

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
S. KING,) OTA NO. 230312845
)
 APPELLANT.)
)
)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Tuesday, January 23, 2024

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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BEFORE THE OFFICE OF TAX APPEALS

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IN THE MATTER OF THE APPEAL OF,)
S. KING,) OTA NO. 230312845
APPELLANT.)
_____)

Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 9:26 a.m. and concluding at 9:53 a.m. on
Tuesday, January 23, 2024, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

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APPEARANCES:

Administrative Law Judge: TERESA STANLEY

For the Appellant: S. KING

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

TOPHER TUTTLE

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I N D E X

E X H I B I T S

(Appellant's Exhibit 1 was received at page 6.)

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

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

P A G E

By Ms. King 10

By Mr. Tuttle 14

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

P A G E

By Ms. King 16

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California; Tuesday, January 23, 2024

9:26 a.m.

JUDGE STANLEY: We're going on the record now.

Again, I'm going to introduce the case. This is Judge Stanley speaking, and I'm sorry to be repetitive but I'm going to say that every time I speak so that Ms. Alonzo knows who is speaking. I'm going to ask the parties to do the same.

This is the Appeal of Sharon King, Case Number 230312845. Today is January 23rd, 2024, and the time is approximately 9:30 a.m.

I'm going to be conducting the hearing using the Small Case Procedures, which means that the matter will be decided by a single Administrative Law Judge. I'm going to ask that the parties identify themselves, starting with Appellant.

Do you have your microphone muted, Ms. King?

MS. KING: Sharon King.

JUDGE STANLEY: Thank you.

And for the Franchise Tax Board.

MR. TUTTLE: Hello my name is Topher Tuttle representing Franchise Tax Board.

JUDGE STANLEY: Thank you, Mr. Tuttle.

Just preliminarily, I want to say for the parties

1 that the Office of Tax Appeals is independent of the
2 Franchise Tax Board and any other tax agency. The Office
3 of Tax Appeals is not a court. We are an administrative
4 agency that is staffed with its own tax experts.

5 The only evidence that we have in the Office of
6 Tax Appeals' record is what was submitted during this
7 appeal. These proceedings are being live streamed on
8 YouTube, and so I'll ask that nobody tries to share
9 information that they don't want to be made public.

10 The issue is whether Appellant has established
11 that her claims for refund for the 2012, 2013, and 2014
12 taxable years are not barred by the statute of
13 limitations.

14 Ms. King, is that what you understand to be the
15 issue?

16 MS. KING: Yes.

17 JUDGE STANLEY: And Mr. Tuttle?

18 MR. TUTTLE: Yes.

19 JUDGE STANLEY: Okay. For exhibits, Ms. King
20 submitted a Notice of Action. The Franchise Tax Board did
21 not object, so that will be admitted into evidence as
22 Exhibit 1.

23 (Appellant's Exhibit 1 is received in
24 evidence by the Administrative Law Judge.)

25 JUDGE STANLEY: The Franchise Tax Board submitted

1 exhibits A through Q, and Appellant did not object. So
2 those exhibits will also be admitted into evidence.

3 (Department's Exhibits A-Q were received in
4 evidence by the Administrative Law Judge.)

5 JUDGE STANLEY: Does anyone have any questions
6 about exhibits?

7 MS. KING: Yes, I do. On one of the exhibits
8 they submitted, if you go through Exhibit Q, page 2 of 7,
9 my written statement is not there. That belongs to
10 someone else, which is attached. So that's not mine. So
11 my statement is not in the package. They provided a copy
12 of someone else.

13 JUDGE STANLEY: Okay. Just give me a moment to
14 get to that exhibit and page. Okay. Just one moment.
15 Maybe Mr. Tuttle can get to it faster than I can.

16 Do you have a response to that, Mr. Tuttle?

17 MR. TUTTLE: I'm still navigating to Exhibit Q
18 myself.

19 JUDGE STANLEY: Okay. So page -- Ms. King, are
20 you saying page 1 of that exhibit is yours?

21 MS. KING: Page -- yes. The begin -- yes. The
22 first -- no. It's page -- it's page -- yeah, page 1 is
23 mines, but page 2 they put the statement. That statement
24 is page 2 of 7. That's not my statement.

25 JUDGE STANLEY: Okay. I can see that that is

1 signed by somebody else. Do you want us just to redact
2 that from our file then, Ms. King?

3 MS. KING: Yes.

4 JUDGE STANLEY: Okay.

5 MS. KING: And it doesn't include my statement,
6 and I've since moved and I couldn't find my statement, my
7 original -- well, my copy of the statement.

8 JUDGE STANLEY: I'm going to remove that from
9 your file, but I'm not sure how we can get to your actual
10 statement in the file.

11 Mr. Tuttle, have you found that exhibit yet?

12 MR. TUTTLE: Yes. I have the exhibit in front of
13 me, and I'll point out that page 6 of 7 on the form has a
14 typed out statement with Ms. King's signature.

15 MS. KING: Let me see because I don't remember
16 typing it out my -- I don't remember typing it out. I
17 didn't have a computer or laptop at the time. My
18 statement was handwritten out. I don't -- it wasn't typed
19 up. So you're saying it was 6 of what number?

20 MR. TUTTLE: So for each year there is a separate
21 reasonable cause claim for refund form.

22 MS. KING: Yes.

23 MR. TUTTLE: So page 1, page 3, and page 6 are a
24 typed statement with your signature --

25 MS. KING: Okay. What I did --

1 MR. TUTTLE: -- for each tax year.

2 MS. KING: What I did was I didn't do one letter
3 for each year. I only did one letter and attached the
4 statement. So I don't recall doing a different letter for
5 each year. I only did one letter and attached because
6 that was what I was told to do from the Franchise Tax
7 Board.

8 JUDGE STANLEY: Okay. This is Judge Stanley
9 speaking. I'm going to go ahead and redact that statement
10 that is clearly not yours, Ms. King. But with respect to
11 your statement and whatever you have to say, I will be
12 swearing you in under oath or affirmation today, so you
13 can present your statement live here today. Okay. Is
14 that satisfactory?

15 MS. KING: Yes.

16 JUDGE STANLEY: Okay. Great. Then let's move to
17 witnesses. As I just mentioned, Ms. King, you said you
18 would be the only witness here testifying today.

19 MS. KING: Yes.

20 JUDGE STANLEY: So I'm going to ask you to please
21 raise your right hand.

22 S. KING,
23 produced as a witness, and having been first duly sworn by
24 the Administrative Law Judge, was examined, and testified
25 as follows:

1 JUDGE STANLEY: Okay. Then you asked for
2 15 minutes to present your case. You can begin whenever
3 you're ready.
4

5 PRESENTATION

6 MS. KING: Okay. In 2018 the federal had me redo
7 my state and federal tax returns all the way up to the
8 year 2012. I'm not saying I didn't never -- they were
9 garnishing my wages. And so every year one was paid they
10 just went to the next. So once federal had me redo my
11 taxes starting from 2018 -- because they took my 2015,
12 2016, '17, and '18 returns that was due to me. And so I
13 had to redo them all the way up until 2012, along with
14 state. And once that happened, Zachary Robinson from the
15 State Franchise Tax Board contacted me, and I submitted,
16 redid all the taxes from 2012 actually to 2019.

17 And so once they found what I owed, they credited
18 me because they went all the way back to -- only to 2012
19 because they actually were garnishing my wages all the way
20 starting from 2006. So they only corrected or went back
21 to 2012. And so what they owed me they did send, but for
22 years 2012, '13, and '14, they told me I needed to submit
23 the Demand For Refund in which I did. And at that time it
24 was 2019, and I submitted it. Well, the Franchise Tax
25 Board claimed they never received it.

1 I resubmitted it again. They claim they never
2 received it. At that time, we were in the Covid status,
3 and they told me they were closed and was not processing
4 any paperwork at all. And so once tax season for 2020 was
5 up, I resubmitted it again. I contacted them, and I
6 resubmitted the paperwork again for demand for the refund.
7 I never got anything. So at that time, they told me I had
8 so many years to do the demand, but I never received
9 anything. I'm just -- I was just kind of confused with
10 what they were telling me how long I had to request it.

11 And so once I did on the tax portal, once they
12 finally received it, 2012, they told me it had -- it had
13 expired by 45 days. Now mind me, I had did file the
14 paperwork or submitted the paperwork three times in the
15 year 2000 -- between 2019 and 2020. And so I got a phone
16 call from that department, not a letter, saying I wasn't
17 eligible. And they didn't send me a letter out until 2022
18 when I called and asked to speak to a supervisor.

19 And so on the portal it tells -- it shows you the
20 money is there, but it tells you only for 2012 that I was
21 not eligible. 2013 and 2014 there's no date because what
22 they will do is put an expiration date. They just told me
23 submit it, but I never got a letter saying I was not
24 eligible up until I called in early 2022 and asked to
25 speak to a supervisor. I received a letter six months

1 later.

2 So I'm not saying that everything wasn't done
3 timely because they were garnishing my wages starting from
4 2006 all the way up until 2019. In 2019 is when they
5 stopped garnishing my wages because they actually owed me
6 once everything -- the taxes was redone.

7 JUDGE STANLEY: This is Judge Stanley speaking.
8 Is that all you have to say for the moment, Ms. King?

9 MS. KING: Yes. I'm just nervous and I'm just --
10 I'm hoping you guys understood what I was saying. It's
11 like trying to deal with the tax office is really hard.
12 You get one representative that tells you something, and
13 then the next one tells you something different. But I
14 actually was dealing with Zachary Robinson and a last name
15 of Shayner [sic], and they were telling me to submit it in
16 which I did. But whoever was handling it at the
17 department -- it was two different women, and they called
18 me. And they were the ones that told me that I was not
19 eligible. They never sent me a letter until six months
20 later. It's only because I called and asked to speak to a
21 supervisor, and then six months later I get a letter
22 saying they denied the claim.

23 JUDGE STANLEY: Okay. This is Judge Stanley
24 speaking.

25 Mr. Tuttle, do you have any questions for

1 Ms. King?

2 MR. TUTTLE: I have no questions. Thank you.

3 JUDGE STANLEY: Ms. King, I just want to clarify
4 when you say you submitted things, are you saying you
5 submitted the returns earlier than the Franchise Tax
6 Board's records show?

7 MS. KING: No. Well, yes, actually I did. I was
8 going through a separation. We had someone filing our
9 taxes, and so I didn't know that until -- when they
10 started garnishing my wages, I only thought that I owed
11 the money, not that taxes weren't being filed because I
12 never got anything. They were sending information to my
13 employer, not to my address. They were sending it to my
14 employer where I worked at, my place of employment. I
15 never received anything to my home. And then on one of
16 the paperworks, the P.O. Box they have is 32074. That's
17 not my P.O. Box. My P.O. Box is [REDACTED].

18 JUDGE STANLEY: This is Judge Stanley.

19 MS. KING: So --

20 JUDGE STANLEY: Do you have something else you
21 wanted --

22 MS. KING: Yeah, just quickly. So yes, again, my
23 wages were being garnished from 2006 all the way to 2019.

24 JUDGE STANLEY: Okay. Thank you, Ms. King.

25 I don't have any further questions, so I'm going

1 to move to the Franchise Tax Board.

2 Mr. Tuttle, you asked for 10 minutes, and you can
3 proceed when ready.

4

5 PRESENTATION

6 MR. TUTTLE: This is Topher Tuttle speaking.

7 Thank you, Judge Stanley.

8 Appellant's claims for refund for the 2012, 2013,
9 and 2014 tax years are barred by the statute of
10 limitations. California law prohibits Respondent from
11 crediting or refunding an overpayment when a claim for
12 refund was not filed within four years of the due date of
13 the return or within one year from the date of
14 overpayment, whichever is later.

15 In this case, for each tax year at issue,
16 Appellant's original tax return was due by April 15th of
17 the subsequent year. However, Respondent did not receive
18 Appellant's tax return for tax year 2012 until April 15th,
19 2019. And Respondent did not receive Appellant's tax
20 returns for tax years 2013 and 2014 until May 15th, 2019.
21 As a result, all three tax returns were filed beyond the
22 respected four-year statute of limitations periods. If
23 the four-year statute of limitations has run, only
24 payments made within one year of the refund claim can be
25 refunded or credited under California law.

1 With respect to tax years 2012 and 2013,
2 Appellant did not make any payments during the one year
3 preceding Appellant's respective claims for refund. With
4 respect to tax year 2014, Respondent has already refunded
5 all payments received within one year of the filing date
6 of Appellant's claim for refund. Therefore, expect for
7 the credit amount already refunded to Appellant for tax
8 year 2014, the remaining credits at issue are also barred
9 by the one-year statute of limitations.

10 Although Appellant has argued that she filed
11 earlier copies of her tax returns by fax in 2018, she has
12 not provided any evidence in support of this contention.
13 Accordingly, Respondent's denial of Appellant's claim for
14 refund is proper and should be sustained.

15 Thank you.

16 JUDGE STANLEY: This is Judge Stanley speaking.
17 Thank you, Mr. Tuttle. I don't have any questions for
18 you.

19 I would note for Ms. King that our staff has
20 located your statement. Would you like us to put it in
21 the Webex chat so you can verify it, or are you okay with
22 just knowing that we have it?

23 MS. KING: Yes. And do I have anything to say
24 after he says something because --

25 JUDGE STANLEY: Yeah. I'm going to give you an

1 opportunity. I'm just going back to your written
2 statement. The Office of Tax Appeals did locate that, so
3 we do have it. Would you like to see that to verify?

4 MS. KING: No, because I remember what I wrote
5 and how I wrote it. It's just that it was never typed.
6 They have a typed statement, he said, from me. I never
7 typed it. I handwritten it.

8 JUDGE STANLEY: Okay. I'm sorry to interrupt.
9 This is Judge Stanley speaking. We do have a handwritten
10 statement in our file. So hopefully you feel comfortable
11 knowing that we do have what you wrote --

12 MS. KING: Yes.

13 JUDGE STANLEY: -- and I can take that into
14 consideration when I make my decision. And now I will --
15 and we can also -- we'll send this statement out to both
16 of you, to the Franchise Tax Board and you, Ms. King,
17 after the hearing just so you can verify it. But I will
18 give you a chance to respond to what Mr. Tuttle said. You
19 can go ahead when you're ready.

20

21 CLOSING STATEMENT

22 MS. KING: Okay. Upon completing the years 2012
23 and 2019 again, I did by fax. I was told once everyone
24 was done I received credit for all the years that they
25 gave me. I never received anything for '12, '13, and '14.

1 So when I called they told me I had a year from the filing
2 date to request the refund, and that was in 2019. And so
3 that's what I did.

4 And so each time I did the paperwork, they said
5 they never received it. Never received it. And that went
6 on all the way up until 2000 and -- and what? 20? Right
7 up until when the pandemic hit. He said for the 2014
8 refund, I have never received a refund for 2014, if that's
9 what he's saying that I should have received. I was
10 keeping -- being told that I wasn't eligible, and that was
11 only by phone. And then they did send me a letter saying
12 that I was not eligible. And so that's when I went ahead
13 and I did -- I filed an appeal.

14 Even when I filed the first appeal, they said
15 they never received it. And then I did it again, and then
16 the appellate department contacted me. And so I'm just --
17 I thought I was in compliance with the year. That was for
18 2012, '13, and '14, and that was after the taxes were
19 completed. And everything was done by fax, and that was
20 by Zachary Robinson.

21 JUDGE STANLEY: Ms. King?

22 MS. KING: Yes.

23 JUDGE STANLEY: We lost you on the camera. Did
24 you press a button?

25 MS. KING: No. I'm moving, and when I'm moving

1 it'll go out.

2 JUDGE STANLEY: Oh, okay. I see. All righty.
3 Is that all that you have to say for now?

4 MS. KING: Yes.

5 JUDGE STANLEY: Okay. I just have a quick
6 question for Mr. Tuttle to clarify.

7 Did you say that Ms. King got a refund for 2014?

8 MR. TUTTLE: Correct. Our records show a refund
9 was issued for tax year 2014. Let me get the date. The
10 briefing explains that there were some balances due for
11 2017 and 2018. So some of the refund was applied to those
12 tax years, but there was a refund issued June 5th, 2019,
13 in the amount --

14 MS. KING: I never received it.

15 MR. TUTTLE: -- of \$1,564.70.

16 MS. KING: Not for 2014. This is -- I'm sorry.
17 On the portal it shows you. --

18 JUDGE STANLEY: Wait. Wait. Wait. Ms. King,
19 let Mr. Tuttle finish first.

20 So you say that on June 5th, 2019, the Franchise
21 Tax Board issued \$1,564.70 for taxable year 2014, correct?

22 MR. TUTTLE: Correct.

23 JUDGE STANLEY: Okay. And was that a partial
24 refund?

25 MR. TUTTLE: This was a partial refund. Some of

1 the credit amounts were barred by the statute of
2 limitations. So about \$475 is barred by the statute of
3 limitations for 2014. The reminder of the claim for
4 refund was granted, either through that refund check or
5 credits applied to the other tax years.

6 JUDGE STANLEY: Okay. Thank you. All right.
7 That's the only question that I have.

8 Ms. King, did you want to say something final
9 about the refund. Sounds like part of 2014 was either
10 applied to other tax balances owing or was refunded to you
11 for 2014. So you still had some in that tax year that was
12 barred.

13 MS. KING: Yeah. And I wasn't aware of that's
14 how it went. Because the refund I did receive, how it
15 came about to me was it was from the years '15, '16, '17,
16 '18, and '19. It was monies that was due to me. So I
17 wasn't aware it was from the year of 2014.

18 JUDGE STANLEY: Okay. Thank you.

19 We'll conclude the hearing. The Record is now
20 closed, and the matter is submitted for written opinion.
21 The Office of Tax Appeals will mail a written opinion no
22 later than 100 days from today.

23 I want to thank you both for participating, and
24 we will reconvene -- or we will recess this hearing and
25 reconvene at 1:00 p.m. for the next hearing.

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Everybody have a nice day.

(Proceedings adjourned at 9:53 a.m.)

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HEARING REPORTER'S CERTIFICATE

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

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

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

I have hereunto subscribed my name this 12th day
of February, 2024.

ERNALYN M. ALONZO
HEARING REPORTER