

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
D. HAMBARDZUMYAN,) OTA NO. 230813957
)
 APPELLANT.)
)
)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, March 19, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 3:28 p.m. and concluding at 4:20 p.m. on
Wednesday, March 19, 2025, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

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APPEARANCES:

Panel Lead: ALJ TERESA STANLEY

Panel Members: ALJ JOSH ALDRICH
ALJ NATASHA RALSTON

For the Appellant: D. HAMBARDZUMYAN
GRIGOR DEMIRCHYAN

For the Respondent: STATE OF CALIFORNIA
TAX AND FEE ADMINISTRATION

JENNIFER BARRY
CARY HUXSOLL
JASON PARKER

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-9 were received into evidence at page 7.)

(Department's Exhibits A-Q were received into evidence at page 8.)

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1 California; Wednesday, March 19, 2025

2 3:28 p.m.

3
4 JUDGE STANLEY: We're going on the record in
5 Appeal of Hambardzumyan, Office of Tax Appeals Case
6 No. 230813957. The date is March 19th, 2025, and the time
7 is 3:28 p.m. This hearing is being held electronically
8 with the agreement of the parties.

9 Once again, I am Judge Stanley. I will be the
10 lead for purposes of conducting this hearing. My
11 co-panelists Judge Aldrich and Judge Ralston and I are
12 equal participants in deliberating and determining the
13 outcome of this appeal.

14 As a reminder, the Office of Tax Appeals is not a
15 court. The Office of Tax Appeals is an independent
16 appeals body which is staffed by its own subject matter
17 experts, and it is independent of CDTFA or any other tax
18 agency.

19 I'm going to ask the parties to introduce
20 themselves and who they represent, starting with
21 Appellant.

22 Mr. Demirchyan, can you unmute your microphone
23 and introduce, yourself, please.

24 MR. DEMIRCHYAN: Yeah. My name is Grigor
25 Demirchyan. I'm representing Davit Hambardzumyan.

1 JUDGE STANLEY: Okay. So it's Demirchyan, right?
2 MR. DEMIRCHYAN: Yes.
3 JUDGE STANLEY: All right. Okay. And then
4 CDTFA.
5 MS. BARRY: Jennifer Barry representing the
6 California Department of Tax and Fee Administration.
7 MR. HUXSOLL: Cary Huxsoll from the Department's
8 legal division.
9 MR. PARKER: Jason Parker, Chief of Headquarters
10 Operations Bureau with CDTFA.
11 JUDGE STANLEY: And just to confirm, Ms. Barry,
12 you're the hearing representative for this hearing?
13 MS. BARRY: Yes. I am one of the attorneys with
14 the legal division.
15 JUDGE STANLEY: Okay. Thank you.
16 Okay. So to start with, as stated in the Minutes
17 and Orders the issue to be decided in the appeal is
18 whether -- well, there are two issues: First, whether
19 Appellant has established that adjustments to the audited
20 taxable sales are warranted.
21 And, Mr. Demirchyan, I'm going to also list what
22 I think are the three major issues that Appellant has
23 raised in this case, and that is: Were the observation
24 tests in March 2019 representative of Appellant's
25 business, which closed its seller's permit effective

1 January 3rd, 2019; and has Appellant established that the
2 operating hours and business days were miscalculated in
3 the audit; and has Appellant established that the average
4 sales price per customer used by CDTFA was incorrect.

5 And the second issue is whether the negligence
6 penalty was properly imposed.

7 Are these what you understand the issues to be,
8 Mr. Demirchyan?

9 You need to unmute.

10 MR. DEMIRCHYAN: Yes, Your Honor. I understand.

11 JUDGE STANLEY: Okay. And, Ms. Barry, is that
12 what the Department understands the issues to be?

13 MS. BARRY: Yes.

14 JUDGE STANLEY: Okay. Appellants submitted
15 Exhibits 1 through 9, and at the prehearing conference
16 CDTFA did not object to the admissibility of these
17 exhibits. So they are admitted into evidence at this
18 time.

19 (Appellant's Exhibits 1-9 were received
20 into evidence by the Administrative Law Judge.)

21 JUDGE STANLEY: And the Franchise Tax Board
22 submitted Exhibits A through Q. Appellant did not object
23 to the admissibility of these exhibits, and they are also
24 admitted into evidence.

25 Oh, did I say Franchise Tax Board? Oh, I did.

1 I'm sorry. Let me correct that.

2 The CDTFA submitted exhibits A through Q, not the
3 Franchise Tax Board. But they are still admitted into
4 evidence without objection.

5 (Department's Exhibits A-Q were received
6 into evidence by the Administrative Law
7 Judge.)

8 JUDGE STANLEY: Neither party intends to call a
9 witness to testify today, so I won't need to swear anybody
10 in.

11 Mr. Demirchyan, you requested 60 minutes for your
12 presentation. You can proceed when ready, and don't
13 forget to turn on your microphone.

14

15 PRESENTATION

16 MR. DEMIRCHYAN: Good afternoon, everybody. Good
17 afternoon, Your Honor.

18 And I'm representing Mr. Davit Hambardzumyan.

19 And based on the documents, the Department found
20 Mr. Davit Hambardzumyan liable for more than \$100,000 for
21 his tax liabilities, and we don't agree with that. And I
22 will present some facts that will confirm our stance.

23 But just a little bit of background of
24 Mr. Hambardzumyan. They moved to U.S. from Armenia in
25 2012 with his family. And the life was very tough in

1 Armenia, corrupted government, no human rights, no
2 freedom, but the justice system was very simple. The rich
3 is -- was always right, and the poor always guilty as the
4 money dictated justice. And if the government goes after
5 you, most likely you will be in prison.

6 So their dream was to come to America. We have
7 very little corruption here, and everybody has a right to
8 defend themselves. Although, if you are rich, you can
9 hire a top lawyer. And if you are not rich, you can hire
10 retired accountant. But other than that, as Abraham
11 Lincoln said, nobody is above the law.

12 So the question and the issue I have is whether
13 Mr. Davit Hambardzumyan is liable for the sales tax
14 imposed on him by the Department? To answer these
15 questions, Your Honor, I need to see whether
16 Mr. Davit Hambardzumyan conducted any business activities
17 after January 3, 2019, because the Department calculated
18 all these tax liabilities based on the events occurring
19 after January 3, 2019. So I will present the fact, and
20 the fact is that Mr. Davit Hambardzumyan started the
21 business on February 4, 2018. Mr. Davit Hambardzumyan
22 closed the business on January 3, 2019. We can see
23 Mr. Hambardzumyan has declaration on page 3. He declared
24 under penalty of perjury that he stopped the business.
25 And the perjury, if you lie you will go to prison.

1 We also have on page 95, lines 7 through 8, it
2 states that the Department closed petitioner's seller's
3 permit effective January 3, 2019; meaning, they agree that
4 the petitioner stopped the business. On March 19th,
5 March 25th, March 21, a Department state-wide compliance
6 and outreach program, SCOP, conducted outside
7 observations, during which they noticed about 20 customers
8 during one hour entering the business premises. Meaning,
9 every three minutes, one customer. The question I have,
10 did they see Davit Hambardzumyan at the business premises
11 conducting business? The answer is no.

12 On April 12, 2019, Department conducted a visit
13 to the business premises. The question I have, did they
14 see Mr. Davit Hambardzumyan conducting a business? The
15 answer is no. On May 8th, Department conducted a visit to
16 the business premise. The question is, again, did they
17 see Mr. Davit Hambardzumyan conducting the business? The
18 answer is no. The SCOP conducted outside observations,
19 and all other visits show that the Department doesn't have
20 any single evidence showing that Mr. Hambardzumyan
21 conducted any business after January 3, 2019.

22 On the contrary, they presented facts -- the
23 Department presented facts that others were conducting
24 business, and it's written on page 95 of the binder,
25 line 17 through 24. Based on this, it looks like that the

1 Department ignores all the facts. And I have to say that
2 intentionally they misrepresent them to misrepresent the
3 facts to justify their conclusions. Why do I say this?
4 On page 116, lines 15 through 20, the Department states
5 that they have relied on the Weedmaps.com and not on
6 allbud.com pictures to calculate the hours -- operating
7 hours of the business.

8 So when I ask the printout of the Weedsmap.com,
9 the note on the page, note 12, it says, "No printout of
10 website," but they don't have any questions because other
11 websites have the same posted hours. I mean, at the first
12 place they say that they didn't use our other websites,
13 and they based their calculations on the hours taken from
14 the Weedsmap.com. And then they are saying we don't have
15 the Weedsmap.com out print, but we use the other websites.
16 And the other websites I sent them, Your Honor, and it's a
17 printout from Allbud. It is on page 227 and on page 93.
18 The out print is the date of the picture, and the dates
19 are August 18, '22 and September 18, '22.

20 These are -- the business was closed in 2019.
21 After three years, the website still shows that the
22 business is operating from 10:00 to 10:00, and it says
23 it's now open. So the website is misleading. I just
24 don't understand how you can make -- make liable a person
25 of hundreds of thousands of dollars based on the

1 misleading websites. Also, Your Honor, on page 125,
2 line 7 through 9, they admitted that Mr. Hambardzumyan was
3 not identified at the locations during the observation
4 dates. Now, the Department admits that they didn't see
5 Mr. Hambardzumyan conducting business.

6 But then the Department show other people
7 conducting business, which is stated on page 95 on lines
8 17 through 24. But they say no, these people are not
9 liable. Mr. Hambardzumyan is liable. I mean, you see
10 other people doing business, but you are still charging
11 Mr. Hambardzumyan for not doing business. This is like --
12 Your Honor, I just want to compare that it's like somebody
13 steals my car, goes have an accident and kills somebody
14 and runs away. The police comes and says, oh, who is the
15 owner? Oh, he is the owner. Charge him. Obviously, they
16 saw that other people are conducting business, and they
17 ignore it. I don't know why.

18 On its brief dated November 30th, 2023, the
19 Department -- only in the footnote No. 2 states, "The
20 sworn statement also asserts," this is the declaration of
21 Mr. Davit Hambardzumyan -- "the sworn statement also
22 asserts that he did not engage in any business
23 transactions." It mentioned -- one second, Your Honor.
24 Statement also asserts that he did not engage in any
25 business transactions mentioned in this case. However,

1 this statement is contradictory to Appellant's concession
2 that he owned and operated business through
3 January 3, 2019.

4 Your Honor, the Department took
5 Mr. Hambardzumyan's declaration out of context, used only
6 one part of it, and blames him for contradicting himself.
7 The full declaration says, "On January 3, 2019, I stopped
8 my business activities, and since then" -- "and since that
9 date, I have not conducted any business activities. And I
10 don't know why the Department is doing this." Just
11 misrepresenting the facts.

12 Per Department, the markup cost were
13 66.67 percent; and this is on page 97, lines 1 through 3.
14 And the Department thought it was low for petitioner's
15 type of business based on its experience. On pages 133
16 to 134, the Department brings an Exhibit I, which shows
17 that my former club operates. And based on their exhibit,
18 the markup percentage is 0.664. Meaning, 66.4 percent
19 lower than the -- Mr. Hambardzumyan's markup. So on one
20 hand they are saying that Mr. Hambardzumyan' markup is
21 low, but on the exhibit that they, present, it's even
22 lower than Mr. Hambardzumyan's markup numbers.

23 On May 8 -- oh, I need to see. On
24 December 31, 2019, Department states -- and it's on
25 page 96, line 16 through 17 -- with Ms. Harootunian, the

1 Department states that she told them the business is --
2 was closed around May 2019. On page 70, I have the --
3 Ms. Harootunian's declaration which -- in which she states
4 that she didn't -- she didn't say anything like that to
5 the Department. And this is written under -- written
6 under penalty of perjury, Your Honor. So again, the
7 Department -- what I want to state, Your Honor -- didn't
8 present any single -- any single evidence that will show
9 that Mr. Harootunian -- I mean, Mr. Hambardzumyan was
10 conducting business activities.

11 On the contrary, other people were conducting
12 business activities, but they just don't want to admit
13 that. So based on all these facts, Your Honor, Mr. Davit
14 Hambardzumyan did not conduct any business activities
15 after January 3, 2019, and there's no single fact to prove
16 that he did.

17 I'm all done, Your Honor.

18 JUDGE STANLEY: Thank you, Mr. Demirchyan.

19 Judge Aldrich, do you have any questions for
20 Appellant's representative?

21 JUDGE ALDRICH: Thank you, but I do not.

22 JUDGE STANLEY: Judge Ralston, do you have any
23 questions?

24 JUDGE RALSTON: Not at this time. Thank you.

25 JUDGE STANLEY: Okay. I just have one,

1 Mr. Demirchyan. You referred to pages 93 and 227 of the
2 exhibit binder. That is the printouts from -- I think it
3 was Allbud. I thought you said that there were dates that
4 these were taken from. But the only dates I see on them
5 is the date that they were printed. Did you have a date?

6 Mr. Demirchyan, your microphone is not on, if
7 you're talking.

8 MR. DEMIRCHYAN: Oh, I'm sorry. Your Honor,
9 yeah, on page 93 on the top of the page, there is a
10 print -- small print showing 8/18/22. And on page 227, it
11 says 9/18/22.

12 JUDGE STANLEY: I see 9/18/24 on page 227.

13 MR. DEMIRCHYAN: Oh, could be '24. I'm sorry,
14 Your Honor.

15 JUDGE STANLEY: Okay. Okay. So that appears to
16 be the date that this was pulled off the internet.

17 MR. DEMIRCHYAN: Correct.

18 JUDGE STANLEY: Okay. All right. Thank you.
19 That's the only question I had. So we can go ahead and
20 re- mute if you would like, and I'll turn to Ms. Barry.

21 The Department requested 20 minutes, so you may
22 proceed when ready.

23 THE STENOGRAPHER: Judge Stanley, can interrupt
24 for just a second? Can we go off the record for just two
25 seconds? I need to plug in my machine.

1 JUDGE STANLEY: Okay. We're going to take a
2 short recess.

3 (There is a pause in the proceedings.)

4 JUDGE STANLEY: We can go back on the record.

5 Okay. Ms. Barry, now you can proceed when ready.

6 MS. BARRY: Okay. Just one moment.

7

8 PRESENTATION

9 MS. BARRY: Appellant operated a cannabis
10 dispensary in North Hollywood, California, under the name
11 of The Fav Smoke Shop. The business sold recreational and
12 medicinal cannabis and related products. The Department
13 initially visited Appellant's business on
14 April 18th, 2018, at which time the cannabis dispensary
15 was found operating in the location and displaying signs
16 with Appellant's business name. Another failed visit to
17 the business was made on August 8th, 2018. During that
18 visit, the Department spoke with an employee who refused
19 to provide her name or the name of the business owner.
20 Following the initial visit to the Appellant's business, a
21 seller's permit was issued to Appellant with a
22 commencement date of February 4th, 2018. These events are
23 detailed in Exhibit L.

24 Appellant did not notify the Department of any
25 change of ownership or close of the business until

1 April 3rd, 2019, when Appellant submitted an online
2 request to close his seller's permit, effective
3 December 29th, 2018. This request is included as Exhibit
4 P. Following discussions with Appellant's representative,
5 the Department ultimately closed out Appellant's seller's
6 permit, effective January 3rd, 2019, despite Appellant
7 having no documentation to substantiate the assertion that
8 the business was closed on that date and there being
9 evidence that the business continued to operate
10 thereafter.

11 The liability period at issue here only includes
12 the period between February 4, 2018, and January 3, 2019.
13 No liability has been assessed for any period beyond
14 January 3rd, 2019. It is, therefore, undisputed that
15 Appellant was the owner of the business during that period
16 at issue, February 4th, 2018, through January 3rd, 2019.
17 The Department conducted two observation tests of the
18 business. One on March 19th, 2019, and a second one on
19 March 21st, 2019. The Department also attempted to
20 conduct a third observation test on March 25th, 2019, but
21 the business was not open that day. The records for these
22 observation test dates may be found in Exhibit I, pages 20
23 to 22 and page 52.

24 Appellant did not first contact the Department
25 about the purported closure of the business until after

1 the dates of these observation tests. Following the
2 observation test dates, the Department mailed Appellant an
3 audit engagement letter on May 6th, 2019 to his business
4 address requesting his books and records for the liability
5 period. The Department also delivered the letter to the
6 business location on May 8th, 2019. The audit engagement
7 letter may be found as Exhibit H. Appellant only provided
8 his federal income tax returns for 2018 and incomplete
9 daily sales summaries for 2018. He did not provide any
10 additional documentation.

11 Though the Department made repeated requests,
12 beginning on May 6th, 2019, for supporting documentation
13 to facilitate the audit, on March 6th, 2020, Appellant's
14 representative informed the Department that Appellant did
15 not have any additional documentation to provide. A
16 record of the contacts between the Department and
17 Appellant and Appellant's representative during this time
18 period may be found in Exhibits J, L, and M. Appellant --
19 I'm sorry.

20 As set forth in Revenue & Taxation Code 6481, the
21 Department used the information available to it to
22 determine Appellant's liability. Specifically, when the
23 Department is unable to make a determination based on a
24 direct examination of a taxpayer's records, as is the case
25 here, the Department may employ an indirect audit method

1 to establish a taxpayer's liability. In this case, in
2 addition to the information contained in Appellant's sales
3 and use tax returns, and his 2018 personal federal income
4 tax return, and the incomplete daily sales reports for
5 2018 in determining the Appellant's sales during the
6 liability period, the Department relied upon information
7 obtained from the two observation test dates,
8 March 19, 2019, and March 21, 2019, and publicly available
9 information regarding Appellant's business hours that was
10 posted on the internet.

11 Appellant objects to the Department's reliance on
12 the observation test because he asserts that he was not
13 the owner of the business during the dates the observation
14 test was conducted. However, the liability established by
15 the Department is reasonable and reliable for several
16 reasons. First, as noted, Appellant did not inform the
17 Department that the business was closed or under a
18 different ownership until April 3rd, 2019, which was after
19 the observation test dates. Thus, the Department had no
20 reason to believe that it was not observing Appellant's
21 business during the two observation test dates.

22 Second, during the observation test dates, signs
23 with the same business name were posted on the door of
24 this business location. Additionally, the business was
25 conducting the same business activities and was operating

1 in the same location as Appellant's business. Here,
2 again, the evidence indicates that Appellants continued --
3 Appellant continued to operate the business beyond the
4 observation test dates. And there is no evidence that the
5 business that the Department observed on those two test
6 dates was not Appellant's business.

7 Although Appellant has asserted that the
8 Department should have verified he was present during the
9 observation test dates, Appellant's presence or lack
10 thereof at the business on the dates of the observation
11 tests is not indicative of the sales made on those days,
12 or of whether he was the owner of the business at that --
13 the time as there are a variety of reasons why an owner
14 may not be physically present at a business during
15 operating hours.

16 Finally, even if the business was no longer owned
17 by Appellant on the dates the observation test occurred as
18 Appellant has asserted, the Department is authorized by
19 Revenue & Taxation Code section 6481 to utilize any
20 information that comes into its possession to verify the
21 accuracy of Appellant's sales and use returns and to make
22 a determination of any amounts owed. Since the Department
23 had to use an indirect audit method due to Appellant's
24 inadequate records, the Department was authorized to use a
25 variety of audit techniques to estimate Appellant's

1 taxable sales for the liability period, including
2 comparing Appellant's sales to the sales made by similar
3 businesses.

4 In this case, even if Appellant no longer owned
5 the business during the observation test dates as he
6 asserts, the Department still utilized an observation test
7 of the closest possible comparable business to Appellant's
8 business; one that was an immediate successor to his
9 business to make the observation -- sorry -- to make its
10 determination. Absent complete books and records for the
11 liability period, the results of the observation tests are
12 information that the Department is justified in relying
13 upon to make its determination in this case. Thus, it's
14 the Department's position that at the time of the
15 observation test, the business observed was Appellant's
16 business. And even if it was not as Appellant asserts,
17 the sales observed were representative of Appellant's
18 business. The determination, therefore, was reasonable
19 and rational.

20 Additionally, with respect to the calculation of
21 sales based on the Department's observation, the
22 Department attributed purchases to only two out of every
23 three persons entering the business during the observation
24 test dates based on Appellant's assertion that vendors,
25 friends, and family may have entered the business and not

1 made any purchases. Please see Exhibit I, page 29,
2 regarding this adjustment.

3 Following the April 7th, 2020 -- following the
4 April 7th, 2022 Appeals Bureau decision, on
5 June 7th, 2022, the Department reduced its determination
6 of Appellant's unreported taxable sales from \$1,971,871 to
7 \$1,266,481. This adjustment was made as a result of a
8 reduction in the number of customers observed by
9 30 percent to account for the time of day during which the
10 observation tests were conducted; and by removing two days
11 of business operations during the fourth quarter of 2018
12 to account for dates on which Appellant asserts the
13 business was closed. The adjustments ordered in the
14 April 7th, 2022, Appeals Bureau decision may be found at
15 Exhibit A. And a record of the adjustments that were made
16 may be found in Exhibit I, pages 47 through 73, and 76
17 through 79.

18 We also reiterate that though the observation
19 test dates occurred after January 3rd, 2019, the
20 Department has not assessed any liability determination
21 beyond January 3rd, 2019, and there is no dispute as to
22 ownership during the liability period. As to the average
23 sales amount utilized, the Department determined that
24 \$41.95 was the average purchase amount per customer during
25 liability period based on its experience auditing similar

1 businesses. This determination is detailed in Exhibit I,
2 page 55.

3 As set forth in Appeal of TFCG Incorporated and
4 Todd versus McColgan, which is 89 Cal.App.2d 509, and
5 Riley B's Incorporated versus the State Board of
6 Equalization, citation 61 Cal.App.3d 616, where the
7 Department's determination is reasonable, as it is here,
8 the burden of proof shifts to Appellant. And as set forth
9 in regulation 3219, the burden of proof is upon Appellant
10 to prove all issues of fact by a preponderance of the
11 evidence. Appellant must establish by documentation or
12 other evidence that the circumstances he's asserted are
13 more likely than not to be correct. Further, Appeal of
14 TFCG Incorporated makes clear that unsupported assertions
15 are not sufficient to justify -- to satisfy a taxpayer's
16 burden of proof.

17 Absent additional records corroborate Appellant's
18 reported taxable sales during the liability period, no
19 additional adjustments are warranted. Though Appellant
20 provided his personal bank statements for
21 January 3rd, 2018, through June 20th, 2019, which are set
22 forth in Appellant's Exhibits 4 and 8, these bank
23 statements do not appear to establish a record of
24 Appellant's sales during the liability period or support
25 any adjustments, though they do include some very large

1 cash deposits. The burden is on Appellant to provide
2 adequate books and records to substantiate his reported
3 taxable sales for the liability period, and he has not
4 done so. The determination here was reasonable and
5 rational, and Appellant has not established any basis for
6 further adjustment to the liability.

7 With regard to the negligence penalty, we do note
8 the Department also asserted that 10 percent negligence
9 penalty against the Appellant in the audit. Although this
10 is Appellant's first audit, Appellant has failed to
11 provide adequate books and records to substantiate his
12 reported taxable sales for the liability period.
13 Additionally, the understatement following the adjustments
14 made on June 7th, 2022, is still substantial totaling
15 \$1,266,481 and representing an error rate of
16 674.92 percent over a period of less than one full year.
17 The lack of adequate books and records and the severe
18 understatement, even after adjustments in Appellant's
19 favor were made, indicate that Appellant did not have a
20 good faith and reasonable belief that his recordkeeping
21 and reporting practices were sufficient for sales and use
22 tax purposes.

23 Based on the foregoing, the measure established
24 upon audit was reasonable. And based upon the best
25 available evidence, Appellant has not met his burden in

1 establishing the additional -- any additional adjustments
2 are warranted. And, accordingly, this appeal should be
3 denied.

4 Thank you.

5 JUDGE STANLEY: Thank you, Ms. Barry.

6 Judge Aldrich, do you have any questions for
7 CDTFA?

8 JUDGE ALDRICH: Sure. So my understanding is
9 that the initial SCOP visits happened in 2018, and, at
10 that time, Appellant did not have a seller's permit. Or
11 was it a different kind of permit that was expected?

12 MS. BARRY: At that time, seller did not
13 hold any -- I'm sorry. Appellant did not hold a seller's
14 permit or any other permit.

15 JUDGE ALDRICH: And then is there anything in the
16 record that shows what the permit process was for
17 Appellant? Eventually, one was obtained, and so how that
18 process came to be?

19 MS. BARRY: I know that Appellant, may be through
20 his representative, did apply for a seller's permit
21 following the first visit in April of 2018. And I believe
22 that was done or processed around the end of May of 2018.
23 And then that was the only -- the only interaction there.

24 JUDGE ALDRICH: And I was also wondering what, if
25 any, publications were provided to the Appellant in that

1 seller's permit process?

2 MS. BARRY: I do not have that information
3 currently available, but I can provide follow up with that
4 information, unless Jason may have that on hand.

5 MR. PARKER: Hi. This is Jason Parker. I don't
6 see in our notes in our system the publications that were
7 provided, but we can -- we can look into that information
8 and provide it at a later time. I know that we provide
9 links to a lot of the publications when taxpayers register
10 online nowadays.

11 JUDGE ALDRICH: Okay. Thank you.

12 This question is for Appellant's representative.

13 MR. DEMIRCHYAN: Yes.

14 JUDGE ALDRICH: So my understanding, based off
15 the hearing binder, is that the reason that Appellant
16 didn't have records to provide was due to some sort of
17 police activity; is that correct --

18 MR. DEMIRCHYAN: Yes, Your Honor.

19 JUDGE ALDRICH: -- according to Appellant's
20 position.

21 MR. DEMIRCHYAN: Yes. We have explained it. We
22 have explained it to the Department. The police entered
23 and confiscated everything, the computer, the books, and
24 everything. And we asked the Department's help, just
25 maybe they can help us to go to the police department and

1 get all the confiscated equipment and records. They said,
2 oh, we cannot do that.

3 JUDGE ALDRICH: Okay. So --

4 MR. DEMIRCHYAN: And they are not --

5 JUDGE ALDRICH: One second. So typically when a
6 seizure happens, there's some sort of receipt provided of
7 what's actually taken. Does Appellant have a copy of such
8 a receipt or something similar?

9 MR. DEMIRCHYAN: No receipts. Nothing. They
10 just confiscated everything, and they took it -- took it
11 away. Because -- because the --

12 JUDGE ALDRICH: So -- hold on.

13 MR. DEMIRCHYAN: Mr. Davit Hambardzumyan apply --
14 yes, Your Honor.

15 JUDGE STANLEY: So there's nothing that
16 documented the interaction between the police Department
17 and Appellant showing the exchange, showing like what
18 items, if any, were taken?

19 MR. DEMIRCHYAN: No, Your Honor. There is
20 nothing.

21 JUDGE ALDRICH: Okay. Thank you.

22 MR. DEMIRCHYAN: Because the -- because
23 Appellant --

24 JUDGE ALDRICH: Did you want to add something?

25 MR. DEMIRCHYAN: Yes. Because the --

1 Mr. Hambardzumyan applied for the special license to sell
2 marijuana, but he was waiting to get that license. So
3 when the police entered, they said it's illegal business,
4 so they took everything, and they went away.

5 JUDGE ALDRICH: Okay. And so if given the
6 opportunity, it wouldn't be something that Appellant were
7 able to provide to substantiate the claim that the police
8 department took his records? You just don't have it. Is
9 that --

10 MR. DEMIRCHYAN: Yeah, we don't have any.

11 JUDGE ALDRICH: Okay. All right. Thank you.

12 No further questions, Judge Stanley.

13 JUDGE STANLEY: Judge Ralston, do you have any
14 questions for Ms. Barry?

15 JUDGE RALSTON: No questions. Thank you.

16 JUDGE STANLEY: Okay. And I don't have
17 additional questions either.

18 So I will turn it back to you, Mr. Demirchyan.
19 You have five minutes to make a closing statement.

20 MR. DEMIRCHYAN: Okay, Your Honor.

21

22 CLOSING STATEMENT

23 MR. DEMIRCHYAN: I just want to refer on pages 63
24 and 67, part 2, No. 26, and it's the tax return to --
25 Mr. Hambardzumyan tax return for the years of 2018 and

1 2019. It's a sole proprietorship. And 26 shows it says
2 wages, and you can see zero there. This means that
3 Mr. Hambardzumyan, it was a one-man operation. He didn't
4 have any employees. Meaning, if he is there, the business
5 is open and operating. If he is not there, the business
6 is closed. So once again, when the Department went and
7 saw other people conducting business, it wasn't
8 Mr. Hambardzumyan, and there's no single evidence.

9 And when the Department is saying that they
10 took -- even if the Mr. Hambardzumyan wasn't there, they
11 did their calculations based on other businesses. I mean,
12 Your Honor, I'm having a hard time to understand. There
13 are so many similar businesses that one business is doing
14 millions of dollars. The other business is just going out
15 of the business within a year. I see a restaurant in
16 Beverly Hills makes millions. Another restaurant next to
17 it opens and gets out -- out of the business in one year.
18 How you can take those numbers from the other restaurants
19 and charge the other restaurant for -- for sales tax or
20 for some other tax? It's -- it's -- I just don't
21 understand that.

22 And -- and the bank statement show that
23 Mr. Davit Hambardzumyan didn't earn that much money. Bank
24 statements are almost the same whatever the tax return
25 show. And those tax returns are serious documents, Your

1 Honor. You don't want to mess with IRS. How is it
2 possible, per their calculation that first they said that
3 Mr. Hambardzumyan owes about four-hundred-something
4 thousand dollars? If the sales tax is taxed 10 percent,
5 let's say, it means that Mr. Hambardzumyan made \$4 million
6 of sales. And where is the money? The bank statements
7 doesn't show it. The lifestyle of the -- the lifestyle of
8 Mr. Davit Hambardzumyan was -- still rent apartment and
9 lives with his mother. Doesn't have that money, and where
10 is the money?

11 The tax return shows that he didn't make that
12 much money. Bank state -- the bank statement doesn't show
13 that, but the Department goes and calculates the sales tax
14 based on other businesses. How is it fair to do that?
15 Again, Your Honor, my observations show that the
16 Department does not -- does not care about that. I'm --
17 I'm very sorry, but they don't -- does not care about the
18 truth.

19 I understand that the lawyers should act with
20 commitment and dedication to the interest of the client,
21 but it must be all honest, Your Honor. I mean, it must be
22 honest. With this, they're just killing the taxpayer's
23 future. The -- all evidence shows that he didn't make
24 that much money. Now, he has this hundreds of thousands
25 of dollars penalty on him, and he's not able to do it.

1 Yeah, this -- this will just kill his -- kill his future.

2 It -- it's just unjust from the side of the Department.

3 I'm done, Your Honor.

4 JUDGE STANLEY: Okay. This is Judge Stanley
5 again. Thank you, Mr. Demirchyan.

6 Judge Aldrich, do you have any final questions
7 for either party?

8 JUDGE ALDRICH: I do not. Thank you.

9 JUDGE STANLEY: Judge Ralston?

10 JUDGE RALSTON: No questions. Thank you.

11 JUDGE STANLEY: Okay. I do have a question for
12 you, Mr. Demirchyan. You said that -- you said that
13 Mr. Hambardzumyan was the sole employee so -- that he
14 didn't have any employees, I should say. And so, if there
15 was somebody else in there, it wasn't related to him and
16 his business. Did he -- what happened on
17 January 3rd, 2019? Did he sell the business?

18 MR. DEMIRCHYAN: He just walked away.

19 JUDGE STANLEY: Did he --

20 MR. DEMIRCHYAN: He was robbed. He was robbed a
21 couple of times. The police confiscated everything, and
22 he wasn't able to get that special license to deal -- to
23 sell marijuana, so he just -- he was losing money, and he
24 just walked away.

25 JUDGE STANLEY: So he did lock the business when

1 he walked away? I'm not understanding how other people
2 could get in there if he had product in there and his sign
3 on the door.

4 MR. DEMIRCHYAN: There was no product, Your
5 Honor. Everything was robbed. Everything was done.

6 JUDGE STANLEY: Okay. All right. Thank you.

7 So the record in Appeal of Hambardzumyan is now
8 closed.

9 I want to thank everybody for joining us and
10 participating today. The panel will meet and deliberate
11 and decide the appeal, and we'll issue a written opinion
12 within 100 days.

13 So today's hearing in the Appeal of Hambardzumyan
14 is now concluded, and the Office of Tax Appeals will
15 reconvene for additional hearings tomorrow, March 20th at
16 9:30 a.m.

17 Thank you all.

18 (Proceedings adjourned at 4:20 p.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 3rd day
of April, 2025.

ERNALYN M. ALONZO
HEARING REPORTER