

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:)	
)	
FOCACCIA CAFÉ, INC.,)	OTA NO. 230713796
)	
Appellant.)	
_____)	



TRANSCRIPT OF PROCEEDINGS

Tuesday, September 17, 2024

Reported by:

CHRISTINA L. RODRIGUEZ
Hearing Reporter

Job No. :
50607 OTA(A)

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:)
FOCACCIA CAFÉ, INC.,) OTA NO. 230713796
Appellant.)
_____)

TRANSCRIPT OF PROCEEDINGS,
commencing at 1:10 p.m. and concluding at
1:43 p.m. on Tuesday, September 17, 2024,
reported by Christina L. Rodriguez,
Hearing Reporter.

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APPEARANCES:

Administrative Law Judge: SHERIENE RIDENOUR
TERESA STANLEY
JOHN JOHNSON

For the Appellant: DAVID DAVARI
ALLIE DAVARI

For the Respondent: CALIFORNIA DEPARTMENT OF
TAX AND FEE ADMINISTRATION

NALAN SAMARAWICKREMA
CHAD BACCHUS
RANDY SUAZO

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-9 were received in Judge Lambert's minutes and orders)

(Department's Exhibits A-H were received in Judge Lambert's minutes and orders)

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1 Remote Proceeding; Tuesday, September 30, 2024

2 1:10 p.m.

3
4
5 JUDGE RIDENOUR: We are opening the record in
6 the Office Appeals oral hearing for the appeal of
7 Focaccia Café, Inc., OTA Case No. 230713796. Today's
8 date is Tuesday, September 17th, 2024, and the time is
9 1:10 p.m.

10 This hearing is being conducted electronically
11 with the agreement of the parties. Due to unforeseen
12 circumstances, Judge Aldrich was unable to be here
13 today, and I have been asked to step in as lead ALJ.
14 Previously, both parties indicated that they do not have
15 an objection to the new panel.

16 Today's hearing is being heard by a panel of
17 administrative law judges. My name is Sheriene
18 Ridenour, and I am the Lead Judge. Judges Teresa
19 Stanley and John Johnson are other members of the panel.
20 All three judges will meet after the hearing and
21 produce a written decision as equal participants.

22 Although the lead judge conducts the hearing,
23 any judge on this panel may ask questions or otherwise
24 participate to ensure that we have all the information
25 needed to decide this appeal.

1 For the record, will the parties please state
2 their names and who they represent starting with the
3 Representatives for CDTFA.

4 MR. SAMARAWICKREMA: This is Nalan
5 Samarawickrema here representating (sic) for CDTFA.
6 Thank you.

7 MR. SUAZO: Randy Suazo. Hearing
8 Representative, CDTFA.

9 MR. BACCHUS: Chad Bacchus, Attorney with the
10 department's legal division.

11 THE COURT: Thank you very much.
12 And for Appellant.

13 MR. DAVARI: Your Honor, David Davari.

14 MS. DAVARI: And I'm Allie Davari, his wife.

15 JUDGE RIDENOUR: Thank you very much.

16 As stated in the Minutes and Orders for this
17 matter, dated August 8, 2024, there is one issue in this
18 appeal: Whether adjustments are warranted to the
19 taxable measure for unreported taxable sales.

20 In addition, both parties confirm that there
21 is no dispute as to the calculation of the audited
22 taxable measure and that the service fees and San
23 Francisco health mandate fees are, in fact, subject to
24 tax. Although, for the exhibits, Appellant has
25 submitted Exhibits 1-9 be admitted into evidence.

1 CDTFA, do you have any objection to
2 Appellant's 1-9.

3 MR. SAMARAWICKREMA: This is Nalan
4 Samarawickrema. We don't have any objection, Judge.

5 JUDGE RIDENOUR: Thank you. Appellant's 1-9
6 are hereby admitted into evidence.

7 (Appellant's Exhibits 1-9 were admitted
8 into evidence.)

9 JUDGE RIDENOUR: CDTFA, you submitted Exhibits
10 1-I, and subsequently provided a spreadsheet of the
11 count notes for the cafe. Is CDTFA submitting the count
12 notes as an additional exhibit as well?

13 MR. SAMARAWICKREMA: No, Judge.

14 JUDGE RIDENOUR: No. Okay. I have reviewed
15 the exhibits, and it appears that Exhibit E is CDTFA's
16 appeal's bureau decision and with attached exhibits; and
17 Exhibit I is a response from CDTFA that is kin to a
18 brief.

19 CDTFA, can you confirm if that is correct?

20 MR. SAMARAWICKREMA: This is Nalan
21 Samarawickrema. That is correct, Judge.

22 JUDGE RIDENOUR: Since -- thank you. Since
23 the appeal's decision -- bureau decision as well as a
24 brief is not evidence but rather can -- is argument,
25 neither will be admitted into evidence. Instead,

1 Exhibit E will consist solely of the exhibits attached
2 to the decision, and Exhibit I will not be admitted into
3 evidence.

4 As such, Appellant do you have any objection
5 to CDTFA's 1-H?

6 Appellant.

7 MR. DAVARI: Yes. Sorry about that --

8 MS. DAVARI: Sorry about that.

9 MR. DAVARI: -- your Honor. We have no
10 objection.

11 JUDGE RIDENOUR: Okay.

12 MR. DAVARI: Yeah.

13 JUDGE RIDENOUR: Okay. So CDT -- pardon me?

14 MR. DAVARI: No, Judge. Just -- we have no
15 objection. That's fine.

16 JUDGE RIDENOUR: CDTFA's Exhibit's A-H are
17 hereby admitted into evidence.

18 (Department's Exhibits A-H were admitted
19 into evidence.)

20 JUDGE RIDENOUR: And going back to the party's
21 confirmation that there is no dispute to those two
22 items; does anyone have objection to that -- those
23 statements? CDTFA?

24 MR. SAMARAWICKREMA: This is Nalan
25 Samarawickrema. No, Judge.

1 JUDGE RIDENOUR: Okay. Appellants?

2 MR. DAVARI: No objection.

3 MS. DAVARI: No.

4 JUDGE RIDENOUR: Thank you. Witnesses: CDTFA
5 previously indicated it will not call any witnesses.
6 Appellant indicated that Ms. --

7 MS. DAVARI: You can say Al --

8 JUDGE RIDENOUR: -- do you go by Ms. Davari?

9 MS. DAVARI: You can go by Ms. Allie --

10 JUDGE RIDENOUR: Or Allie? Well, I just --

11 JUDGE RIDENOUR: Allie Davari. Yeah, Allie
12 Davari.

13 JUDGE RIDENOUR: Davari. Okay.

14 Appellant's President will be testifying
15 today.

16 CDTFA, do you have any objections to
17 Appellant's calling Ms. Davari?

18 MR. SAMARAWICKREMA: This is Nalan
19 Samarawickrema. No objection, Judge.

20 JUDGE RIDENOUR: Perfect. Ms. Davari will be
21 sworn in before Appellant's presentation, and there are
22 no other witnesses today.

23 As a reminder, the parties, during the
24 prehearing conference, it was decided that Appellant
25 will have 30 minutes to their -- it's presentation;

1 followed by CDTFA who will also have 30 minutes. Then
2 Appellant will have 5-10 minutes to provide closing
3 remarks.

4 These parties continue -- encourage to monitor
5 their own time. Does either party have any questions
6 before we move on to presentation? Appellant.

7 MS. DAVARI: No. No.

8 JUDGE RIDENOUR: All right. Thank you.

9 CDTFA?

10 MR. SAMARAWICKREMA: No questions, Judge.

11 JUDGE RIDENOUR: Perfect. Before we proceed,
12 Ms. Davari, can I -- I need to place you under oath so
13 that we can consider your statements as testimony and
14 you will remain under oath until the close of this
15 hearing.

16 Mr. Davari, are you also wanting to be sworn
17 in as a witness?

18 MR. DAVARI: No.

19 MS. DAVARI: No. I'm the only witness.

20 JUDGE RIDENOUR: I just wanted to make sure
21 that we got that. Good.

22 So, Ms. Davari, will you please raise your
23 right-hand. Thank you.

24 Do you solemnly swear or affirm to tell the
25 truth, the whole truth, and nothing but the truth?

1 Please say yes or no.

2 MS. DAVARI: Yes, I do.

3
4 A. DAVARI

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

8
9 JUDGE RIDENOUR: Thank you. The time is 1:15,
10 and when you are ready, Mr. Davari, please begin your
11 presentation.

12
13 PRESENTATION

14 MR. DAVARI: Thank you, your Honor.

15 In order for me to present our position, I
16 would just like to provide some facts about our
17 relationship with the agency since 2015. We were
18 provided with the agency's communication logs which go
19 back to 2015.

20 These logs, in fact, show our closed
21 partnership and relationship with the agency as follows:

22 In 2015, we had 45 direct contacts, as you see. In
23 2016, we had 42 times; 2017, we had 34 times; in 2018,
24 we had 35 times; in 2019, 27 times; and in 2020, 83
25 times.

1 Mind you -- I have to add the purpose of this
2 is because our store was only a block away from the
3 agency's office where it was easier for us to
4 communicate by going there rather than calling or
5 E-mails and such.

6 In 2015, the agents conducted the scope audit.
7 That's what they called it, scope audit, during which
8 the agency asked us for 18 months of documents which are
9 personally delivered to them. It was during that audit
10 that the agency asked us to combine our two different
11 recent numbers to one.

12 That same year, our company put into place a
13 propriety POS system to make sure we are following the
14 tax code and that we are correctly capturing all taxable
15 items. The agency log shows that even the implantation
16 of the POS system, we had communications with the agency
17 during those 45 times that we have been there for
18 different reasons and different matters.

19 Fast forward to 2019, the agency levied the
20 company it counts for taxes past due which successfully
21 apposed it, and the agency refunded over \$90,000 dollars
22 in overpaid taxes at the end of March 2020 -- during the
23 Covid time.

24 After 437 times combined meetings between 2015
25 to 2020, that we communicated with agency, a scope audit

1 having been conducted by agency and a new POS system
2 that we put in place to compliance with what we learned
3 from the agency -- at no time did the agency ever put us
4 on a notice that we had failed to capture the sales tax
5 on the San Francisco mandate and service.

6 This is despite the fact that we were an open
7 book to the agency, and we shared to the agency exactly
8 how we went about collecting taxes.

9 In fact, if you look at our files, you would
10 acknowledge that we have not even a single penny that we
11 have collected our sales tax, and you will recall we
12 were refunded approximately \$90,000 dollars in 2020 as
13 overpaid taxes. We take taxes seriously, your Honor.

14 So we strongly believe that we are dealing
15 with the failure by the agency to correct the informant
16 advises. Have we been correctly informed and advised,
17 we would have captured the sales tax at issue, and we
18 would have paid it to the agency. But, unfortunately,
19 that did not happen.

20 My wife likes to add something to my
21 statement.

22 MS. DAVARI: Your Honor, I can -- I wanted to,
23 kind of, capturelate (sic) a conclusion, but I could do
24 that in the conclusion portion of our meeting. But,
25 essentially, David captured our appeal -- if that's

1 okay, or I can conclude now, if you like.

2 JUDGE RIDENOUR: It's up to you how you prefer
3 -- like to proceed. If you would like to provide
4 witness testimony now as opposed to --

5 MS. DAVARI: Okay.

6 JUDGE RIDENOUR: -- later. However you
7 prefer.

8 MS. DAVARI: Sure. Sure. So, really, in
9 conclusion, your Honor, in order to maintain and be
10 up-to-speed on tax codes and tax laws, back in 2015, I
11 encouraged David to invest in a CFO, a controller, and
12 third-party accountant's -- why? Because we did not
13 want to show up today on the level of ignorance and we
14 didn't know.

15 We wanted to continuously, as we have done in
16 the past with our relationship with the agency, to be up
17 to speed. To make sure that we are current. To make
18 sure that we oblige all tax codes, you know, that need
19 to be. Which is why we work really closely in the
20 excitement of producing our new POS system with the
21 agency.

22 But, we are here today to share with all of
23 you that, yes, we are accountable, and there is no
24 question -- as David mentioned earlier. However, our
25 deepest concern was the lack of judiciary responsibility

1 on the agency's behalf, and I'll share with you why I
2 say that.

3 As small business owners -- and forget Covid,
4 forget all those struggles -- but as small business
5 owners, we look to the agency as a support system to not
6 only help us continue to operate and grow, but to keep
7 us compliant; to educate us; to provide timely responses
8 -- and that portion was not there.

9 That portion was not there which is why David
10 and I are here trying to continue this appeal. And if
11 -- if the judiciary responsibility on behalf of the
12 agency occurred, then we would be fulfilling all tax
13 obligations as we have done in the past.

14 So, clearly, we're not tax experts, and we
15 look to the agency for that type of support, for that
16 type of education; and, more importantly, for a more
17 proper turnaround time. I mean, there's been days and
18 what not. So timely responses and guidance would have
19 been completely beneficial to us.

20 But this was not the case. Which is, again,
21 why we're here today, and we feel that our business was
22 tremendously compromised. And, for that reason, we hope
23 that all of you can consider our point-of-view and
24 create a solution that David and I can meet.

25 JUDGE RIDENOUR: Thank you very much. So,

1 Ms. Davari, is there anything else you would like to
2 say?

3 MS. DAVARI: No, thank you.

4 MR. DAVARI: Thank you.

5 JUDGE RIDENOUR: Thank you.

6 CDTFA, do you have any questions for Ms.
7 Davari as a witness?

8 MR. SAMARAWICKREMA: This is Nalan
9 Samarawickrema. No. We don't have any question for the
10 witness, Judge.

11 JUDGE RIDENOUR: Thank you.

12 Judge Stanley, do you have any questions?

13 JUDGE STANLEY: This is Judge Stanley
14 speaking. I do, just, have one, and it's with respect
15 to the -- what has been termed "the mandate fee". I
16 notice that one of the locations was outside of the city
17 of San Francisco; did you still charge the mandate fee
18 for those employees that worked at that location?

19 MR. DAVARI: Your Honor, I'd have to go back
20 and check on that. You know, we have done what was
21 proper to do, but I'd have to go and get back to you on
22 that -- to be honest with you.

23 MS. DAVARI: Yes. South San Francisco which
24 our two other locations are located have slightly
25 different mandates, so we would have to go back just to

1 give you an accurate answer with our controller.

2 JUDGE STANLEY: Okay. This is Judge Stanley
3 speaking. It sounds like there was some sort of mandate
4 in South San Francisco as well; is that correct?

5 MR. DAVARI: Yes.

6 MS. DAVARI: Yes.

7 JUDGE STANLEY: Okay. That's fine, then. You
8 don't have to go back and look anything up. Thank you.

9 MS. DAVARI: Sure.

10 JUDGE STANLEY: I don't have any further
11 questions.

12 JUDGE RIDENOUR: Judge Johnson, do you have
13 any questions?

14 JUDGE JOHNSON: This is Judge Johnson. No
15 questions. Thank you.

16 JUDGE RIDENOUR: Thank you.

17 The time is currently 1:24. When you're
18 ready, CDTFA, please begin your presentation.

19 MR. SAMARAWICKREMA: Thank you, Judge.

20

21 PRESENTATION

22 MR. SAMARAWICKREMA: Appellant of California
23 corporation operates by restaurants in San Francisco and
24 South San Francisco, California, serving breakfast and
25 lunch. Appellant also provides catering services which

1 include food, event planners, chairs, service stuff,
2 rentals, tents, entertainment, gift and buy equipment.

3 The Department audited Appellant's business
4 for a period October 1st, 2016, through September 30th,
5 2019. According to the minutes and orders dated August
6 28th, 2024, Appellant does not dispute the
7 characterization of the audited taxable measure or that
8 the service fees and San Francisco held mandate fees are
9 subject to tax.

10 Why Appellant does not dispute the audit
11 methodology or the taxability of the fees. Appellant
12 argues it was not aware that the additional catering
13 service fees and San Francisco mandate fees were taxable
14 and believe the Department did not provide complete and
15 correct guidance on the tax application and how to
16 properly set up it's POS system to meet the sales tax
17 filing requirements.

18 Regarding Appellant's argument that it was
19 unaware the fees were taxable, the Department issued a
20 special notice that explained sales tax application to
21 restaurant's surcharges in February 2017; advising
22 restaurant retailers that a surcharge added to any
23 taxable sales is also part of gross receipts. That's
24 taxable.

25 And this notice is shown on Exhibit A, Page

1 2722. This type of notice would have been issued to all
2 retailers to which it apply including Appellant.
3 Nevertheless, even if Appellant never received the
4 notice, the Department notes the ignorance on the law is
5 not a valid defense.

6 And Appellant's lack of understanding or
7 awareness of his responsibilities in a sales tax does
8 not serve a basis upon which an adjustment is warranted.
9 Appellant claims that when it launched its new POS
10 system in 2016, it met with the Department to go over
11 the sit down of its POS system to ensure the POS system
12 was programmed correctly.

13 Additionally, Appellant asserts it relied on
14 the Department's Statewide Complaints and Outreach
15 Program review of his books and records in April 2015 in
16 the San Francisco office because upon the conclusion of
17 that review, there was no recommendation to start an
18 audit, nor did they do a final followup to discuss any
19 errors found leading Appellant to believe it's records
20 and reporting were correct.

21 First, regarding Appellant assertion about the
22 Statewide Compliance and Outreach Program, the
23 Department records show that starting in February 2015,
24 the Department reached out to Appellant regarding a
25 potential Statewide Compliance and Outreach Program

1 review.

2 The Department performed a considerable review
3 of Appellant's records and determined that it would not
4 perform an audit at that time, and this information is
5 shown on Exhibit B, Pages 1852 and 1853.

6 Additionally, this relief available to
7 Appellant based on its original lines on the Statewide
8 Compliance and Outreach Program review or the department
9 assistance in Appellant's POS system set up. It is
10 important to note that the Department does not offer POS
11 system set up services.

12 The Department will answer general questions
13 about the taxability of certain transactions. However,
14 it would be abnormal for the Department to go through a
15 taxpayer's POS system and do a step-by-step set up of
16 that system.

17 As to the claim that Appellant rely on the
18 Department's advice, Revenue and Taxation Code Section
19 6596 provides that if a person's failure to make a
20 timely return or payment was due to the person's
21 reliance or written advice from the Department, the
22 person may be relieved of the taxes imposed and any
23 penalties or interest added in the actual for the
24 purpose of Section 6596, written advice includes advice
25 that was incorrect at the time it was issued.

1 As it's clear from the language of the
2 statute, any advice that Appellant could have relied or
3 must have been in writing -- and there's no evidence
4 that Appellant received any written advice. More why
5 there was a course of review of Appellant's records in
6 2015. There was no audit upon which Appellant could
7 have relied accordingly.

8 Appellant has not shown that it is entitled to
9 relief pursuant to Section 6596. Based on the
10 foregoing, the Department requests to -- they be denied.

11 This concludes our presentation. We are
12 available to answer any questions the panel may have.
13 Thank you.

14 JUDGE RIDENOUR: Thank you very much.

15 Judge Stanley, do you have any questions?

16 JUDGE STANLEY: This is Judge Stanley
17 speaking. I do not. Thank you.

18 JUDGE RIDENOUR: Judge Johnson, do you have
19 questions?

20 JUDGE JOHNSON: This is Judge Johnson. No
21 questions. Thank you.

22 JUDGE RIDENOUR: Thank you. I just have a
23 couple questions to clarify for the record. Can you --
24 what is a -- for the record, can you say what S-C-O-P
25 audit is?

1 MR. SAMARAWICKREMA: What am I repeating,
2 Judge?

3 JUDGE RIDENOUR: Yes. Can you clarify --
4 record with the S-C-O-P stands for?

5 MR. SAMARAWICKREMA: Oh, that is a Statewide
6 Compliance -- let me get an example, your Honor --
7 Statewide Compliance and Outreach Program.

8 JUDGE RIDENOUR: Thank you very much. That
9 was my only question for the record. Thank you very
10 much.

11 Mr. Davari, you may respond to CDTFA's
12 argument, further address anything else that you may
13 want. Would you like to make any closing remarks?

14 MR. DAVARI: I do, your Honor, and thank you
15 for the opportunity.

16 JUDGE RIDENOUR: Okay. You have about 10
17 minutes. Use them as you will.

18 MR. DAVARI: I'll make it short as I can.

19 JUDGE RIDENOUR: Okay.

20

21 CLOSING STATEMENT

22 MR. DAVARI: The agency referred to the
23 section in the law that the ignorance of the law is not
24 an excuse and it's not dismissing any case, which I
25 completely agree.

1 But I think when they put that in place is
2 because the burden is on the -- on us to make sure that
3 if we don't know the law, we hire the right people and
4 -- but -- you know, include the cost to make sure that
5 we noted on.

6 I think it's very clear the amount of efforts
7 that we have put in. It's been the money spent on not
8 only on CFO and controller, and a CPA outside service
9 that has been doing our taxes and our books for well
10 over 20 years.

11 It's fair enough amount of efforts to know the
12 law plus 437 contacts. The reason that nothing is
13 inviting is because we were there, and we had the sheets
14 of call of many items going over it with the
15 representative -- with the -- this is taxable; this is
16 not; this, this, you know, all of it. All the way down.

17 And, for the most part, we have done a great
18 job, I think. This is only one item and, you know, I've
19 been holding multiple resale numbers since 1984,
20 multiple different small businesses, and multiple
21 different audits that I never, never had to pay the
22 agency for any taxes not paid.

23 So I take this very, strongly serious, and I
24 have taken it all my life because I know you have
25 consequences like this, that all of a sudden you get hit

1 with, you know, a big number.

2 So I think that the part upon ignorance of the
3 law should not apply to us in any way because we made
4 every efforts reasonable, both economically and efforts
5 personally to make sure that we are not in ignorance of
6 the law. That's what I wanted to talk and then my wife
7 --

8 MS. DAVARI: And, your Honor, also, if -- I
9 thought I heard a mention there was a scope audit and
10 I'm so glad that you asked the question because to this
11 day, David and I did not understood what a scope audit
12 was, but it was in the notes. And I think that it was
13 mentioned that there was not a scope audit -- I just
14 wanted to clarify that. That there was a scope audit
15 per the notes.

16 MR. DAVARI: And it was verified --

17 MS. DAVARI: And it was verified by an actual
18 employee of the agency. These are all in E-mail
19 correspondence, so I'm a little bit weary as to if
20 that's what I actually heard or not.

21 And, again, the key is is that this agency is
22 a governmental agency provided for the citizens. And
23 when I mentioned judiciary responsibility, I really
24 spent a lot of time thinking about that word and whether
25 it was response -- it was the right word to use.

1 And I do believe that even though it is not
2 the agency's responsibility to work on POS systems, we
3 were just so excited and wanting to comply with all the
4 codes and the regulations that we made a tremendous
5 effort on our part. And have the communications been
6 available, I'm not even going to say consistent, I
7 assure you that David and I wouldn't be here today.

8 So that part of it cannot be in deniability.
9 Again, we did not come here to say this is not our
10 fault, but we certainly don't want to say that we're
11 using ignorance as an excuse. We are accountable, but
12 we just wish that we were properly informed and set up
13 so that we could pay those taxes in a timely basis.

14 JUDGE RIDENOUR: Thank you.

15 I would like to ask CDTFA to please clarify
16 the S-C-O-P; whether it was an audit, a cursory review.
17 Please.

18 MR. SAMARAWICKREMA: This is Nalan
19 Samarawickrema. According to Exhibit B, Page 1852, and
20 Page 1853, specifically explain the scope of the review
21 by this scope people -- investigators. It is not an
22 audit.

23 It's just a, you know -- the taxpayer scope
24 investigator requested documents and Appellant provided
25 -- according to the page 1853, Exhibit B, under the

1 document, it specifically says 2013 Federal Income Tax
2 Return, bank statements, and cash registers tapes for
3 July, August, September. And, also, it specifically
4 says the banks -- the register tapes were only monthly
5 totaled.

6 And we only -- the depart -- the scope
7 investigator considered a review -- 10 registered tape
8 for each month for five locations. So it's not an
9 audit, it's just a cursory review, and it doesn't give
10 any opinion under Revenue and Taxation Code 6596.

11 MR. BACCHUS: This is Chad Bacchus. And just
12 to clarify, I'm not sure exactly what notes Appellant is
13 referring to. I know there was a 2019 scope letter that
14 was sent to Appellant which then resulted in this
15 current audit.

16 But like Mr. Samarawickrema said, the prior --
17 the 2015 review was just a basic review of the records
18 to determine whether an actual audit needed to be
19 performed, and the result of that review was that no
20 audit would be performed.

21 JUDGE RIDENOUR: Thank you very much.

22 MR. SAMARAWICKREMA: And, also, Judge, the
23 head -- San Francisco head surcharge was introduced in
24 2017. This -- this scope review's prior to that.

25 THE COURT: Thank you for clarifying.

1 Judge Stanley, do you have any questions
2 overall?

3 JUDGE STANLEY: This is Judge Stanley
4 speaking. No, I do not.

5 JUDGE RIDENOUR: Judge Johnson?

6 JUDGE JOHNSON: Judge Johnson. No questions,
7 thank you.

8 JUDGE RIDENOUR: Real quick, Mr. and Mrs.
9 Davari, so I have looked at the scope report, and it
10 does not appear to have anything regarding the mandate
11 fees. It appears mostly about soda and taking -- eating
12 there or take out; is that a -- correct? Am I reading
13 this -- would you confirm that? Would you feel that
14 that's also correct?

15 MR. DAVARI: Your Honor, I haven't read it,
16 and I don't know --

17 MS. DAVARI: We don't --

18 MR. DAVARI: -- but for me, as a business
19 owner, I take audit as an audit. And I took all these
20 paperwork there myself which included just about
21 everything.

22 That's how they recognize that we have two
23 different recent number that we're filing on, and they
24 recommended that we should combine that with one recent
25 number and make all the stores be under one company and

1 one recent number. And that happened after dealing that
2 scope audit --

3 MS. DAVARI: Just -- the scope audit.

4 MR. DAVARI: -- so for me, I -- honestly, I'm
5 under oath, so I'd have to say I don't know the
6 difference of this audit, that audit. I appreciate you
7 just mentioned that, but I didn't know. So --

8 MS. DAVARI: Yeah.

9 MR. DAVARI: -- that's all I can say.

10 JUDGE RIDENOUR: Right. Thank you very much.

11 MR. DAVARI: My pleasure.

12 JUDGE RIDENOUR: I want to thank everybody for
13 participating in today's hearing, and if there's nothing
14 further, I'm now concluding the hearing. The record is
15 now closed.

16 (The proceeding concluded at 1:43 p.m.)
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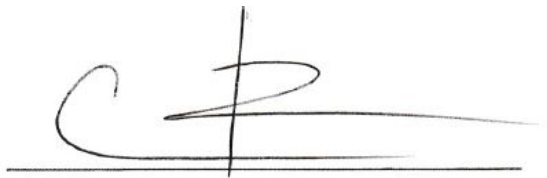
1 HEARING REPORTER'S CERTIFICATE

2
3 I, Christina L. Rodriguez, Hearing Reporter in
4 and for the State of California, do hereby certify:

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

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

14 I have hereunto subscribed my name this
15 September 30, 2024.

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23 Hearing Reporter

24 CHRISTINA L. RODRIGUEZ

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