

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
YUAN BAO, INC.,) OTA NO. 221111847
)
 APPELLANT.)
)
)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Thursday, November 9, 2023

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 9:30 a.m. and concluding at 11:09 a.m. on
Thursday, November 9, 2023, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

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APPEARANCES:

Panel Lead: ALJ KEITH LONG

Panel Members: ALJ LAUREN KATAGIHARA
ALJ JOSHUA LAMBERT

For the Appellant: SALLY REDDY

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

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-13 were received at page 9.)

(Department's Exhibits A-E were received at page 9.)

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C R O S S

R E D I R E C T

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California; Thursday, November 9, 2023

9:30 a.m.

JUDGE LONG: So we're reopening the record in the appeal of Yuan Bao, Inc. The OTA Case Number is 221111847. This matter is being held before the Office of Tax Appeals. Today's date is Thursday, November 9th, 2023, and it's approximately 9:30 a.m. This hearing is being conveyed electronically.

Today's hearing is being heard by a panel of three Administrative Law Judge. My name is Keith Long, and I will be the lead Administrative Law Judge. Judge Lauren Katagihara and Judge Josh Lambert are the other members of this tax appeals panel. All three of us will meet after the hearing and produce a written decision as equal participants. Although the lead judge will conduct the hearing, any judge on this panel may ask questions or otherwise participate to ensure that we have all the information needed to decide the appeal.

Also present is a stenographer, Ms. Alonzo, who is reporting this hearing verbatim. To ensure we have an accurate record, we ask that everyone speaks one at a time and does not speak over each other. Also, speak clearly and loudly. When needed, Ms. Alonzo will stop the hearing process and ask for clarification. After the hearing,

1 Ms. Alonzo will produce the official hearing transcript,
2 which will be available on the Office of Tax Appeals
3 website.

4 The Office of Tax Appeals is an independent and
5 neutral agency. It is not a Tax Court. All three judges
6 are coequal decision makers, and we can all ask questions
7 at any time. I'd like to offer a few reminders to help
8 the process run as smoothly as possible. First, please
9 ensure that your microphone is not muted when you speak,
10 otherwise, your voice will not be picked up by the live
11 stream. Second, please mute your microphones when you are
12 not speaking to avoid feedback and other interferences.
13 And just as a reminder, today's proceedings are being
14 broadcast live and anything said and any information
15 shared today is publicly viewable on the live stream.

16 So, for the record, will the parties please state
17 their name and who they represent, starting with the
18 CDTFA.

19 MR. SHARMA: This is Ravinder Sharma, Hearing
20 Representative for the CDTFA. Thank you.

21 MR. PARKER: This is Jason Parker Chief of
22 Headquarters Operations Bureau with CDTFA.

23 MR. BACCHUS: Chad Bacchus, Attorney IV with the
24 Department's Legal Division.

25 JUDGE LONG: Thank you.

1 And for Appellant?

2 MR. SHARMA: Sally Reddy, attorney for Yuan Bao,
3 Inc.

4 JUDGE LONG: Thank you.

5 And Ms. Wang, can you introduce yourself for the
6 record. You're muted, ma'am.

7 MS. WANG: Could you hear me now?

8 JUDGE LONG: Yes. We can hear you now.

9 MS. WANG: Okay. I'm Barbara Wang from the Yuan
10 Bao, Inc.

11 JUDGE LONG: Thank you.

12 Okay. Before we continue, I wanted to go over
13 the witness list. At the prehearing conference,
14 Appellants indicated its intention to call business owner
15 Barbara Wang and digital forensic examiner Brady Morgan.
16 My understanding is that Mr. Morgan will no longer make an
17 appearance; is that correct?

18 MS. REDDY: That is correct.

19 JUDGE LONG: Okay. As for the details, witness
20 testimony is not required. However, testimony given under
21 oath may be considered as evidence. Additionally, CDTFA
22 is given the opportunity to cross-examine any witness.

23 Before we continue with the hearing, Ms. Wang,
24 will you please raise your right hand.

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B. WANG,

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

JUDGE LONG: Thank you.

After the prehearing conference, CDTFA provided a revised exhibit index, including the following exhibits: Exhibit A, audit working papers and related documents; Exhibit B, Notice of Determination, dated October 22nd, 2020; Exhibit C, late petition for redetermination dated November 14th, 2020; Exhibit D, Appeals Bureau Decision dated October 13th, 2022; Exhibit E, reaudit working papers and related documents.

CDTFA's Exhibit A through D were previously discussed at the prehearing conference, and Appellant did not have any objection to them at that time. CDTFA's Exhibit E was submitted on November 1st, 2023, following a reaudit conducted by CDTFA. The reaudit work papers reduced the measure of unreported taxable sales to make an allowance for voided transactions. The reduction is from \$996,505 to \$944,575.

Does Appellant have any objections to the admission of Exhibit E?

MS. REDDY: The Appellant does not object.

1 JUDGE LONG: Okay. And can you confirm that
2 there are no objections to Exhibits A through D?

3 MS. REDDY: I confirm that we have no objections
4 to any of CDTFA's exhibits.

5 JUDGE LONG: Thank you.

6 Appellant's exhibits were previously identified
7 in an exhibit index and at the prehearing conference as
8 Exhibits 1 through 13. At the prehearing conference,
9 CDTFA had no objections.

10 Could CDTFA please confirm whether there are any
11 objections at this time?

12 MR. SHARMA: This is Ravinder Sharma. The
13 Department has no objection. Thank you.

14 JUDGE LONG: Thank you.

15 Then the above exhibits -- or the exhibits
16 previously summarized are admitted into the evidentiary
17 record without objection.

18 (Appellant's Exhibits 1-13 were received
19 in evidence by the Administrative Law Judge.)

20 (Department's Exhibits A-E were received in
21 evidence by the Administrative Law Judge.)

22 JUDGE LONG: Today there's only one issue on
23 appeal, and it is whether any reduction to the measure of
24 unreported taxable sales is warranted. Appellant has
25 requested 60 minutes for their opening presentation and

1 witness testimony. As a reminder, at the prehearing
2 conference and my minutes and orders document, Appellant
3 and CDTFA were asked to address first, whether the fact
4 that some transactions included in Appellant's Exhibits 9
5 and 10 are shown as voided transactions multiple times has
6 any impact on the exhibits' reliability.

7 I also requested Appellant to address how and why
8 a transaction might be voided multiple times. The minutes
9 and orders document gave an example from Appellant's
10 Exhibit 10 in which case transaction 318123 had a single
11 payment of \$204.70, which was then voided 10 times.

12 Ms. Reddy, you may begin whenever you would like,
13 and you have one hour.

14 MS. REDDY: Thank you.

15
16 PRESENTATION

17 MS. REDDY: The issue in this case is whether
18 CDTFA's calculation of unreported taxable sales for the
19 2015 through 2018 audit period should be adjusted. The
20 Appellant Yuan Bao, Inc., was a restaurant serving a
21 fixed-price all-you-can-eat Mongolian Barbecue in
22 Cerritos, California. Yuan Bao operated the restaurant
23 from 2008 until its sale in late 2022.

24 The unreported taxable sales at issue today is a
25 result of Yuan Bao's second audit. The first audit

1 resulted in a finding of no change. At the commencement
2 of this audit, Yuan Boa provided the books and records
3 requested by the auditor, including bank statements,
4 income tax returns, and sales records. The books and
5 records matched the taxable sales reported on the sales
6 tax returns for the audit period.

7 The auditor determined the books and records to
8 be inadequate based on missing transactions from
9 controlled buys made between March 2018 and June 2018.
10 Based on the audit work papers, it appears there were
11 seven controlled buys during this four-month period.
12 Three cash transactions averaging approximately \$15 each
13 were missing from the sales reports and did not appear on
14 a voided payments list either. The taxpayer cannot
15 explain how or why these transactions were not in the
16 sales report generated by the POS system. While the
17 taxpayer believes the taxable sales reported on the sales
18 tax returns for the audit period are correct, they are
19 willing to accept an estimate of taxable sales by CDTFA.

20 The primary purpose for the current appeal is to
21 demonstrate that CDTFA's estimate was based on erroneous
22 or misinterpreted data and does not reflect actual taxable
23 sales. As a result, the measure of unreported taxable
24 sales is too high. CDTFA estimated sales using an error
25 test rate based on December 2018 sales data. During this

1 month, the taxpayer only accepted credit card payments to
2 ensure all sales transactions would be supported by
3 third-party records.

4 At the end of the month, Ms. Wang ran the sales
5 report from her POS system, compared the results to the
6 business bank statements, third-party credit card
7 processor statement to ensure accuracy prior to reporting
8 taxable sales of \$48,671. Subsequently, CDTFA exported
9 data from the POS system. The data exported by CDTFA
10 contained 344 voided payments transactions totaling
11 \$29,179, including sales tax and tips that did not appear
12 on taxpayer's report and, therefore, cannot be explained
13 by the taxpayer.

14 The voided payments were duplicates of completed
15 and reported sales. In many instances, the same invoice
16 number and payment amount was duplicated multiple times,
17 often with identical timestamps. None of the voided
18 payments appeared in the bank account or on the credit
19 card processor's report. Appellant's Exhibit 9 contains
20 the list of voided transactions used by CDTFA to estimate
21 taxable sales for the audit period. The CDTFA auditor
22 provided the Excel report to the taxpayer for review
23 following the audit. The exhibit reliably represents the
24 data used by CDTFA.

25 JUDGE LONG: Ms. Reddy.

1 MS. REDDY: Yes.

2 JUDGE LONG: If I could ask you slow down.

3 MS. REDDY: Oh, sorry.

4 JUDGE LONG: You have a whole hour. I'm sure we
5 can get it out.

6 MS. REDDY: All right. Thank you.

7 Exhibit 9 contains a list of voided payment
8 transactions used by CDTFA to estimate taxable sales.
9 This is the Excel that was provided by the auditor to the
10 taxpayer for review following the audit. The exhibit
11 reliably represents the data used by CDTFA to calculate
12 the error test, and it exactly matches the amounts on the
13 auditor's work papers, specifically, Exhibit A, page 18.

14 Exhibit 10 is a comparison of completed payment
15 transactions that were exported by Appellant's forensic
16 expert, Archer Hall, and it compares them to the voided
17 payments on CDTFA's list. So the completed payments
18 matched the sales invoices that were reported by the
19 taxpayer. Most of the CDTFA void list are duplicates of
20 these completed payments. There are a few voided payments
21 from CDTFA's list that did not have a completed payment.
22 However, the corresponding sale was reported by the
23 taxpayer in December 2018.

24 So while the data in the exhibits reliably
25 represents the data used by CDTFA, the taxpayer does not

1 believe the data is reliable for estimation purposes
2 because the voided payment transactions are duplicates of
3 the completed and reported sales. A plain review of the
4 data shows the duplications. And the taxpayer's forensic
5 expert also noted that the voided payments were duplicates
6 of completed sales as in Exhibit 1 on page 5.

7 The Panel also requests an explanation regarding
8 how and why a transaction might be voided multiple times.
9 Unfortunately, we can't explain the multiple voids. It's
10 possible it was a system glitch. It's the software, but
11 we really don't know for sure. We don't believe an
12 explanation is really necessary to prove that the
13 underlying data is most likely being misinterpreted and,
14 therefore, resulting in an inaccurate calculation of
15 taxable sales.

16 Taxpayer's bank deposits and credit card
17 reporting statements are consistent with the sales
18 reported by the taxpayer. As taxpayer stated during the
19 original audit, there were no cash payment transactions in
20 December 2018. The total payments processed, including
21 tips and taxes, according to Elavon, Inc., the credit card
22 processing company, was \$61,926.47. In addition, the
23 total deposits into taxpayer's bank account were
24 \$57,549.92. The small discrepancy between the deposits
25 and credit card statements are from transactions completed

1 for other months, for example, December 1st through 3rd,
2 those deposits are for November 2018 sales, and three days
3 of payments for December 2018 were deposited into the bank
4 account in January 2019.

5 Based on this information, none of the 344 voided
6 payment transactions identified by CDTFA were unreported
7 credit card payments. This means if CDTFA is correct that
8 there were 344 unreported transactions, those transactions
9 would have to have been paid by cash. And it is highly
10 unlikely the dollar amounts of those transactions
11 accurately reflect cash received and unreported by the
12 restaurant in December 2018. For example, as the Panel
13 pointed out, the CDTFA void list contains multiple
14 duplications.

15 The transaction 3181223, for example, has 10
16 voided, is a payment for \$204.70, and it was voided ten
17 times. In some cases, the timestamp on the voided
18 transaction are exactly the same time. Four of the 10
19 voids occurred within a five-minute period. This invoice
20 represents a sale that took place on December 23rd, 2018.
21 The details are on Appellant's Exhibit 4, page 94. You
22 can see the party consisted of 11 adults and 2 children
23 who ordered a variety of drinks in addition to the
24 flat-rate meal.

25 It is statistically improbable that 10 parties of

1 11 adults and 2 children entered the restaurant, ordered
2 the same food and drink items, and paid with cash, in some
3 cases within five minutes of each other. Yet, the only
4 way for CDTFA to be correct in its assertion that these 344
5 voided payments were actual unreported sales would be for
6 this exact rare circumstance to be true.

7 Many of the 344 voided payments are multiple
8 duplicates similar to this sample invoice. One example is
9 invoice number 30181202. This is 18 duplicate
10 transactions for \$242.49 each, and invoice number
11 47181216, which is 6 duplicated transactions for \$208.75
12 each. Based on this information, combined with the
13 consistency of other supporting documentation, taxpayer
14 requested CDTFA to reverse the audit findings because of
15 its reliance on flawed or misinterpreted data. Taxpayer
16 additionally requested an alternative method of estimated
17 taxable sales that did not include the problematic and
18 unexplained data from the POS system.

19 CDTFA's audit objective is typically to correctly
20 identify taxable sales where taxpayer's books and records
21 are not available or otherwise appear inadequate, CDTFA
22 has broad authority to estimate taxable sales. Taxpayers,
23 however, may refute CDTFA's estimate. The burden of proof
24 is on the taxpayer to prove issues of fact by
25 preponderance of the evidence. Taxpayer's evidence meets

1 this burden. Taxpayer's expert confirm the voided
2 payments are tied to completed and reported sales, and
3 only payment per invoice is reported as complete. In
4 addition, taxpayer's books and records and CDTFA's cost of
5 goods sold markup test support the sales as reported.

6 Finally, CDTFA's estimate is extremely out of
7 proportion to the missing invoices identified during the
8 audit. Per the work papers, six invoices averaging \$27
9 were noted as missing over an eight-month period.

10 Whereas, the estimate from CDTFA is based on 334 missing
11 transactions from a one-month period averaging \$85 each.
12 As I mentioned earlier, even if CDTFA is correct in its
13 assumption that the voided payment transactions
14 represented an actual sale, the resulting transactions
15 would have to be cash. Based on the duplication and
16 especially the multiple timestamps, it's highly unlikely
17 the cash amount of the transactions would be accurate in
18 that scenario.

19 Therefore, it is more likely than not that
20 CDTFA's estimated taxable sales are erroneous. The
21 taxpayer suggested other options to calculate taxable
22 sales without reliance on the unexplained data from the
23 POS system. One option was using the COGS test, or cost
24 of goods sold markup test, and CDTFA did use this test and
25 found that it matched the reported sales.

1 Another option would be cash to credit ratio from
2 an August 2019 observation test. There was some
3 disagreement over whether that data was reliable. Another
4 option that taxpayer had suggested was using the 1099-K
5 data and applying average cash to credit ratio data for
6 similar restaurants in the Cerritos area. Taxpayer is
7 also open to different interpretations of the December
8 2018 voided transactions that address the fact that high
9 amount of cash payments were very unlikely to have been
10 made in December. Any of these methods are more likely to
11 result in a correct estimation of taxable sales.

12 Does the panel have any questions? I want to
13 make sure I specifically address the two questions that
14 you asked in the prehearing conference adequately.

15 JUDGE LONG: I will have questions. However, I'd
16 like to save them for after Ms. Wang's testimony.

17 MS. REDDY: Okay. I'm sorry. I -- the volume
18 was very low on that.

19 JUDGE LONG: Sorry. Can you hear me better? I'm
20 getting messages that I'm too quiet. Am I good now?

21 MS. REDDY: Yeah.

22 JUDGE LONG: So I have questions, but I would
23 like to save them for after Ms. Wang's testimony. So if
24 you are done with your presentation and would like to move
25 to that first, that would be great.

1 MS. REDDY: Okay.

2

3 DIRECT EXAMINATION

4 BY MS. REDDY:

5 Q Ms. Wang, do you know why there were 344 voided
6 payment transactions from December 2018 POS system?

7 A No. I don't know why.

8 Q Okay. Do you know why a payment transaction
9 would be voided multiple times?

10 A It doesn't show on my end, so I don't know why.

11 Q So when you say it doesn't show on your end, what
12 do you mean?

13 A With my POS system when I print out even on the
14 void, they didn't even show anything because we don't
15 hardly void anything at all. So it doesn't show anything
16 at all. So at first I thought, you know, my auditor was
17 trying to frame me, so put those things in there. Yeah.

18 MS. REDDY: And what Ms. Wang is describing is
19 there's -- what the forensic expert had point out in his
20 report is there are two different tables. There's a sales
21 table and a payments table. The report Ms. Wang runs for
22 her sales tax reports is sales invoices, and it shows the
23 voids that that happened for --

24 MS. WANG: Not there.

25 MS. REDDY: -- reasons, and/or so supported.

1 There were some voids on sales transactions in December
2 2018 which the auditor cleared because there was
3 documentation supporting those. But then there were all
4 these voids that only showed up on the payment side.

5 BY MS. REDDY:

6 Q But, Ms. Wang, just to get back to the original
7 question, you don't know why those transactions are there?

8 A I don't know why.

9 Q Okay. Did you receive cash payments totaling
10 close to \$30,000 in December 2018?

11 A No.

12 Q Okay. Is it possible, Ms. Wang, that there were
13 \$30,000 of cash sales that maybe your staff hid from you?

14 A No. It's -- that's \$30,000. \$30,000 it has a
15 lot of food cost. Then I have to go buy extra because for
16 my restaurant. It's all very easy. Meat. Meat frozen,
17 then I have to buy a lot of frozen meat to feed those
18 \$30,000. So I have no -- no record because I only have
19 one supplier. I don't go out to buy -- purchase anything
20 myself.

21 Q So, Ms. Wang, just to clarify, you are saying
22 that if there were more than the \$50,000 of sales that you
23 reported, it would have been clear to you because you
24 would have seen it from the food cost and other overhead
25 expenses?

1 A That's right.

2 Q Ms. Wang, do you believe it's reasonable for a
3 business to only accept credit card payments?

4 A Yeah. It's their choice. Right now, out there,
5 there's a lots of business are doing that right now. So I
6 don't think it's a -- and then when I do that, I mention
7 it to Amy my auditor. I said I'm going to use December
8 the whole month to doing that. She says it's up to you if
9 you want.

10 Q Okay. So how did you implement this change to
11 credit card only?

12 A What I did is I put -- I have glass window when
13 customer walk in. So what I do is I printout a big sign
14 says "Credit Card Only." So when -- when some customer,
15 if they don't have credit card, if they happen to walk in,
16 before we seat them, the hosts would let them know the
17 payment will be credit card only. So make sure they have
18 the credit card ready for us.

19 Q How did your customers respond to this policy?

20 A Of course, they're not happy. I have about
21 two -- two sets of customers. One, they just got really
22 mad and walked out. He's a single old man. Second, it
23 was a party. So other people will say it's okay I could
24 just pay for it, and they just Yelp to each other. You
25 know, they just pay each other back. So they say it's

1 okay. So they still sit down and eat. Really, it's not
2 no big deal, you know. And especially lots of customers
3 high end -- high end, they all do credit card only.

4 MS. REDDY: Okay. That's all my questions.

5 JUDGE LONG: Thank you.

6 Does CDTFA have any questions for Appellant, for
7 witness?

8 MR. SHARMA: This is Ravinder Sharma. Department
9 has no questions. Thank you.

10 JUDGE LONG: Thank you.

11 I have some questions for Appellant before we
12 move forward.

13 First, with respect to the no cash payments in
14 December 2018, my understanding from the audit work papers
15 is that the policy was actually changed in November 2018;
16 is that correct?

17 MS. WANG: The policy was changed in
18 November 18th? No. I started December 1st.

19 JUDGE LONG: Okay. Thank you for that. And then
20 with respect to cash, cash was accepted prior to that but
21 there were no cash deposits for the entire liability
22 period recorded on the bank statements. Do you have an
23 explanation for that?

24 MS. WANG: From the day one when I do business, I
25 did not deposit because never have enough cash to pay

1 those -- I have workers. They have to have tip everyday.
2 When customer wrote on the credit card, I have to give to
3 them on that day clear out. So most of my cash is already
4 gone. I don't have cash. Where I get the cash to deposit
5 to the bank?

6 JUDGE LONG: Thank you. And then the number of
7 voided sales in December 2018 was 344, but my
8 understanding is that for the period January 2015 through
9 November 2018, the average voided sales for only 40 per
10 month. Did something happen to cause this increase?

11 MS. WANG: They all duplicate, like I said. I
12 didn't know on my end at all until my auditor told me.
13 This is appeal on your -- on your POS system, and then I
14 say it's not possible because of my end. I can't see it.

15 JUDGE LONG: Sure. But what I mean is, if they
16 were all duplicates -- even if they were duplicates --

17 MS. WANG: Yes.

18 JUDGE LONG: -- is there an explanation for why
19 there were so many more in that one month than there were
20 on average for the previous three years? There's only 40
21 per month on average from January 2015 through
22 November 2018. So we're looking at a difference of
23 approximately 9 times for that one month. So that's what
24 I'm trying to get an explanation for.

25 MS. WANG: Really, at first I thought my auditor

1 frame me. They put that in there. But, you know, my
2 forensic kind of explained it to me. They said it was in
3 there. But I really don't know because my end I can't see
4 it. How am I going to know where that 300. They should
5 have took more months and tell me. Maybe other months of
6 doing the same thing too. Why when I doing this, trying
7 to show Amy, my auditor, to try to show her my monthly
8 report. It's correct because that's only thing I can show
9 her, if I only take credit card. So could show her
10 exactly how much I make a month, but she keeps -- so to
11 prove it to her that's how I do credit card only, only for
12 that month.

13 And she said, oh, it's up to you. So I want to
14 prove it to her to say okay, this is how much I make in a
15 month. But I didn't know all those things, like the 300
16 void was in there. I don't know why. If I know -- if I
17 know, like, I already take the month of December to
18 showing Amy if you think I was doing 29 to 30,000 void
19 account to show her so she could catch me. I don't have
20 those things because those -- from day one, I just thought
21 I really don't know where it coming from.

22 JUDGE LONG: Okay. And then it looks like you
23 began accepting cash again January 1, 2019; is that
24 correct?

25 MS. WANG: Yes, because I can't do that all the

1 time. I have my customer get mad at me. Because like I
2 said, it's only testing for Amy --

3 JUDGE LONG: Okay. And then --

4 MS. WANG: -- for a whole month I did it. So
5 that's why I started my business again. Because she's on
6 my back for over five-year. I can't -- I can't keep doing
7 this every day.

8 JUDGE LONG: Fair. I understand that. And then
9 so it looks like recorded sales in the POS reports from
10 January 1st, 2019, is \$250,000. And then so if I
11 understand your testimony, that would not have been
12 deposited in the bank?

13 MS. WANG: You mean the cash?

14 JUDGE LONG: Yeah.

15 MS. WANG: There's no cash at all.

16 JUDGE LONG: Well, but January 1st through 9th
17 the POS reports show reported cash sales of about
18 \$250,000. So that cash would not have been deposited in
19 the --

20 MS. WANG: January 2019?

21 JUDGE LONG: Uh-huh.

22 MS. WANG: And you say how much?

23 JUDGE LONG: About \$250, 000. I'm sure CDTFA has
24 the exact amount but close enough.

25 MS. WANG: No. I didn't deposit any money into

1 the account. If there's money into the account it's off
2 on the government.

3 JUDGE LONG: Okay. Thank you.

4 I don't have any further questions. So I'm going
5 to turn it over to my co-panelists.

6 Judge Lambert, do you have any questions?

7 JUDGE LAMBERT: This is Judge Lambert. I don't
8 have any questions. Thanks.

9 JUDGE LONG: Thank you.

10 And, Judge Katagihara, do you have any questions?

11 JUDGE KATAGIHARA: No questions at this time.
12 Thank you.

13 JUDGE LONG: Okay. I am going to move along then
14 to CDTFA's presentation. CDTFA, you requested 30 minutes,
15 and you may begin when you're ready.

16 MR. SHARMA: Thank you, Judge Long.

17

18 PRESENTATION

19 MR. SHARMA: This is Ravinder Sharma.

20 Appellant, a corporation operated, had operated
21 an all-you-can-eat style restaurant in Cerritos,
22 California, since November 1, 2008. The Department
23 performed an audit examination for the period July 1,
24 2015, through June 30, 2018. Appellant reported total
25 sales of little more than \$1.8 million and claimed no

1 deduction; Exhibit A, page 12.

2 Records available for the audit: Federal income
3 tax returns for 2014 to 2018; bank statements from the
4 audit period; merchant statements for July 2015 through
5 March 2019, except July 2016; monthly sales summary
6 reports for July 2015 through July 2018; 2 two sets of
7 points of sale data download; cash worksheets for
8 August 2018 through December 2018; and 1099-K data for
9 2015 to 2018.

10 Back in March 2018 and June 2018, the Department
11 made seven control buys at Appellant's restaurant and also
12 found three additional receipts posted on Yelp.com. In
13 analyzing the first point of sales data download for the
14 period January 1, 2015, to August 15, 2018, the Department
15 noted that three out of the seven control buys, as well as
16 two after Yelp.com receipts were missing; Exhibit A
17 page 22. Based on this analysis, the Department deducted
18 first point of sale data download as incomplete and
19 determined that the data was manipulated to delete or
20 reduce cash sale.

21 The Department notified Appellant that there were
22 missing sales receipts in the first point of sale data
23 download. To verify Appellant's point of sale system and
24 reported amounts, the Department and Appellant agreed to a
25 20-days test period from November 1, 2018, through

1 November 20, 2018. The Department made additional control
2 buys on October 19, 2018, October 25, 2018, October 27,
3 2018, October 29, 2018, and November 4, 2018; Exhibit A,
4 page 22.

5 On January 9, 2019, the Department obtained a
6 second point of sale data download for the period
7 January 1, 2015, through January 9, 2019. In reviewing
8 Appellant's second point of sale download, the Department
9 made a few observations. First, there was no cash sale
10 noted from October 21, 2018, to January 9, 2019. Second,
11 Appellant unexpectedly closed its business from
12 November 5, 2018, to November 11, 2018. Third, the
13 control buy made on October 29, 2018, was altered from
14 cash payment to VISA payment. Fourth, the controlled cash
15 buy made on November 4, 2018, was not found in the second
16 point of sale data download. Based on these observations,
17 the Department rejected the second point of sales data
18 download as incomplete --

19 JUDGE LONG: Mr. Sharma.

20 MR. SHARMA: Yes. Hello?

21 JUDGE LAMBERT: Hi. This is Judge Lambert. They
22 said the power went out, but I guess Keith is back.

23 JUDGE LONG: Yes. Sorry. The power just went
24 out for a minute.

25 MR. SHARMA: Okay.

1 JUDGE LONG: We need to go off the record for
2 let's say three minutes this time and reboot our live
3 stream. And also, I'll need you to go back a few
4 paragraphs in your presentation because I did not hear any
5 of it. So I'm going to mute my microphone right now, and
6 turn off my camera. I suggest that you all do the same,
7 and I'll see you at 10:16. Thank you.

8 (There is a pause in the proceedings.)

9 JUDGE LONG: We're going back on the record.
10 And, Mr. Sharma, you may begin when you are
11 ready.

12 MR. SHARMA: Thank you, Judge Long.

13 I will start from the Department notified and if
14 you think I need to start before that, I can do that. I
15 think that's the third or fourth paragraph when I started.
16 Is that okay, or you want me to go back further?

17 JUDGE LONG: That works for me. Thank you.

18 MR. SHARMA: Okay. Thank you. This is Ravinder
19 Sharma.

20 The Department notified Appellant that there were
21 missing sales receipts in the first point of sales data
22 download. To verify the accuracy of Appellant's point of
23 sale system and reported amounts, the Department and
24 Appellant agreed to a 20-days test period from November 1,
25 2018, to November 20, 2018. The Department made

1 additional control buys on October 19, 2018, October 25,
2 2018, October 27, 2018, October 29, 2018, and November 4,
3 2018; Exhibit A, page 22.

4 On January 9, 2019, the Department obtained a
5 second point of sales data download for the period
6 January 1, 2015, to January 9, 2019. In reviewing
7 Appellant's second point of sale data download, the
8 Department made a few observations.

9 JUDGE LONG: I'm sorry, Mr. Sharma. I don't mean
10 to make you repeat yourself, but maybe misheard. Did you
11 say that the second -- can you repeat the second time
12 period for that January 9th, 2019, data download?

13 MR. SHARMA: Yeah. It's January 1, 2015, through
14 January 9, 2019.

15 JUDGE LONG: Okay. Thank you.

16 MR. SHARMA: Okay. First, there were no cash
17 sales noted from October 21, 2018, to January 9, 2019.
18 Second, Appellant unexpectedly closed its business from
19 November 5, 2018, to November 11, 2018. Third, the
20 control buy made on October 29, 2018, was altered from
21 cash payment to VISA payment. Fourth, the controlled cash
22 buy made on November 4, 2018, was not found in the second
23 point of sales data download. Based on these
24 observations, the Department rejected the second point of
25 sales data download as incomplete, unreliable, and

1 manipulated to the lead auditor reviewing cash sales.

2 The Department attempted to verify the accuracy
3 of reported amounts by conducting a three-day on-site
4 observation test. On August 21, 2019, August 23rd, 2019,
5 and August 26th, 2019. During the observation test, the
6 Department noted that Appellant changed its policy by
7 requesting customers to pay upon arrival prior to being
8 seated. The Department also made a control buy on
9 August 23, 2019. The Department purchased two meals and
10 two carbonated drinks. For payment, Appellant request the
11 Department to pay by credit card, but the Department
12 insisted to pay cash and paid with cash; Exhibit A,
13 page 64.

14 The Department noted that Appellant only rang up
15 two meals and no drinks. Because Appellant did not
16 accurately ring up sales during the observation test and
17 changed its business practices, the Department discarded
18 observation test results as not representative of
19 Appellant's business activities during the audit period.
20 Based on these analysis, the Department determined that
21 Appellant's books and records were incomplete, unreliable,
22 and either manipulated or re-indexed to delete or reduce
23 cash sales.

24 The Department decided to use the best available
25 and reasonable point of sales data to verify the accuracy

1 of reported amounts and to determine unreported taxable
2 sales. Since the second download was obtained on
3 January 9, 2019, the Department believed that point of
4 sales data download for December 2018 would be the most
5 reliable and reasonable, assuming that Appellant could
6 have had very minimal time, if any, to manipulate or
7 reindex the data.

8 In reviewing point of sales data for
9 December 2017, the Department made a few observations.
10 First, there were no cash sales for December 2018,
11 whereas, the Department has established its control buys;
12 Exhibit A, page 22, printed point of sales monthly sales
13 report, Exhibit A, page 26, and bank deposit analysis;
14 Exhibit A, page 29, that Appellant accepted cash for its
15 sales during and after the audit period.

16 Second, a significant number of sales invoices
17 were created, kept open, in some cases for as many as
18 14 days, voided many times, and then closed with a credit
19 card payment. A few examples are: Sale invoice 3018120,
20 dated December 2, 2018, for \$242.49 was voided 18 times
21 from December 2, 2018, to December 16, 2018, before
22 closing for a credit card payment of \$242.49; sales
23 invoice number 3181223, dated December 23, 2018, for
24 \$204.70 was voided 10 times from December 23, 2018, to
25 December 30, 2018, before closing for a credit card

1 payment of \$204.70; sales invoice 47181216, dated
2 December 16, 2018, for \$208.75 was voided 5 times between
3 December 16, 2018, and December 28, 2016, before closing
4 with a credit card payment of \$208.75.

5 Similarly, Appellant has other sales invoices
6 that were created, kept open for days, voided many times
7 before closing for a credit card payment. For details,
8 please refer to Exhibit 9 and 10. For detailed comments,
9 please refer to the Appeals Bureau Decision dated
10 October 13, 2022; Exhibit D, page 105.

11 Third, the Department analyzed second point of
12 sales data download and noted that during July 2015 to
13 September 2018, Appellant recorded payments of around
14 \$2.17 million with voided amounts of over \$54,000
15 resulting in voided amounts of only 2.51 percent.
16 However, voided amounts jumped to 8.49 percent in October
17 2018, 14.13 percent in November 2018, and skyrocketed to
18 54.69 percent for December 2018; Exhibit A, page 25.
19 Based on the Department's detailed analysis and review of
20 second point of sales data download and in the absence of
21 any documentary evidence to the contrary, the Department
22 determined that 344 voided payments represented cash
23 sales.

24 The Department further analyzed point of sales
25 data download for December 2018 and noted credit card

1 sales of little more than \$53,000 and no cash sale.
2 However, the Department noted that 344 voided payments of
3 little more than \$29,000; Exhibit A, page 18. The
4 Department used voided payments of \$29,000 and credit card
5 sales of \$53,000 to determine an error rate of around
6 55 percent; Exhibit A, page 17. This is applied to
7 reported taxable sales of around \$1.8 million to determine
8 unreported taxable sales of little more than \$996,000 for
9 the audit period; Exhibit A, page 15.

10 Despite the fact that Appellant has not provided
11 any persuasive documentation or argument showing that
12 voided payments were valid and do not represent cash
13 sales, the Department gave Appellant the benefit of doubt
14 and provided an allowance of 2.85 percent, which the
15 Department believes could represent valid voided
16 transactions; Exhibit E, page 128. This allowance reduces
17 unreported taxable sales by around \$52,000 from
18 approximately \$996,000 to around \$944,000; Exhibit E.

19 When the Department is not satisfied with the
20 amount of tax reported by the taxpayer, the Department may
21 determine the amount required to be paid based on any
22 information it has in its possession or may come into its
23 possession. In the case of an appeal, the Department has
24 a minimal initial burden of showing that its determination
25 was reasonable and rational. Once the Department has met

1 its initial burden, the burden of proof shifts to the
2 taxpayer to establish that a result differing from the
3 Department's determination is warranted. Unsupported
4 assertions are not sufficient to satisfy a taxpayer's
5 burden of proof.

6 The Department used Appellant's books and records
7 to determine the audit liability and give Appellant the
8 benefit of the doubt by allowing a portion of the
9 unsupported voided payments. Doing so produced a
10 reasonable and rational determination. Without any
11 documentary evidence, Appellant contends that 344
12 transactions totaling \$29,000 are actual voided
13 transactions. However, Appellant provided a forensic
14 report that states in part that duplicative data in
15 question does not represent voided sales but rather voided
16 payments.

17 Based on the Department's review and analysis of
18 point of sales data and forensic report, it is the
19 Department's understanding that voided payments were cash
20 sales, which were voided in attempt to suppress cash sales
21 in the audit. As of now Appellant has not provided any
22 documentary evidence to show that voided payments were
23 voided credit card payments. Based on the foregoing, the
24 Department has fully explained the basis for the
25 deficiency and proved that the determination was

1 reasonable based on available books and records.

2 As had been discussed, Appellant's books and
3 records were not reliable and contained many errors. The
4 evidence shows that the Appellant manipulated both point
5 of sales data downloads, removing or changing controlled
6 purchases, manipulated the observation tests, unexpectedly
7 closed the business for a week, exponentially increased
8 voided payments during the test period and showed zero
9 cash sales in December 2018. Appellant has failed to
10 explain these errors and has otherwise not met its burden
11 to prove a more reasonable result. Therefore, based on
12 the evidence presented, the Department request that
13 Appellant's appeal be denied.

14 This concludes my presentation, and I'm available
15 to answer any questions you may have. Thank you.

16 JUDGE LONG: Thank you. I am actually going to
17 ask Ms. Reddy to answer this first, and then I'm going to
18 ask Mr. Sharma to answer the same question.

19 With respect to the voided transactions, what
20 happens to the total number of sales recorded on the POS
21 reports when there's an excess of voids? So, for example,
22 in the case of transaction number 3018120, which was
23 voided 18 times over the course of two weeks, my
24 understanding would be that the sale would be voided one
25 time. And then what happens with respect to the other 17

1 times? Does that reduce the net? So, for example, if I
2 add all of the sales and subtract all of the voids, am I
3 going to get a bottom line, or does it show up as an
4 error? How does it affect the total, is my question.

5 MS. REDDY: Yes. So I'm -- yeah. It's -- it's
6 if you were to net out the voids from the sales, you would
7 get a number that doesn't make sense. There were no -- so
8 each of these payment transactions were related to a sales
9 transaction that was not voided. So none of the related
10 sales invoices were voided. So that particular invoice
11 you mentioned, 30181202, was a valid completed sale with a
12 valid completed payment, and there happen to be 18
13 duplicated voided, only on the payment side, not on the
14 sale side.

15 My interpretation of that data is there is some
16 problem with the software. Our forensic expert wasn't
17 able to give us any determinative evidence because when he
18 tried to run the software, his system kicked it out as
19 triggering their antivirus. So they -- it was just not a
20 software that was updated or able to replicated. So from
21 the Appellant's position, we believe that these voids are
22 glitches in the system, mistakes. We can't explain them,
23 but we also do not believe they represent actual sales.
24 Even if they did, we don't think the amounts are correct.

25 JUDGE LONG: Thank you.

1 And, Mr. Sharma, same question for you.

2 MR. SHARMA: This is Ravinder Sharma.

3 So based on analysis, the Department's position
4 is these are voided payments, not voided transactions.
5 Appellant opened the ticket, kept it open, and they
6 accepted payments. And Department's position is those
7 were cash payments, not the credit card payments. And
8 they kept it open and accepted cash. We don't know how
9 and why they did it, but those were the voided payments.
10 And to conclude, Department usually -- those are the cash
11 sales and should be added back to the credit card payments
12 to arrive at the total sales.

13 JUDGE LONG: Okay. Just so I'm clear. Your
14 position is that, for example, that 18 times voided,
15 301120, it was left open. Appellant accepted cash, is
16 your assertion, and then essentially to wipe that cash off
17 of the books, they just voided those sales each time?

18 MR. SHARMA: That's correct. That's Department's
19 understanding is based on any documents to the contrary.

20 JUDGE LONG: Okay. Thank you. And then I do
21 have one more question regarding the audit with respect to
22 the markup method, the comparison of sales and use tax
23 return recorded sales -- reported sales over cost of goods
24 sold. Can CDTFA confirm why they did not use the results
25 from that test?

1 MR. SHARMA: This is Ravinder Sharma again.

2 Based on Department's analysis, the Appellant did
3 not deposit cash, and Appellant used the cash to buy those
4 items. For a markup method to be reasonable, the
5 Department has to verify the accuracy of cost of goods
6 sold. Since the cost of goods sold could not be verified
7 to be reasonable and correct, Department was not able to
8 do the markup method.

9 JUDGE LONG: Thank you. No further questions.

10 Do either of my co-Panelists have any questions?

11 Judge Lambert?

12 JUDGE LAMBERT: This is Judge Lambert. I have no
13 questions. Thanks.

14 JUDGE LONG: Thank you.

15 And, Judge Katagihara, do you have any questions?

16 JUDGE KATAGIHARA: I do have a question. I have
17 a follow-up question for CDTFA regarding the open tickets.
18 So is your assertion that the POS system you can leave a
19 ticket open, for example for that invoice number 30181202,
20 and then have other transactions come through and other
21 payments, and then go back to 30181202?

22 MR. SHARMA: Ravinder Sharma.

23 LONG KATAGIHARA: Do you have --

24 MR. SHARMA: I'm sorry.

25 JUDGE KATAGIHARA: I'm just curious as to how you

1 would leave a ticket open to accept additional cash
2 payments with open tickets if, in the meantime, other
3 people have come through and made other purchases?

4 MR. SHARMA: It is Department's understanding
5 that once you accept the payment, then the ticket has to
6 close. As in many other cases, based on the Department's
7 analysis, typically when the customers come they will open
8 a ticket when the payment is made within 30, 40, or 45
9 minutes the ticket is closed and payment received. But in
10 this case, since some of the tickets are open for 14 days,
11 the Department is not able to understand why. The only
12 best conclusion the Department has and Department's
13 understanding is in the absence of zero cash sales and
14 based on the Department's cash buy, which was altered to a
15 VISA payment or cash purchase were not shown on the point
16 of sale data download, it's the Department's position is
17 those were kept open to accept a cash payment and close at
18 a later date.

19 JUDGE KATAGIHARA: Okay. Then my follow-up
20 question to that is Ms. Wang indicated that she informed
21 the auditor that she would only accept credit card sales
22 for the month of December due to the audit and that the
23 auditor indicated to her that it was up to her. It was
24 her decision if she wanted to do that or not. Does CDTFA
25 concede that they had given her that option and

1 essentially implied that would be fine?

2 MR. SHARMA: This is Ravinder Sharma.

3 It is not the CDTFA option. It is up to the
4 taxpayer what to do. But during the audit, the Department
5 determines whether the results or the sample tests we have
6 represent the business activities during the audit period.
7 In this case, based on various analysis, the Department
8 has determined that Appellant was accepting cash during or
9 after the audit period.

10 JUDGE LONG: Did CDTFA -- oh, I'm sorry.
11 Continue.

12 MR. SHARMA: I'm sorry. Go ahead.

13 JUDGE LONG: Did the CDTFA do any controlled buys
14 in December? I don't think you listed that month when you
15 were describing your other controlled purchases.

16 MR. SHARMA: No. We had not done any controlled
17 buys in December 2018.

18 JUDGE KATAGIHARA: Okay. My last question is
19 actually for Ms. Reddy. Can you explain why CDTFA's
20 controlled purchases -- cash purchases in October 2018
21 were not recorded in the business' POS system?

22 MS. REDDY: No. Ms. Wang wasn't able to verify
23 why. We believe it was probably a system glitch. I
24 think -- I think there's a remote possibility that one of
25 her staff maybe accepted the cash and voided it out, even

1 though Ms. Wang's policy is that she's the only one
2 allowed to make voids. It's also our understanding there
3 wasn't the same pattern of voided payment transactions
4 related to any invoices that would have hidden that voided
5 sales invoice. So that's kind of our position. I
6 think -- I think we're just going with it's a glitch with
7 the system, and we can't explain it.

8 JUDGE KATAGIHARA: Okay. Thank you. I have no
9 further questions.

10 JUDGE LONG: Thank you.

11 Ms. Reddy, you have 10 minutes to make your
12 closing presentation, and you may begin now.

13

14 CLOSING STATEMENT

15 MS. REDDY: Okay. So first, I just want to
16 clarify one item that Judge Long brought up to Ms. Wang
17 about the cash sales in January 2019. You mentioned
18 \$250,000 of cash sales. It sounded like you meant
19 \$250,000 of cash sales in just that one month, but I
20 think -- I don't have all the records for 2019 since it
21 was outside of this audit period and -- but I know their
22 average total sales are 50 to \$60,000 per month. So I
23 just don't think there were \$250,000 of cash sales in
24 January of 2019. So I'm not sure if I misunderstood.

25 JUDGE LONG: It's entirely possible that I

1 misspoke. I will make sure to be clear in the opinion.

2 Thank you.

3 MS. REDDY: Okay. No problem.

4 So I think one of the things that kind of comes
5 out with the audit report and also the Department's, you
6 know, comments regarding that today, there were some
7 negative assumptions made about Ms. Wang. I think
8 Ms. Wang -- and maybe she was incorrect in feeling this
9 way, but she did -- she did feel attacked during the audit
10 process. And she was trying -- and I believe her actions
11 where the service or the Department, rather, is trying to
12 show those as she's acting manipulative. I think the
13 equally reasonable response is she's defending herself.
14 She's trying to find a way by switching to the
15 credit-card-only policy, for example. She's trying to
16 create this electronic record with third-party support so
17 the CDTFA could see that she wasn't manipulating data.

18 It's unfortunate that we have these 344 voids.
19 It's unfortunate we can't explain them. I think -- I
20 think also respect to the credit-card-only policy, the
21 auditor had stated that it's unreasonable for a restaurant
22 to only accept cash payment. But I do believe it was a
23 reasonable reaction of the taxpayer. And we also know
24 from Covid, subsequently, that it's perfectly acceptable
25 and workable to just to be credit card only.

1 CDTFA presented evidence that the POS system data
2 was unreliable because of the missing invoices and because
3 of these unexplained voids. Taxpayer does not disagree
4 with that finding. We can't explain why the sales
5 invoices were missing. We can't explain why there were
6 344 voided payment transactions. We can't explain why
7 those transactions are higher than in other months. We
8 do, however, disagree that this data that CDTFA used is
9 the best information available to make this -- to estimate
10 the taxable sales.

11 We do agree with CDTFA that if these voided
12 transactions were actual sales that were deleted from the
13 system they would have to be cash because the credit card,
14 the bank deposits, everything times out otherwise. It's
15 based on the duplication, though, these really high
16 amounts \$242 duplicated 18 times. It's statistically
17 improbable. I'm not going to say it's impossible, but
18 it's really, really close to impossible for those to be
19 actual cash sales, that there's actual families of --
20 let's see.

21 That particular invoice was 13 adults, 6
22 children. Two of the children were able to negotiate free
23 meals. There was alcohol purchased. I mean it's just
24 really unlikely that 18 duplicate families of those --
25 sometimes within minutes because some of these voids are

1 happening within minutes of each other -- are walking in
2 and paying cash the exact amount.

3 For those reasons, we believe the CDTFA's
4 estimated taxable sales was incorrect. It was based on
5 flawed or misinterpreted data. We believe there are other
6 methods with more reliable data that are available. I
7 think -- I think probably the best thing is if we could do
8 the Form 1099-Ks and use statistical data based on similar
9 restaurants in Cerritos, California. But even outside of
10 that, I believe there's other ways of estimating taxable
11 sales that would get us closer to an accurate amount.

12 And that's -- that's all I have.

13 JUDGE LONG: Thank you.

14 I've received a message from Judge Katagihara
15 that she has one more question. So we'll go ahead and
16 turn it over to her.

17 JUDGE KATAGIHARA: I apologize for this late
18 question, but I do have -- my final question is, Ms. Wang
19 had indicated that at the end each day there was no cash
20 to deposit because she was using that money to tip out her
21 staff. For the month of December she was accepting only
22 credit card sales. How did she tip out her staff?

23 MS. REDDY: Ms. Wang can answer. She --

24 Go ahead. I'll let you answer. Sorry.

25 JUDGE KATAGIHARA: Ms. Wang, it looks like you're

1 muted.

2 MS. WANG: Oh, could you hear me? Okay. I paid
3 them from the checkbook. I put the tip into the -- into
4 the -- into the W-2, the check, and paid them from
5 there --

6 JUDGE KATAGIHARA: I see. Okay. Thank you.

7 MS. WANG: -- instead of the cash. And could I
8 say something, Judge?

9 JUDGE LONG: Yes, go ahead. You can say
10 something.

11

12 CLOSING STATEMENT

13 MS. WANG: Okay. From 2008 when I took over this
14 Mongolian, they are very bad in business, not even
15 reporting \$30,000 a month, and I turned that into a
16 business where I could stay and give it -- people some
17 work. So well the Mongolian -- and then what happened is
18 with the hour, we only open from 12:00 to 3:00, three
19 hours for lunch, and then we since shut down since the
20 minute we open, since 2008 until now. And then at
21 afternoon we reopen at 5:00 until 9:00. So we only open
22 eight hours. Okay. But we do open seven days a week.

23 And since we -- I come in, the Mongolian is -- I
24 don't know if you happen to see one at the mall. They are
25 the smallest Mongolian because there has a history of the

1 Mongolian. They're so small they can't even cook --
2 there's only two people could go up there and cook. So
3 there's no like three or four people could go up there and
4 could cook. So I really cannot serve that much people,
5 and I only open eight hours a day. And I only have two
6 staff. They are a waiter and waitress throughout the day.
7 So this is all I have. I have two cook and two staff.

8 So I really -- I just don't know how I could make
9 all this money if, you know, how I'm going to steal all
10 those money. So I'm just still -- and then right now
11 because the audit, I'm really tired because in that
12 because the Covid in between. So it really too long and
13 get me really upset, so I sold the business. So the
14 business right now it's in escrow -- years ago in escrow
15 for \$300,000. And then the \$300,000 that's how much I
16 sold the restaurant, but now it's hole because I owe Tax
17 Board money. And then -- and then Tax Board want
18 \$120,000. Well, that was the first they want.

19 And then they audit me again for the second audit
20 right now. They want another \$120,000. So total they
21 want full amount -- almost full amount of what I have in
22 escrow. So all I want to do is just retire and get the
23 \$300,000 and pay the -- pay the Tax Board and then move on
24 with my life. Because you know, I'm in United States
25 since 1972, and then I never go to school and I go into

1 the restaurant and work and work. I'm first generation.
2 Really, with computer and everything, I don't know how to
3 do it.

4 So that's -- I'm just learning, you know. I'm
5 really a first generation. I'm not as smart. Just like
6 when I'm off the mic and stuff, I don't know how to put it
7 back on. I just read and go back to the email and then
8 close, and then hopefully I could go back.

9 Well, that's all I want to say, you know. That's
10 it.

11 JUDGE LONG: Okay. Thank you very much.

12 Before we conclude, we have heard arguments and
13 testimony from both sides.

14 Ms. Reddy, do you have anything -- any last
15 statements that you would like to make before we conclude
16 the hearing?

17 MS. REDDY: Yes. Thank you. I just want -- I
18 just want to clarify Ms. Wang's last statement. I think
19 what she was trying to express is if CDTFA's correct that
20 she nearly a million dollars of unreported sales, she just
21 doesn't have the staff, the facilities to possibly even
22 earn that much is what she was trying express. And I
23 think, as you know, this audit process has been difficult
24 for her.

25 With that said, as we stated, we do believe

1 CDTFA's estimate is incorrect and is too high, and we
2 believe there are better estimates that could have been
3 used that would have more accurately reflected sales. So,
4 therefore, we do believe -- we do request a finding that a
5 reduction to the measure of unreported taxable sales is
6 warranted.

7 Thank you.

8 JUDGE LONG: Thank you.

9 I believe we're ready to conclude this hearing.
10 Are my co-Panelists ready to close this appeal?

11 Thank you.

12 This case is submitted on Thursday, November 9th,
13 2023. The record is now closed.

14 Thank you everyone for calling in today. The
15 Judges will meet and decide your case later on, and we'll
16 send you a written opinion of our decision within 100 days
17 after the record is closed.

18 Today's hearing in the Appeal of Yuan Bao, Inc.
19 is now adjourned.

20 Thank you.

21 (Proceedings adjourned at 11:09 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:

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

I have hereunto subscribed my name this 1st day
of December, 2023.

ERNALYN M. ALONZO
HEARING REPORTER