the  
15 product and making money, so they have a list they present  
16 to Customs. And they come into the country with, let's  
17 say, 100 pieces, with a description. When the product  
18 leaves the country, they check that all 100 pieces are  
19 there that match the description.

20           So, for example, back in May or June, I received  
21 about 25 to 30 pieces, some of them in the millions, from  
22 a company in India, and I had them in my store on display,  
23 and when we sold them, I was not able to deliver them. I  
24 was explaining to the client the way I am explaining  
25 today, we have to send them back and then they have to

1 send it to us again and we have to pay the taxes and  
2 duties in order to receive it.

3 I swear to God, right now, I have a bracelet  
4 that's probably -- it's been three or four months that I'm  
5 waiting for this bracelet, and to this day, I haven't  
6 received it. I sold this bracelet months ago.

7 So I'm not the little local jeweler that someone  
8 just walks in and walks out with something. It doesn't  
9 work that way with us. A lot of things have to be sized.  
10 And then, what's real interesting is -- if any of us  
11 traveled overseas, the chances are -- it could be anyone  
12 in the room -- if you traveled with me, let's say, and we  
13 went overseas, we wouldn't go to one spot and come home,  
14 you're overseas so you are probably going to hit two or  
15 three different places.

16 I'm sure you know people in our lives, and we  
17 have all probably done that. So when they come over here,  
18 there's a triangle. The triangle usually depends on the  
19 wealth of the client. They come this far, they hit  
20 San Francisco, LA, and Vegas -- or they could do Vegas  
21 first. So besides the tourism -- we have a lot of tourism  
22 for many reasons. We have tourism because of the internet  
23 with all of our surgeons.

24 We have some of the best doctors in the world.  
25 There was a period of time where -- before the pandemic --

1 humbly speaking, 60 percent of women that walked in my  
2 door had a bandage somewhere on their bodies because they  
3 came in for surgeries. And then we have some of the best  
4 schools, so we have a lot of clients that have children  
5 that are attending universities. And then we have the  
6 tourism because -- I have traveled all over the world and  
7 whatever city or state you go to or anywhere in the world,  
8 there is an area of fine shopping -- there's your Gucci,  
9 Harry Winston, Louis Vuitton, Tiffany, but what makes us  
10 different is that it's Hollywood, it's the music industry,  
11 and that is very big tourist attraction.

12 And then what happens is since Vegas is only a  
13 45-minute flight or a 4-hour car drive, whenever they come  
14 over this far, they always go to Vegas, or Vegas comes to  
15 us. The real wealthy ones will then go on to New York and  
16 Miami.

17 So my point to this whole story is that when they  
18 come in to purchase something, you don't -- so many times  
19 they say, A, we are traveling for the next two to four  
20 weeks or five weeks. From here, we are going to New York  
21 and then Europe and then here, so they don't take delivery  
22 of the package sometimes for two to three months later,  
23 and then they get back and they call me and then we have  
24 to make sure they're home to receive the package.

25 So, again, unless you know my business -- how am

1 I saying all of these things to you today? I'm not saying  
2 it because I laid in bed last night thinking what to say  
3 and what I could make up. I'm saying it today because it  
4 happens every day in my store. And it's -- when you say  
5 the truth, it doesn't matter if it's 20 years from now,  
6 it's always the same. The truth is the truth, and I don't  
7 have to think twice about what I did or how things were  
8 done because it's the way we conduct our business.

9 ADMINISTRATIVE LAW JUDGE LONG: Thank you.

10 Judge Stanley, I believe you have a follow-up  
11 question.

12 ADMINISTRATIVE LAW JUDGE STANLEY: Yes, I do. I  
13 understand what you are saying about the delays in all the  
14 shipping customs and all of those issues, but what I was  
15 wondering, if there's any way we can see that in the  
16 evidence that something like that occurred? I mean, do  
17 you ever note on invoices that it's going to be delivered  
18 at a later date or -- because we need to -- from our  
19 perspective, we need to have substantiation for your  
20 position.

21 So with respect to those invoice that were  
22 rejected because of timing, is there any way that you can  
23 point out so that we can see that delay?

24 MR. VOUTSAS: Your Honor, I'm 62 and I've been in  
25 this business since I was 15, and I've been in my location

1 that I'm in now for over 20 years. I have never once put  
2 that down on an invoice. It's always e-mails, texts,  
3 phone calls. There's -- I'm a big, big communicator, and  
4 what I will do is I'll communicate with a client. The  
5 best evidence that I can give you is that when an invoice  
6 is written up and I'm receiving a deposit of money, and  
7 then we have to say why did he ship it one month later,  
8 two months later, three months later, four months later,  
9 five months later because it was a custom piece. That's  
10 the best example I could give you.

11 ADMINISTRATIVE LAW JUDGE STANLEY: Do you save  
12 your e-mails? Would you have this support in those? It  
13 would probably be tedious for you to go back, but I'm just  
14 asking the question.

15 MR. VOUTSAS: It would be misleading to say. I  
16 don't save my e-mails. Are they in the cloud? I can tell  
17 you I'm on my fifth computer or sixth computer. I can  
18 tell you stories where my computer was hacked and where I  
19 lost everything. It's just what happens today. But  
20 that's difficult.

21 But I would humbly speak and reverse it back to  
22 you and say to you, if I was doing something wrong and I  
23 wrote an invoice for March 1st, why wouldn't I ship it  
24 March 15th and write up a shipping invoice then, because  
25 it's phony. Why wouldn't I do it the next day or the next

1 week or the next month? Why would I expose myself and put  
2 a date of whatever -- two or three or four months later  
3 unless it's factual? You know, we are talking about me  
4 deceiving or we are talking about me not being honest in  
5 this. Why not ship a week later or why not ship every  
6 day? Every day, we ship dozens of packages. To put it  
7 back in your corner could. I can say it's at least for me  
8 the fact that it's not done that way because I don't have  
9 a product yet to deliver.

10 ADMINISTRATIVE LAW JUDGE STANLEY: Okay. Thank  
11 you. To be clear, we are not accusing you of doing  
12 anything wrong, I'm just seeing if you have documentation  
13 to back up what you're saying. That's all I was going  
14 for. Thank you.

15 MR. VOUTSAS: Your Honor I -- with all due  
16 respect, thank you. I didn't mean to say it in that  
17 manner. All of you here today and every one here from the  
18 Department, and every one that's with me, no one here has  
19 anything to lose. I'm the one here that has something to  
20 lose, and that's why I'm so passionate about what I'm  
21 saying, and if I said it wrong, my apologies.

22 ADMINISTRATIVE LAW JUDGE STANLEY: It's okay.

23 MR. SHAFF: Judge Stanley, I believe that  
24 Ms. Husnani can further address your points with the  
25 spread sheet that she furnished; if that's okay? If she

1 can further address it if we have time.

2 ADMINISTRATIVE LAW JUDGE LONG: Yes. Go ahead.

3 MS. HUSNANI: I was going through and I thought  
4 of one example and that was an example of shipment on  
5 March 25, 2016, that the customer left \$1,000.00 deposit  
6 and he gave three postdated checks. They were, like,  
7 dated a month or two weeks. I don't have exact dates on  
8 here, but that's how it was.

9 And I saw a note from the Department that, oh,  
10 the invoice was \$25,000.00 on 12/10/2015, and it was paid  
11 by deposit of \$1,000.00, and there was a check for  
12 \$17,000.00 paid on March 25, 2016, but the shipment was  
13 done on March 18, 2016. It was in the three checks. It  
14 was a different case. But, yes, Peter already had a  
15 postdated check in his hands and his other check was good  
16 so he shipped it and a week early because the merchandise  
17 was ready to be shipped.

18 ADMINISTRATIVE LAW JUDGE LONG: Can you point me  
19 to which exhibit you are talking about?

20 MR. SHAFF: It's Exhibit 70 to Exhibit J, I  
21 believe.

22 MR. VOUTSAS: Your Honor, may I add something to  
23 that?

24 ADMINISTRATIVE LAW JUDGE LONG: Sure.

25 MR. VOUTSAS: Shirin just brought to my attention

1 another aspect of our business in that it's been my goal  
2 to build bridges with the clients. And I think that  
3 there's a lot of options when it comes to buying jewelry.  
4 No customer needs only one store. And our biggest asset  
5 we have, one of our biggest with value and quality is also  
6 service.

7           We get a lot of people, even wealthy people, that  
8 will say to me, it's about cash flow. So remember way in  
9 the beginning, 15 and 16 years ago, a guy came in and  
10 bought a ring for a million dollars. I remember him  
11 saying "I could pay for it in full, but it's about cash  
12 flow. I'd like to pay you \$200,000.00 a month for five  
13 months," because the way he operated, it was about a  
14 monthly layout.

15           So Shirin kind of touched on that a little bit.  
16 We do a lot of layaway. I'll make a sale and I'll just  
17 put it into the safe. And there's times where it could be  
18 one month, two months, three months, four months, five  
19 months. And we talk. You know, I have a file and every  
20 two weeks or four weeks, I'll sit down, "Hey, Frank, just  
21 reminding you there's a payment due." Receivables, and we  
22 try to collect them.

23           We do a lot of business that way as well which  
24 would also help why an invoice has one day and shipping  
25 has another day.

1 ADMINISTRATIVE LAW JUDGE LONG: Okay. Thank you.

2 Judge Aldrich has any additional follow-up  
3 questions, so I'll turn it over to him.

4 ADMINISTRATIVE LAW JUDGE ALDRICH: Hello. This  
5 question is for the Department. With respect to the  
6 transactions where you have a corporate entity that's  
7 making the purchase but an individual receiving the item,  
8 how is the residency determined in those situations? So  
9 there's various transactions with LLCs or different  
10 corporate entities.

11 MR. NOBLE: We considered it if the corporation  
12 had a California address, we consider that evidence that  
13 the customer was maintaining a business and a bank account  
14 for the business in this state and that was an objective  
15 indication that the purchaser was a California resident.  
16 And if you don't mind, I would like to note with the  
17 transaction in 2016 that she was just referring to, the  
18 transaction is not in the audit because of the lack of  
19 shipping documentation, that transaction in the audit  
20 because the checks used to pay for it listed an address in  
21 California.

22 ADMINISTRATIVE LAW JUDGE ALDRICH: Thank you.  
23 Judge Long.

24 ADMINISTRATIVE LAW JUDGE LONG: Thank you.

25 MR. VOUTSAS: Your Honor?

1 ADMINISTRATIVE LAW JUDGE LONG: Yes?

2 MR. VOUTSAS: Thank you for the leeway to talk.

3 So am I to have to assume going forward that when somebody  
4 writes a check from a bank in California that they live in  
5 California? I personally have bank accounts in three  
6 states.

7 ADMINISTRATIVE LAW JUDGE LONG: I understand.

8 MR. VOUTSAS: So we can't assume.

9 ADMINISTRATIVE LAW JUDGE LONG: I don't want to  
10 venture into giving you advice. However, my understanding  
11 of the regulation is that if you receive a check from a  
12 person indicating an address in California, it is presumed  
13 that the use will be for within California unless you  
14 receive a statement saying otherwise that is both signed  
15 and dated as of that day.

16 MR. VOUTSAS: Which would be the out of state  
17 form?

18 ADMINISTRATIVE LAW JUDGE LONG: I would suggest  
19 that you discuss with your counselor with respect to the  
20 form as opposed to me. I can't give you advice.

21 MR. VOUTSAS: When I went to my first meeting  
22 like this, I was told if they had a California area code  
23 on their phone, it was considered a California sale.  
24 Guys, I have my New York cell phone number from whenever  
25 cell phones started. I'm 62 -- since I was 20. That

1 doesn't mean you live in California.

2 I was told this. The same thing I was told that  
3 if they paid by a bank that's located in California that  
4 means they live here? That's -- I understand code and  
5 what's in the book, but we can't assume that they live in  
6 California because they have a bank account in California.  
7 That's not fair.

8 ADMINISTRATIVE LAW JUDGE LONG: I understand your  
9 position.

10 Before we conclude, Mr. Shaff, do you have  
11 anything else that you would like to add?

12 MR. SHAFF: Yes. I think what the Petitioner is  
13 asking is that the tribunal consider the extent to which  
14 it might have to limit the broad holding of Holiday World  
15 to distinguish 2023 from 2000 and RVs from jewelry. And  
16 that while they were broad statements in the Holiday World  
17 case, they may not be of universal application a quarter  
18 century later in a different type of economy and with a  
19 completely different type of retailer.

20 ADMINISTRATIVE LAW JUDGE LONG: Okay. Does CDTFA  
21 have any final comments before we conclude?

22 MR. NOBLE: No, sir. Thank you.

23 ADMINISTRATIVE LAW JUDGE LONG: All right.

24 Are my co-panelist ready to conclude today?

25 Thank you.

1           With that, I want to thank everyone for coming.  
2       We are ready to conclude this hearing. The record will be  
3       held open until Thursday, November 9, 2023, for additional  
4       briefing with respect to the specific transactions that  
5       are still at issue by CDTFA. After we receive that, the  
6       record will be held open an additional 30 days for the  
7       Appellant to respond to that briefing.

8           At that time, I anticipate closing the record and  
9       issuing a written opinion with my co-panelists within 100  
10      days of the final brief being received. Today's hearing  
11      in the appeal of Peter Marco, LLC is now adjourned.

12           (The hearing was adjourned at 10:38 a.m.)  
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1 HEARING REPORTER'S CERTIFICATE

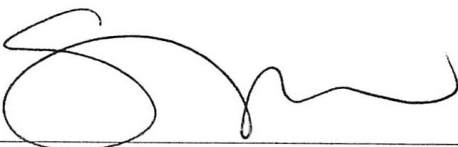
2  
3 I, Shelby K. Maaske, Hearing Reporter in and for  
4 the State of California, do hereby certify:

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

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

14 I have hereunto subscribed my name this 26th day  
15 of October, 2023.

16  
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Shelby Maaske,  
Hearing Reporter

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