

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
E. HONARCHIAN,) OTA NO. 221212081
)
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 APPELLANT.)
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TRANSCRIPT OF PROCEEDINGS

Fresno, California

Wednesday, April 17, 2024

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Proceedings, taken
at 855 M Street, Suite 960, Fresno, California,
90703, commencing at 11:00 a.m. and concluding
at 11:37 a.m. on Wednesday, April 17, 2024,
reported by Ernalyn M. Alonzo, Hearing Reporter,
in and for the State of California.

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APPEARANCES:

Panel Lead: ALJ JOSHUA ALDRICH

Panel Members: ALJ TERESA STANLEY
ALJ JOSHUA LAMBERT

For the Appellant: E. HONARCHIAN

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

(Department's Exhibits A-D were received into evidence at page 11.)

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Fresno, California; Wednesday, April 17, 2024

11:00 a.m.

JUDGE ALDRICH: This is Judge Aldrich.

We're opening the record in the Appeal of E. Honarchian, doing business as Eddie's Auto World, before the Office of Tax Appeals, OTA Case Number 2212120081. Today's date is Wednesday, April 17th, 2024, and the time is approximately 11:00 a.m. This hearing is being conducted in Fresno, California, and is also being live streamed on the OTA's YouTube channel.

The hearing is being heard by a panel of three Administrative Law Judges. My name is Josh Aldrich. I'm the lead judge for purposes of conducting the hearing. I'm joined by Judges Teresa Stanley and Josh Lambert. Excuse me. During the hearing, Panel Members may ask questions or otherwise participate to ensure that we have all the information needed to decide the appeal. And after the conclusion of the hearing, we three will deliberate and decide the issues presented.

As a reminder, the Office of Tax Appeals is not a court. It is an independent appeals body. The Panel does not engage in ex parte communication with either party. Our opinion will be based off the parties' arguments, the admitted evidence, and the relevant law. And we have read

1 the parties' submissions, and we look forward to hearing
2 your arguments today.

3 Who is present for Appellant?

4 MR. HONARCHIAN: Eddie Honarchian.

5 JUDGE ALDRICH: Thank you.

6 And who is present for the California Department
7 of Tax and Fee Administration, which I may refer to as the
8 CDTFA?

9 MR. SHARMA: Ravinder Sharma, Hearing
10 Representative; Mr. Jason Parker, Chief of Headquarters
11 Operations Bureau; and Mr. Christopher Brooks, Tax
12 Counsel.

13 JUDGE ALDRICH: Thank you, Mr. Sharma.

14 The March 30th, 2024, minutes and orders, as
15 distributed to the parties, listed four issues. In the
16 interest of time, I will not be restating the issues.
17 However, I wanted to ask both parties whether the issues
18 summarized on the minutes and orders are correctly
19 summarized.

20 I'll begin with Mr. Honarchian.

21 MR. HONARCHIAN: Yes.

22 JUDGE ALDRICH: And Mr. Sharma?

23 MR. SHARMA: That's correct. Thank you.

24 JUDGE ALDRICH: Thank you.

25 Moving on to exhibits, CDTFA's exhibits are

1 identified alphabetically as Exhibits A through D. A
2 through D were timely submitted during briefing on
3 April 3rd, 2023.

4 And for Appellant, I haven't received an exhibit
5 index or any exhibits; is that correct?

6 MR. HONARCHIAN: Yes, that's correct.

7 JUDGE ALDRICH: Okay. And are you -- do you have
8 any that you're asking to submit untimely?

9 MR. HONARCHIAN: Well, in our hearing we had a
10 continuance, and I was supposed to ask for an additional
11 continuance because the first appeal is not completed yet.
12 So we need -- I wanted to ask if we could keep the records
13 open until the first appeal is complete. And then I
14 haven't started. I'm not prepared for this appeal yet. I
15 haven't completed the first appeal yet. So I have three
16 appeals pending right now, and the first one is not -- I
17 mean, it's not even completed yet. And now I'm doing the
18 second one, and I haven't even started on the second one
19 yet.

20 JUDGE ALDRICH: So with respect to the first
21 appeal that you're referencing, would that be -- one
22 moment -- for the audit period between April 1st, 2012,
23 through March 31st, 2015?

24 MR. HONARCHIAN: Correct.

25 JUDGE ALDRICH: So my understanding is that that

1 opinion was issued in November of 2023. And then you
2 filed a petition for rehearing, and that the petition for
3 rehearing -- the opinion on the petition for a rehearing
4 was already issued relatively recently, but --

5 MR. HONARCHIAN: Yes.

6 JUDGE ALDRICH: So, in essence, it has concluded.

7 MR. HONARCHIAN: Well, it's not completely final
8 yet as -- as of -- I just received a -- a notice that it
9 was denied, but there's still 30 days to finalize. So
10 it's still not final, and then I -- once that's completed,
11 I wanted to start working on this appeal because we're not
12 able to consolidate them all together. I need to do them
13 one by one. And --

14 JUDGE ALDRICH: Okay. So if I were to leave the
15 record open, what would you be submitting? Something in
16 the nature of a brief? Something in the nature of
17 evidence? What are you hoping to get into the record?

18 MR. HONARCHIAN: Well, the first audit we had
19 several VIN numbers that were not sold by my business.
20 And so I need to go over all the second audit's VIN
21 numbers and make sure that they were sold at my business
22 and go through them; and then if there's anything wrong,
23 to submit those.

24 JUDGE ALDRICH: Okay. So did you receive a copy
25 of the minutes and orders that we issued in this appeal

1 back in September of 2023?

2 MR. HONARCHIAN: I -- I did, yes. I did receive
3 it, and it did -- it did state there was a 120-day
4 continuance for the oral hearing. And if I needed more
5 time, I was supposed to ask for it. And I -- I mean, I
6 received it, but I -- I just didn't read a continuance
7 because I -- when we had the oral hearing on the -- on the
8 Webex, I was under the assumption that I had until -- I
9 don't know why I assumed -- but I had -- I had until
10 October of 2024 on this, but I didn't read that it was
11 only 120 days. So --

12 JUDGE ALDRICH: Okay. So back to the records
13 that you are hoping to introduce into the record. Are
14 these things that, like, weren't in your possession
15 previously, or have you had them for the entire time?

16 MR. HONARCHIAN: Well, I -- I have three audits
17 right now, and I'm really confused with all three of them.
18 So -- and I've moved about four times since 2012, or maybe
19 five times. And so a lot of this stuff is mixed up. And
20 so I -- I believe I have, or I can get the second
21 audit's --

22 JUDGE ALDRICH: I guess --

23 MR. HONARCHIAN: -- VIN numbers.

24 JUDGE ALDRICH: -- maybe we're not understanding
25 each other. Is there something new that you didn't have

1 previously that -- something you recently discovered or
2 acquired?

3 MR. HONARCHIAN: Well, that's the thing. I
4 haven't started working on the second audit yet.

5 JUDGE ALDRICH: Okay.

6 MR. HONARCHIAN: So I haven't discovered anything
7 as of now. I have not yet discovered anything wrong, but
8 I -- I mean, I don't think it's correct, but I don't -- I
9 can't say it's wrong because I haven't really started
10 working on Audit 2 yet 'cause I'm not done with Audit 1.
11 And I still got to do -- and now Audit 3 is here. So I've
12 got to figure out, you know, what I got to do.

13 JUDGE ALDRICH: Okay. So I think we will proceed
14 today, and I may ask -- I may decide whether or not to
15 leave the record open later on in the hearing. But with
16 respect to exhibits, I'm going to -- well, do you have any
17 objection to admitting Exhibits A through D into evidence,
18 so the exhibits that CDTFA submitted?

19 MR. HONARCHIAN: I don't have any objections.
20 No.

21 JUDGE ALDRICH: Okay.

22 THE STENOGRAPHER: I'm sorry. What did you say?

23 MR. HONARCHIAN: I don't have any objection.

24 THE STENOGRAPHER: Thank you.

25 JUDGE ALDRICH: Sorry. There's some construction

1 going on in a nearby office, so I apologize for the noise.

2 Okay. All right. So we plan for the hearing to
3 proceed.

4 Oh, sorry. Back to the exhibits. I'm going to
5 go ahead and admit Exhibits A through D into evidence, if
6 I didn't catch that before.

7 (Department's Exhibits A-D were received in
8 evidence by the Administrative Law Judge.)

9 So we plan for the hearing to proceed as follows:
10 You'll have 30 minutes to present your opening.

11 I didn't get any response on whether or not there
12 would be witness testimony. Do you plan to testify today,
13 or is it just going to be argument?

14 MR. HONARCHIAN: Basically, yeah, I don't really
15 have much to say other than if I may get a continuance
16 or -- or a -- or if we could just keep the records open.

17 JUDGE ALDRICH: Okay.

18 MR. HONARCHIAN: The record open to --

19 JUDGE ALDRICH: We'll get there, but like in your
20 presentation, do you plan to provide testimony under oath,
21 or do you plan to just make an argument?

22 MR. HONARCHIAN: Probably just an argument.

23 JUDGE ALDRICH: Okay. Thank you.

24 And for the Department, I allotted 30 minutes for
25 their presentation as well. And then I allotted 5 to

1 10 minutes for questions from the Panel members, and then
2 5 minutes for a rebuttal from Appellant. So these are
3 estimates for calendaring purposes. If you need more
4 time, ask for it. If you need less time, you can waive
5 it. No problem there.

6 And any questions before we get started with the
7 presentations, Mr. Honarchian?

8 MR. HONARCHIAN: No.

9 JUDGE ALDRICH: No.

10 Mr. Sharma?

11 MR. SHARMA: No question. Thank you.

12 JUDGE ALDRICH: Okay. So we're ready to proceed
13 with your argument, Mr. Honarchian.

14

15 PRESENTATION

16 MR. HONARCHIAN: Well, I don't know if I've
17 received -- I may have, but I have to go through my
18 records to see what I've received on Audit No. 2, if I've
19 received all the VIN numbers, which I'm sure will be in
20 the exhibits. So if I don't have them, I could get them
21 and go through the exhibits and see if there's anything I
22 can argue about.

23 JUDGE ALDRICH: Okay.

24 MR. HONARCHIAN: But, at this time, I really, you
25 know, don't -- don't have an argument yet --

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JUDGE ALDRICH: Okay.

MR. HONARCHIAN: -- until they speak. I mean, until they say something I might be able to argue on.

JUDGE ALDRICH: Would you like to reserve your time until after CDTFA has presented?

MR. HONARCHIAN: Yes. Yes, please.

JUDGE ALDRICH: Okay. That's fine. And just to confirm, you did receive a copy of the minutes and orders that I most recently issued, March 20th, 2024?

MR. HONARCHIAN: Yes, I have it right here in front of me.

JUDGE ALDRICH: Okay. And attached to those minutes and orders was a hyperlink which contained all of the exhibits that CDTFA submitted back in April of 2023, I believe.

MR. HONARCHIAN: That, I did not receive.

JUDGE ALDRICH: It's attached to the minutes and orders.

MR. HONARCHIAN: I have the minutes and orders here. I -- it didn't. It was not attached to it.

JUDGE ALDRICH: CDTFA, did you receive a copy of the minutes and orders for March?

MR. SHARMA: Yes, we did, and there's a hyperlink attached to that. And when you click on the hyperlink, all the working papers are there, Exhibit A through D.

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JUDGE ALDRICH: Okay.

MR. SHARMA: Thank you.

JUDGE ALDRICH: In the working papers, are there references to VINs?

MR. SHARMA: That is correct. Each and every vehicle has a VIN number listed on the schedule.

JUDGE ALDRICH: Okay. Thank you. So pursuant to Mr. Honarchian's request, CDTFA, if you'd like to present your opening and closing.

MR. SHARMA: Yes.

JUDGE ALDRICH: Please go ahead.

MR. SHARMA: Okay. Thank you.

PRESENTATION

MR. SHARMA: Appellant, operated a car dealership in Fresno, California, since June 2009. Appellant had previously been audited. The Department performed an audit examination for the period of January 1, 2016, through December 31st, 2018. Appellant reported total sales of approximately \$4.6 million, claimed deductions of little more than \$78,000, resulting in reported taxable sales of \$4.5 million for the audit period. Appellant also reported ex-tax purchases subject to use tax for a little more than \$4,000 for the audit period; Exhibit A, pages 7 through 8.

1 Appellant did not provide any books and records
2 except six dealer jackets for the audit period.

3 THE STENOGRAPHER: I'm sorry. Is that --

4 MR. SHARMA: Six. Six, number six. Five then
5 six. I know this is -- I'm trying to do my best to --
6 with that noise.

7 Due to lack of books and records, the Department
8 could not verify the reporting method and the accuracy of
9 reported amounts. To verify the accuracy of reported
10 amounts, the Department obtained federal income tax
11 returns and Department of Motor Vehicle data from its own
12 resources. The Department compared reported total sales
13 for sales and use tax returns and reported gross receipts
14 for federal income tax returns to determine unreported
15 taxable sales of around \$271,000 for 2017; Exhibit A,
16 page 34.

17 The Department used the estimated sale price for
18 each vehicle from DMV data and other available information
19 to calculate audited taxable sales of around \$7.5 million
20 for the audit period. Appellant reported taxable sales of
21 \$4.5 million, resulting in a difference of \$3 million for
22 the audit period. Then the Department subtracted
23 unreported taxable sales of \$271,000 for 2017 as
24 determined, based on federal income tax returns analysis,
25 to calculate unreported taxable sales of around

1 \$2.8 million for the audit period; Exhibit A, pages 14 and
2 23 through 31.

3 The Department used available books and records
4 to determine unreported taxable measures of around \$29,000
5 subject to use tax for the audit period; Exhibit A, pages
6 17 through 19. Appellant claimed returned merchandise of
7 little more than \$60,000 for the audit period. Despite
8 various requests, Appellant failed to provide any
9 documents to support the claimed returned merchandise.
10 Due to lack of supporting documents, the Department
11 disallowed claimed returned merchandise of \$60,000 for the
12 audit period; Exhibit A, page 16. Based on the stated
13 audit procedures, the Department determined unreported
14 taxable measure of around \$3.2 million for the audit
15 period; Exhibit A, page 11.

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

1 warranted. Unsupported assertions are not sufficient to
2 satisfy a taxpayer's burden of proof.

3 The Department used DMV data, federal income tax
4 return data, and other best information -- other best
5 available information to determine the audit liability.
6 Doing so produced a reasonable and rational determination.
7 The Department assessed a 10 percent negligence penalty
8 for the audit period. Negligence penalty is appropriate
9 for several reasons. Unreported taxable measure is
10 70 percent of the reported taxable sales, which is due to
11 negligence in maintaining necessary books and records as
12 required and mandated by Revenue & Taxation Code 7053 and
13 7054 and Regulation 1698.

14 This is Appellant's second audit with similar
15 errors. Appellant's vehicle sales reported to the DMV
16 substantially exceeded reported taxable sales to the
17 Department. Significant high percentage of understatement
18 demonstrates that Appellant was negligent in reporting the
19 correct amount of sales tax to the Department. The
20 understatement cannot be attributed to a bona fide and
21 reasonable belief that the bookkeeping and reporting
22 practices were sufficiently complied with the requirements
23 of sales and use tax law. Therefore, Appellant was
24 negligent, and the penalty should be upheld.

25 During its opening statement, Appellant claimed

1 that he did not receive the audit working papers. Based
2 on the Department's records, those working papers were
3 provided to him as early as in 2019 and various times
4 after that, including the submission through the OTA's
5 office.

6 Based on the foregoing, the Department has fully
7 explained the basis for the deficiency. Further, the
8 Department used approved audit methods to determine the
9 deficiency. Therefore, based on the evidence presented,
10 the Department requests that the Appellant's appeal be
11 denied.

12 This concludes my presentation, and I'm available
13 to answer any question you may have. Thank you.

14 JUDGE ALDRICH: Thank you.

15 Okay. So, Mr. Honarchian, with respect to the
16 continuance request, I'm going to deny that. I understand
17 that you have had a different audit period before OTA.
18 However, the first minutes and orders that we issued -- or
19 OTA issued back in September of 2023 did designate a
20 timeframe to request a continuance, and you didn't request
21 a continuance. You didn't show up for the prehearing
22 conference. And then when I included language in the most
23 recent minutes and orders that indicated, you know,
24 whether or not confirm the hearing, you confirmed that you
25 wanted to proceed with the hearing. So those are various

1 opportunities to request continuance in there, but you
2 didn't avail yourself of them.

3 And with respect to holding the record open,
4 CDTEFA, do you have any objections to Appellant's request?

5 MR. SHARMA: Department has no objection, but
6 based on the information, Appellant had sufficient time.
7 But if the OTA decides to allow this, we would request
8 some time to review those information in case.

9 JUDGE ALDRICH: Okay. All right. I guess before
10 we determine whether or not to give you an opportunity to
11 submit additional documentation, I did have some questions
12 for you.

13 MR. HONARCHIAN: Yes.

14 JUDGE ALDRICH: But before then, did you want to
15 add anything to your opening presentation or respond to
16 CDTEFA?

17

18 CLOSING STATEMENT

19 MR. HONARCHIAN: Basically, the only thing is
20 I've been in business since 2021 -- I mean, I'm sorry --
21 2001, August of 2001. And I've been in the car lot
22 business since 2009, and I have all the records. I've
23 never thrown anything away. I have all the records.
24 They -- they fail to come even look at the records. They
25 only wanted to come see two -- I mean, six -- six jackets

1 with invoice and contracts. That's all they -- actually,
2 they asked to see seven, and they kicked one out. So they
3 only -- they only looked at six, really, six of them. And
4 one of them was -- the VIN number wasn't correct or it
5 wasn't a unit I sold, so they kicked that one out, and
6 they only looked at six. So, I mean, I still have all my
7 records, but they don't -- they refuse to come look at all
8 my records.

9 JUDGE ALDRICH: Okay. So you say you have all of
10 these records?

11 MR. HONARCHIAN: Yes.

12 JUDGE ALDRICH: Why didn't you submit any of
13 these records during the briefing? So you filed a request
14 for appeal, and then there was a briefing period; correct?

15 MR. HONARCHIAN: On this appeal?

16 JUDGE ALDRICH: On this appeal.

17 MR. HONARCHIAN: Well, I -- I haven't even looked
18 at the VIN numbers for this appeal yet on which vehicles
19 they are saying that I reported to DMV that I sold them
20 for so much, and I owe so much in taxes, and I reported to
21 them a wrong number than I reported to DMV. If I'm going
22 to report to them a wrong number, I'm going to report to
23 DMV a wrong number. It's not like I'm going to report to
24 DMV that I -- that I sold the car for \$10,000 and report
25 to them that I sold the car for \$1,000.

1 JUDGE ALDRICH: Okay.

2 MR. HONARCHIAN: You know, I mean, if I'm going
3 to report to them that I sold the car for \$1,000, I can
4 report to DMV that I sold the car for \$1,000 also, right?

5 JUDGE ALDRICH: So I guess I'm wondering, you
6 filed a request for appeal in December of 2022, and then
7 you're saying that you haven't even looked at the VIN
8 numbers. And we're at the hearing for that request for
9 appeal. It just --

10 MR. HONARCHIAN: Well, I have 30 days to request
11 for an appeal. They, like, give you only 30 days. So
12 I -- the reason I -- I did the appeal is to -- to prevent
13 from what they do after 30 days. So but my main -- my
14 main objection here is just to have the number -- the
15 first appeal finished, completed, which is almost there.
16 And then, you know, get a payment plan on that one -- or
17 whatever I have to do for whatever they're saying I owe --
18 and then start on the second one and, again, get another
19 payment plan going on this one. And -- and then I still
20 have the third one that's ongoing right now.

21 JUDGE ALDRICH: Okay. So just some substantive
22 questions. So in the request for appeal, you indicated
23 that you believe you owe \$56,987.21 in sales tax. Could
24 you explain how you arrived at that?

25 MR. HONARCHIAN: That's what --

1 JUDGE STANLEY: I'm sorry to interrupt. I was
2 just asking that if you're going to testify to certain
3 facts, that maybe we should have you sworn in under oath.

4 MR. HONARCHIAN: Well, I -- I --

5 JUDGE ALDRICH: Did you want to provide
6 testimony? You understand that, like, testimony can be
7 considered evidence, whereas argument is not. Argument,
8 you're going to be relying on facts in evidence.

9 MR. HONARCHIAN: Well, I -- I was just hoping, if
10 I may, just to keep it open and -- and have more time to
11 work on this second appeal.

12 JUDGE ALDRICH: So are you declining to provide
13 testimony? You can. That's fine.

14 MR. HONARCHIAN: At this point, I don't have
15 anything ready, so yes.

16 JUDGE ALDRICH: Okay. That's fine. So going
17 back to that request for appeal, you indicated that you I
18 believed you owed \$56,987.21 in sales tax. Where did that
19 come from? How did you arrive there?

20 MR. HONARCHIAN: Well, I went over the sales tax
21 that I provided to OTA -- I mean, the CDTFA, and that's --
22 that's what I reported. So that's what I believe I owe.

23 JUDGE ALDRICH: So you're saying that you think
24 that you reported it correctly, and no more than what you
25 reported?

1 MR. HONARCHIAN: Well, there was -- there was a
2 time where -- where vehicles weren't funded in the same
3 month that we did the -- that we did the -- when we sold
4 the vehicle, it wasn't reported like -- let me think. It
5 wasn't reported to them that we sold the vehicle, and it
6 was reported on a later date. So sometimes that later
7 date wasn't -- wasn't concluded into that. So there is
8 some money that I do owe, so on top of that. So that --
9 but that's what I figured I owed was about \$56,000 on top
10 of what I've already paid.

11 JUDGE ALDRICH: Okay. Judge Stanley, did you
12 have any questions for either party?

13 JUDGE STANLEY: I was just wondering if somebody,
14 Mr. Honarchian or Mr. Sharma, if you could tell me -- give
15 me an idea of how the DMV gets their data. Is that
16 reported by your company?

17 MR. HONARCHIAN: Yes.

18 JUDGE STANLEY: Okay. That was my only question.
19 Thank you.

20 JUDGE ALDRICH: Judge Lambert?

21 JUDGE LAMBERT: I have no questions. Thanks.

22 JUDGE ALDRICH: Just one second. Okay.

23 So with respect to the request to leave the
24 record open, we're going to deny that request as well,
25 similar to the reason for the continuance. You had a lot

1 of opportunities to provide documentation to OTA. You
2 didn't. So there was a briefing period. There was the
3 response to the prehearing conference statement request
4 and together with the Notices of Prehearing Conference,
5 the Notice of Hearing, and there were at least two of
6 those. And, similarly, with the first minutes and orders,
7 I indicated there that I had requested you identify each
8 particular VIN that you disputed. I didn't get a response
9 to that request. And so with respect to the request to
10 leave the record open, that's denied.

11 MR. HONARCHIAN: I could show you the email that
12 I did receive. I only received by email. I didn't
13 receive anything by mail from you. I mean, actually, it
14 was from Nia that -- that submitted an email to me that
15 all it was was a minute order. It wasn't -- there was no
16 link to open that showed everything else.

17 JUDGE ALDRICH: So you're asking to submit a copy
18 of an email showing that you didn't receive --

19 MR. HONARCHIAN: Yes.

20 JUDGE ALDRICH: You didn't receive what?

21 MR. HONARCHIAN: The link you're talking about.

22 JUDGE ALDRICH: Okay. But as Mr. Sharma
23 indicated, the audit work papers were provided at the end
24 of --

25 Could you tell me when the audit work papers were

1 provided, according to the exhibits?

2 MR. SHARMA: Just give us one second. I can find
3 the exact date based on the comments.

4 JUDGE ALDRICH: Okay.

5 MR. PARKER: Yeah. August 7th, 2019. It's in --
6 it's page 67 in our exhibits.

7 JUDGE ALDRICH: Thank you.

8 In addition to that, CDTFA submitted it on
9 April 3rd, 2023. And then, once again, you know, we did
10 provide them in the hyperlink. But you also didn't
11 indicate that you weren't able to access them prior to the
12 oral hearing.

13 MR. HONARCHIAN: Yeah, but if the CDTFA is not
14 objecting to continuing it -- or not continuing -- but
15 keeping the records open until I get everything done,
16 why -- why -- may we just keep it open until we -- I mean,
17 'cause if we don't keep it open, basically, it takes me
18 out of business. But, you know, I just need time to get
19 everything to get situated for Audit 2.

20 JUDGE ALDRICH: I appreciate that, but you were
21 provided multiple deadlines. You didn't avail yourself of
22 those deadlines, so I'm going to deny that request.

23 MR. HONARCHIAN: All right, sir.

24 JUDGE ALDRICH: Would you like to add anything
25 before we conclude the hearing?

1 MR. HONARCHIAN: I'm just not ready for this
2 audit. I'm not ready for Audit 2 yet. There's nothing I
3 could add. I haven't started working on it because I
4 haven't finished Audit 1 yet.

5 JUDGE ALDRICH: Right. And the first minutes and
6 orders addressed whether or not to consolidate. That
7 consolidation request was denied. The continuance was
8 granted for 120 days with the option to inform us of
9 additional request. You didn't inform us of additional
10 request to continue.

11 MR. HONARCHIAN: Yeah. For some reason I assumed
12 it was until October. I should have read it correctly.
13 It's -- yeah. I mean, there's no excuses. It's my fault.

14 JUDGE ALDRICH: Is there anything you'd like to
15 add to your argument?

16 MR. HONARCHIAN: Well, if -- if they would just
17 come and look at the records instead of just looking at
18 only six. They denied. They tell me they're not my
19 accountant. I have to prove that they're wrong. So they
20 would just -- if -- if -- if you could just order for them
21 to come look at my records instead of just look at only
22 six.

23 JUDGE ALDRICH: So the opportunity to have them
24 review the records was during the audit stage.

25 MR. HONARCHIAN: I've asked them several times.

1 JUDGE ALDRICH: And then also, you had the
2 separate opportunity to submit them to OTA, which would
3 have -- they would have also had an opportunity to review
4 the records then. No records were submitted, and so it's
5 been going on. The audit concluded in 2019. The request
6 for appeal was filed in December of 2022. We didn't
7 receive any records from you.

8 MR. HONARCHIAN: Yes.

9 JUDGE ALDRICH: Is there anything that you could
10 point to as to, like, sales that they're saying that were
11 sold by your business that that didn't happen. Or --

12 MR. HONARCHIAN: Well, on the first audit, there
13 were several sales that did not happen.

14 JUDGE ALDRICH: Well, just try to focus on this
15 audit period, if you could.

16 MR. HONARCHIAN: Like I said, this audit -- I
17 haven't started working on this audit yet. I was trying
18 to get Audit 1 finished.

19 JUDGE ALDRICH: Okay. Anything further?

20 MR. HONARCHIAN: No.

21 JUDGE ALDRICH: Any questions, Judge Stanley?

22 JUDGE STANLEY: No.

23 JUDGE ALDRICH: Judge Lambert?

24 JUDGE LAMBERT: No.

25 JUDGE ALDRICH: So do you waive the remaining

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time?

MR. HONARCHIAN: Yes.

JUDGE ALDRICH: Okay. And Department?

MR. SHARMA: Yes. We are done. Thank you.

JUDGE ALDRICH: Okay. Well, thank you everyone for your time. We're ready to conclude the hearing. The record is now closed.

The Panel will meet and decide the case based off of the evidence and arguments submitted today. We'll send both parties our written decision no later than 100 days from today.

The hearing calendar for this afternoon will begin, I believe, at 1:00. Thank you everyone, and have a wonderful afternoon.

(Proceedings adjourned at 11:37 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 1st day of May, 2024.

ERNALYN M. ALONZO
HEARING REPORTER