

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
A. GANDI,) OTA NO. 230513313
)
)
) APPELLANT.
)

)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, January 24, 2024

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
A. GANDI,) OTA NO. 230513313
)
) APPELLANT.)
)
)
_____)

Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 10:13 a.m. and concluding at 10:46 a.m. on
Tuesday, January 24, 2024, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

Administrative Law Judge: JOSHUA ALDRICH

For the Appellant: A. GANDI

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

NOEL GARCIA-ROSENBLUM
TOPHER TUTTLE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

E X H I B I T S

(Appellant's Exhibits 1-4 were received at page 11.)
(Department's Exhibits A-C were received at page 11.)

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

	<u>P A G E</u>
By Mr. Gandi	13
By Mr. Garcia-Rosenblum	20

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

	<u>P A G E</u>
By Mr. Gandi	23

1 California; Tuesday, January 24, 2024

2 10:13 a.m.

3
4 JUDGE ALDRICH: This is Judge Aldrich. We're
5 opening the record in the Appeal of A. Gandhi before the
6 Office of Tax Appeals, OTA Case Number 230513313. Today's
7 date is Wednesday, January 24th, 2024, and it's
8 approximately 10:15.

9 This hearing is being conducted electronically by
10 agreement of the parties and is also being live streamed
11 on OTA's YouTube channel. I'm the Administrative Law
12 Judge conducting the hearing. After the conclusion of the
13 hearing, I will decide the issues presented. As a
14 reminder, the Office of Tax Appeals is not a court. It is
15 an independent appeals body. The panel, in this case of
16 one, does not engage in ex parte communications. OTA's
17 opinion will be based on the parties' arguments, admitted
18 evidence, and the relevant law. And I have read the
19 parties' briefings and submissions. I'm looking forward
20 to hearing your arguments today.

21 Who is present for Appellant? Mr. Gandhi?

22 MR. GANDI: Judge, are you making a request of
23 me?

24 JUDGE ALDRICH: Yeah. If you could just state
25 your name.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. GANDI: Ader Gandi.

JUDGE ALDRICH: Thank you, sir.

And for FTB, who is present?

MR. GARCIA-ROSENBLUM: Noel Garcia-Rosenblum.

JUDGE ALDRICH: Thank you.

MR. TUTTLE: And Topher Tuttle.

JUDGE ALDRICH: Thank you.

Great. So the issues to be decided are as follows: Whether Appellant has established that the late filing penalty should be abated; and two, whether Appellant has established that the estimated tax penalty should be abated. A slightly different phrasing than the December 21st, 2023, minutes and orders, but it's the same idea.

Is that your understanding, Mr. Gandi?

MR. GANDI: I'm not sure of the technical distinction you made between two items, Judge, but my simplistic understanding is I was charged a penalty because my returns were turned in later than they should have been. And that is what I'm going to argue on.

JUDGE ALDRICH: Yes. I understand. So there are two penalties at issue, at least that's my understanding. And one penalty is for the late filing of the return, and the other is a late estimated tax penalty.

MR. GANDI: So I'm -- I'm only arguing the late

1 filing. I don't -- until just now, I was unaware of the
2 late --

3 JUDGE ALDRICH: The estimated tax penalty?

4 MR. GANDI: Yes. Yes, Judge. But I'm not --

5 JUDGE ALDRICH: Okay.

6 MR. GANDI: I'm not disputing that as such.

7 JUDGE ALDRICH: Okay. So the only issue for
8 today is the late filing penalty.

9 MR. GANDI: If you, Judge, have a distinction
10 between the two items, I'm not even aware what the dollar
11 amount distinction is between the two items.

12 JUDGE ALDRICH: Okay. Mr. Rosenblum --
13 Mr. Garcia-Rosenblum, excuse me.

14 MR. GARCIA-ROSENBLUM: Yes. Do you want me to
15 answer the Appellant's question?

16 JUDGE ALDRICH: Yes, please.

17 MR. GARCIA-ROSENBLUM: Yes. So the late filing
18 penalty was assessed in the amount of \$8,212, and the
19 estimated tax penalty was assessed in the amount of \$40.

20 JUDGE ALDRICH: Okay. My understanding,
21 Mr. Gandi, is that you're no longer disputing the
22 estimated tax penalty, and there's only one issue, which
23 constitutes the approximately \$8,000 of penalties?

24 MR. GANDI: Well, there's a couple of things,
25 Judge, and I apologize for my ignorance in advance. Did

1 the gentleman from FTB contend that the estimated penalty
2 was only \$40; is that correct?

3 JUDGE ALDRICH: Mr. Garcia-Rosenblum?

4 MR. GARCIA-ROSENBLUM: Yes, that's correct.

5 MR. GANDI: And the late filing fee, Judge, from
6 my understanding from all the correspondence I've received
7 from the State was something to the tune of \$2,200. So
8 this number of \$8,212 is a completely new number for me.

9 MR. GARCIA-ROSENBLUM: May I speak real quick,
10 Judge Aldrich?

11 JUDGE ALDRICH: Yes.

12 MR. GARCIA-ROSENBLUM: I apologize. I read out
13 the wrong number. It's \$2,053, as he said, for the late
14 filing penalty, not the \$8,212.

15 JUDGE ALDRICH: Okay. So that's in line with
16 Mr. Gandi's understanding and --

17 MR. GARCIA-ROSENBLUM: Yes.

18 JUDGE ALDRICH: All right. Has that been
19 clarified for you, Mr. Gandi?

20 MR. GANDI: Yes. But, obviously, that's a huge
21 distinction, and it caused me undue anxiety right now
22 during a number being said that is so far off from the
23 mark. So I would appreciate if FTB would represent
24 themselves correctly and not cause me to get all nervous
25 on my end of the equation.

1 JUDGE ALDRICH: I understand that, and I believe
2 Mr. Garcia-Rosenblum provided clarification.

3 So with that said, there's a single issue,
4 whether the late filing penalty should be abated.

5 And so next I would like to move on to the
6 exhibits. FTB submitted an exhibit index on
7 December 13th, 2023, which identified three exhibits.

8 Mr. Gandi, did you have any objections to
9 admitting those exhibits into evidence?

10 MR. GANDI: Judge, if you don't mind repeating
11 the nature of the exhibits. It is my understanding that I
12 don't have an objection. But if you don't mind repeating
13 the three exhibits, I would appreciate that.

14 JUDGE ALDRICH: No problem. So Exhibit A -- or
15 marked for identification as Exhibit A is the 2020
16 California resident income tax return, which is your
17 return for the 2020 tax year. B is the Notice of Tax
18 Return Change-Refund, and C is the 2021 instructions for
19 Form 540 or the tax return instructions.

20 MR. GANDI: And I have no objection on any of
21 those three exhibits being submitted.

22 JUDGE ALDRICH: Admitted, but noted. And so,
23 Mr. Gandi, I did receive four exhibits from you, which
24 were timely.

25 So similar question for FTB. Do you have any

1 objection to admitting the Appellant's Exhibits 1
2 through 4?

3 MR. GARCIA-ROSENBLUM: No objections. My only
4 question is I received a fifth exhibit from OTA. I just
5 wanted to clarify on that, that there are four exhibits
6 instead of five.

7 JUDGE ALDRICH: Okay. So, Mr. Gandi, could you
8 run through the exhibits that you're offering into
9 evidence?

10 MR. GANDI: Yeah. I had turned in four exhibits.
11 The FTB counsel may be correct that there was some
12 reference to a fifth exhibit because this had to do with
13 the fact that I had originally turned in one exhibit. But
14 then subsequent to when you told me I had to turn in the
15 exhibits to your office, I -- I went back and submitted
16 the four. So it's conceivable that there are a total of
17 five. But in all my construction for the purposes of this
18 meeting today, I have four exhibits.

19 JUDGE ALDRICH: Okay. And I do note that with
20 your briefing you submitted an attachment that looked like
21 correspondence --

22 MR. GANDI: Judge --

23 JUDGE ALDRICH: That seems to be resubmitted with
24 the Exhibits 1 through 4. You had something to say,
25 Mr. Gandi?

1 MR. GANDI: No. You just broke up there, and I
2 was going to state that. But I apologize for interrupting
3 you. But you're clear now.

4 JUDGE ALDRICH: Thank you.

5 Going back to FTB, any objections to admitting
6 Exhibits 1 through 4?

7 MR. GARCIA-ROSENBLUM: Hi. This is Noel
8 Garcia-Rosenblum. No objection.

9 JUDGE ALDRICH: All right. Thank you.

10 So both party's exhibits are admitted into
11 evidence.

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

14 (Department's Exhibits A-C were received in
15 evidence by the Administrative Law Judge.)

16 JUDGE ALDRICH: So we discussed during the
17 prehearing conference, but we planned for the hearing to
18 proceed as follows: Appellant will present an opening
19 presentation, including testimony, I believe, for 15
20 minutes. Next, FTB will present a combined opening and
21 closing statement for approximately 10 minutes. I have
22 allotted myself 5 to 10 minutes for questions. And,
23 finally, Appellant will have 5 to 10 minutes for closing
24 remarks or rebuttal. And as I mentioned during the
25 prehearing conference, the estimates are for calendaring

1 purposes. If you need additional time, please make the
2 request. Okay.

3 And, Mr. Gandhi, is it still the case that you
4 intend to provide testimony today?

5 MR. GANDI: Yes. It is, Judge Aldrich.

6 JUDGE ALDRICH: Okay. So at this time I'd like
7 to go ahead and swear you in. I can't see you, but if you
8 can raise your right hand and repeat after me or,
9 actually, respond to the question.

10

11

12 A. GANDI,
13 produced as a witness, and having been first duly sworn by
14 the Administrative Law Judge, was examined, and testified
15 as follows:

16

17 JUDGE ALDRICH: Okay. Thank you. And so before
18 we transition to those statements, Mr. Gandhi, do you have
19 any questions?

20

21

22

23

24

25

MR. GANDI: I do not.

JUDGE ALDRICH: And Mr. Garcia-Rosenblum?

MR. GARCIA-ROSENBLUM: No questions, Judge.

JUDGE ALDRICH: Okay. So we're ready to proceed
with your presentation, Mr. Gandhi. You're sworn in. You
can provide testimony in the narrative, so you don't have
to ask yourself questions. And we're ready to hear.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

13 My actions would hardly be classified as willful
14 neglect. And, although, I have the burden to prove
15 reasonable cause in my argument, the State may have the
16 burden to prove willful neglect in their argument. I
17 have -- number one, I have always paid my taxes due amount
18 on time as I have for the last 48 years that I have filed
19 returns in California. Not once in those 48 years have I
20 ever been delinquent, nor was I delinquent this time on my
21 payment. This was in my control.

22

23

24

25

1 turned them in two days late unbeknownst to me. I should
2 not be penalized for this, as I was not aware of the tax
3 preparer's actions. And I only got to know about this
4 complying with my wishes to submit my returns on time that
5 he had not complied when I got the penalties notice from
6 the FTB.

7 Number two, this was the first year in which I
8 was invoking a tax trader status for my active trading
9 activities. I relied on the services of a licensed tax
10 preparer who had completed my returns and was supposed to
11 file them with the state and the feds. I did not have
12 access to my returns to file them. My preparer had led me
13 to understand that he would and that he had filed my
14 returns on time. In fact, it seems that he filed them two
15 days after the filing deadline, which was unknown to me
16 until FTB levied a late filing fee of approximately
17 \$2,000. So it is not my fault that the tax preparer
18 turned in my returns after the time he had led me to
19 understand he was turning them in.

20 Number three, all of this transpired during a
21 very trying time for all concerned. This was during the
22 COVID pandemic. The tax preparer was not meeting his
23 clients in person. The time was so exceptional that the
24 Internal Revenue Service waived late filing fees in the
25 case of millions of tax preparers as reflected in the Wall

1 Street Journal article presented in evidence as Exhibit
2 Number 4.

3 Number four, I tried to regain the \$2,000,
4 approximately, from the tax preparer but to no avail. And
5 I presented this as Exhibit Evidence Number 2 in great
6 detail. I do have a question for the tax attorney, not
7 for him to be answering it right now, but what date has
8 the tax preparer signed as the date he completed my
9 returns? If they were done on October 15th or before, as
10 I was led to understand, then how I could possibly have
11 known that it was not done on time or, for that matter,
12 even be able to do anything about it.

13 Number six, Judge Aldrich, I sent a reasonable
14 cause letter to the FTB, which is present as evidence
15 Exhibit Number 5.

16 Number seven, Judge Aldrich, I followed the
17 protocol for my tax preparer having made a mistake. What
18 should you do if your tax preparer makes a mistake? Bring
19 the matter to your preparer's attention, which I did, and
20 has been validated in the evidence that I provided. And,
21 furthermore, get in touch with the reporting authorities
22 for professional misconduct on the part of the tax
23 preparer, which I did with the State of California,
24 contending that the tax preparer had turned in my returns
25 beyond the date I was supposed to have turned them in.

1 Number eight, on December 1st, 2021, my tax
2 preparer wrote to me, "One way or the other, I will get a
3 hold of them." He simply has not and stopped responding
4 to me as of December 1st, 2021. However, in the evidence
5 that I have turned in to you, my tax preparer got in touch
6 with the -- or tried to get in touch with the State of
7 California on multiple occasions, as he has provided to me
8 by email that I have turned in as my evidence. But these,
9 as I contended earlier, were difficult times for
10 everybody. The wait times with the State of California
11 were unheard of in terms of wait times for the call center
12 to receive calls from taxpayers.

13 So -- so my question -- so is not -- is it not
14 the State's responsibility to police and correct
15 malpractice on the part of a certified paid tax preparer?
16 And if not so, is it just that the state simply levies the
17 entire burden on the taxpayer invoking a willful neglect
18 provision against me? That seems incredulous to me.

19 Finally, I would say if you still feel that this
20 is not a reasonable cause and instead willful neglect,
21 then I would request you to mitigate the amount of the
22 penalty to the extent that you believe this was
23 contributory negligence on my part.

24 And finally in the interest of justice,
25 Judge Aldrich, given that this is the first time something

1 of this nature has transpired through no fault of mine, I
2 would request you, Judge Aldrich, to consider my track
3 record. I have already gone through a lot of mental
4 stress, anguish, fear as a result of this hearing. You
5 may even be picking up on some of that in my voice. You
6 may have even picked up on that when I responded to the
7 false claim by the attorney for the FTB that the amount
8 was \$8,000. I would love for it to be \$8,000 and for the
9 Franchise Tax Board to refund me \$8,000 instead of \$2,200,
10 approximately. Therefore, I pray that I be granted a
11 complete waiver of any penalty in the interest given that
12 this is the first time something of this nature has
13 happened or transpired through no fault of mine.

14 And -- and in a closing statement, I would just
15 like to say I thank everyone present over here for
16 respectfully allowing me to present my case that this was
17 not willful neglect on my part and that I have probable
18 cause to have the late filing fee waived and the amount
19 credited to me along with any interest owed to me.

20 Thank you, all.

21 JUDGE ALDRICH: Thank you, Mr. Gandi. At this
22 time I'm going to ask FTB if they have any questions for
23 you since you provided testimony.

24 MR. GARCIA-ROSENBLUM: This is Noel
25 Garcia-Rosenblum. No questions, Judge.

1 JUDGE ALDRICH: Okay. I did have a few questions
2 for you, Mr. Gandi. In the briefing I noted that you paid
3 tax. When did you pay tax relative to the deadline.

4 MR. GANDI: To my knowledge, Judge -- and that's
5 a very good point you bring up. I paid it electronically,
6 and I provided that in evidence, on October 15th, which
7 was prior to the deadline. In other words, the deadline
8 for -- I have to file because of the number of K-1s I get
9 on my returns. I have to always ask for an extension, and
10 it goes down to the wire. But I had met that wire
11 obligation, which is my payment was done prior to the 15th
12 of October. Let me rephrase that. On October 15th
13 itself.

14 JUDGE ALDRICH: Okay. And how did you know the
15 amount to pay?

16 MR. GANDI: I'm sorry. I didn't understand your
17 question.

18 JUDGE ALDRICH: Sure. So you made a payment to
19 FTB electronically on October 15th, 2021; right?

20 MR. GANDI: Yes.

21 JUDGE ALDRICH: And how did you know how much to
22 pay?

23 MR. GANDI: Oh, that's a great question, and I
24 provided that in my evidence also. I intentionally
25 overpaid. In other words, the tax preparer had provided

1 me with an estimate. I forget what the amount was. But I
2 don't want to speculate and make up the amount. But I
3 paid something, like, either \$8,000 or \$11,000. I
4 intentionally overpaid so that if there was miscalculation
5 on his part, then the FTB would have that extra amount.
6 And if after FTB would do its calculations, it would
7 return the amount to me regardless. So I was not averse
8 to overpaying, and I did overpay.

9 JUDGE ALDRICH: Okay. And you indicated that he
10 had provided you an estimate, he being the tax preparer?

11 MR. GANDI: Yes.

12 JUDGE ALDRICH: When was that?

13 MR. GANDI: Literally on the last day, like,
14 hours before because he could not access a particular K-1
15 for me. It was -- it was a very bad experience with this
16 tax preparer. It was the second year I used him. I was
17 very nervous about all of this transpiring. So literally,
18 I have a clear memory. I was in a remote work situation,
19 and we were going back and forth down to the wire. So it
20 was the day of the 15th of October that he gave me the
21 information. Like in noontime and later on that day I
22 turned in the larger amount.

23 JUDGE ALDRICH: Okay. Thank you.

24 At this time I'd like to go back to FTB and have
25 them present their combined opening and closing

1 preparation.

2 Are you prepared for that, Mr. Garcia-Rosenblum?

3 MR. GARCIA-ROSENBLUM: Yes, I am.

4 JUDGE ALDRICH: Thank you. Go ahead and when
5 you're ready.

6 MR. GARCIA-ROSENBLUM: Thank you.

7

8 PRESENTATION

9 MR. GARCIA-ROSENBLUM: Good morning. My name is
10 Noel Garcia-Rosenblum, and I, along with my co-counsel
11 Topher Tuttle, represent Respondent Franchise Tax Board in
12 this matter.

13 The sole issue currently on appeal is whether the
14 Appellant has established a basis to abate the delinquent
15 filing penalty imposed during the 2020 taxable year.
16 Respondent received Appellant's 2020 California tax return
17 on October 27th, 2021, reporting a total tax liability of
18 \$8,212, a self-imposed estimated tax penalty of \$40, and a
19 single payment of \$11,000, which was received on
20 October 15th, 2021. Respondent accepted the return, and
21 because the return was received after the extended filing
22 deadline, imposed a late filing penalty in the amount of
23 \$2,053.

24 Respondent reduced Appellant's reported
25 overpayment by the late filing penalty, which resulted in

1 revised refund of \$566.81, which was subsequently issued
2 to the Appellant. In response, Appellant filed a claim
3 for refund requesting that the late filing penalty be
4 abated due to reasonable cause because he relied on his
5 accountant to file his tax return timely, and he did not
6 have access to his financial records.

7 Specifically, the Appellant contends that the
8 untimely filing was out of his control, and because he
9 gave his tax preparer his original records, he was not
10 able to file his return on his own behalf. Respondent
11 denied the Appellant's claim because the information
12 provided did not constitute reasonable cause, and the
13 Appellant timely appealed Respondent's denial.

14 California law requires Respondent to impose a
15 delinquent filing penalty when a taxpayer does not file
16 his or her own return on or before the respective due
17 date. In response to the COVID-19 pandemic, Appellant's
18 2020 tax return was due on May 17th, 2021, with an
19 automatic extension of October 15th, 2021. Respondent
20 received Appellant's tax return on October 27th, 2021, two
21 weeks after the extended filing deadline. Therefore, the
22 imposition of the late filing penalty was proper.

23 Appellant does not dispute that his tax return
24 was filed after the extended deadline but instead,
25 contends that the penalty should be abated for reasonable

1 cause because he relied on his accountant to file his
2 return timely, but his accountant failed to do so. In
3 order to show reasonable cause, the taxpayer must show the
4 failure to file a timely return occurred despite the
5 exercise of ordinary business care and prudence. Each
6 taxpayer has a nondelegable duty to file their return by
7 its respective due date.

8 A taxpayer's reliance on an agent, such as an
9 accountant, to file a timely return is not reasonable
10 cause. In *United States v. Boyle*, the Supreme Court held
11 that reliance cannot be a substitute for compliance with
12 an unambiguous statute as it requires no special training
13 or effort to ascertain a deadline and make sure it is met.
14 Additionally, the fact that tax information is unavailable
15 or difficult to obtain is insufficient to establish
16 reasonable cause. Therefore, the Appellant has failed to
17 establish reasonable cause, and the imposed late filing
18 penalty should be sustained.

19 I'm happy to answer any questions you may have.
20 Thank you.

21 JUDGE ALDRICH: Thank you. This is
22 Judge Aldrich. So you indicated that during your
23 presentation that the return was filed approximately two
24 weeks late; is that correct?

25 MR. GARCIA-ROSENBLUM: Yes, that's correct. On

1 Exhibit A, the top-left corner, there's an FLDT
2 indication. That's for the filing date.

3 JUDGE ALDRICH: So the October 27th, 2021?

4 MR. GARCIA-ROSENBLUM: Yes, that's correct.

5 JUDGE ALDRICH: Okay. All right.

6 Mr. Gandi, would you like to take a few minutes
7 to provide a rebuttal or a closing statement?

8 MR. GANDI: I'm not in a position to question the
9 FTB attorney; is that correct, Judge?

10 JUDGE ALDRICH: Right. That's correct.

11

12 CLOSING STATEMENT

13 MR. GANDI: Okay. Well, as part of my closing
14 statement, I would like to state, Judge, that this is the
15 first time it's come to my knowledge that the return was
16 filed two weeks after and not two days. It was my
17 understanding that it was filed on the 17th of October
18 versus the 27th of October. And maybe -- and maybe I'm
19 incorrect in that, but that incorrectness would have been
20 caused by what my taxpayer relayed to me, that he was only
21 delayed by two days, not the fact that he was delayed by
22 two weeks.

23 So as far as rebuttal is concerned, the attorney
24 from FTB cited Supreme Court decisions, et cetera, and I'm
25 doing this in my lay way, and -- and it is their

1 contention that that does not establish reasonable cause.
2 But it is my contention by way of the rebuttal that number
3 one, we had extenuating circumstances. If you didn't have
4 reasonable cause, then the IRS is not a charitable
5 organization that decides to refund millions of taxpayers'
6 penalties, coincidentally, including mine. If the IRS had
7 imposed a tax penalty on me, it would have been to the
8 tune of about \$8,000 is my understanding, but they never
9 did.

10 So, obviously, somebody was using reasonable
11 cause to establish that -- that there were extenuating
12 circumstances. And even if reasonable cause is not
13 established, the other part of the law, in my simplistic
14 lay understanding, is willful neglect. Where has there
15 been proof of willful neglect on the part of the tax -- on
16 the part of the FTB attorney proving willful neglect on my
17 part?

18 And finally, Judge, when I was doing my original
19 presentation, I had requested for you to be able to ask
20 the question of the FTB attorney, if you deem it
21 appropriate, as to when the tax returns are signed by the
22 tax preparer. I appreciate that they were turned in on
23 the 27th, but does the tax preparer, is he required to
24 have a signature? And was that signature date the 15th of
25 October? Because even I don't know what that date was.

1 And I'm done with my rebuttal.

2 JUDGE ALDRICH: Thank you, Mr. Gandi.

3 FTB, do you have a response to the question posed
4 by Mr. Gandi? Is there some other date other than the
5 October 27th, 2021, that would indicate when, if at all,
6 the tax preparer had signed the return?

7 MR. GARCIA-ROSENBLUM: No. There's nothing in
8 the record indicating that the tax return was filed any
9 day earlier than October 27th. And Respondent notes that
10 even if it was signed before the filing date, that's
11 irrelevant to the filing date. It's the date that the tax
12 return is filed with FTB, not the date that it is signed.

13 JUDGE ALDRICH: Thank you.

14 And I wanted to clarify, Mr. Gandi, if you do
15 have additional questions, you can direct them to me, and
16 I can decide whether or not to proceed with them. Okay.

17 MR. GANDI: Makes sense.

18 JUDGE ALDRICH: All right. Is there anything
19 else, Mr. Gandi, before we conclude?

20 MR. GANDI: I appreciate -- I'm still directing
21 the same question, Judge, because I don't know if -- if I
22 got a straight answer. I appreciate the fact that the
23 filing has occurred on the 27th, but in the FTB records do
24 they show a date that the tax preparer had signed the
25 return? That would be a simple yes or no answer. And if

1 there is a date shown, what is that date?

2 JUDGE ALDRICH: I believe the
3 Mr. Garcia-Rosenblum answered that and that the only date
4 that they had indicated was the filing date.

5 Is that correct, Mr. Garcia-Rosenblum?

6 MR. GARCIA-ROSENBLUM: Yes, that's correct.

7 JUDGE ALDRICH: Okay. So to answer the question,
8 it appears from the evidence in the record that there's no
9 signature date available.

10 MR. GANDI: Okay.

11 JUDGE ALDRICH: Okay.

12 MR. GANDI: Okay.

13 JUDGE ALDRICH: And so at this time anything else
14 before we conclude, Mr. Gandi?

15 MR. GANDI: No, Judge. Nothing comes to my mind.

16 JUDGE ALDRICH: Okay. All right. So I want to
17 thank everyone for your time. We're ready to conclude the
18 hearing, and the record is now closed.

19 I will decide the appeal based off of the
20 evidence and the arguments presented. I will send both
21 parties our written decision no later than 100 days from
22 today.

23 And while this hearing has concluded, there's
24 another hearing today on the afternoon calendar, which
25 will begin at approximately 1:00 p.m.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Please cut the live stream and have a great day.
(Proceedings adjourned at 10:46 a.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 16th day
of February, 2024.

ERNALYN M. ALONZO
HEARING REPORTER