

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
 ANYTIME2BUY AUTO, LLC,) OTA NO. 240315692
)
 APPELLANT.)
)
)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, May 21, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
ANYTIME2BUY AUTO, LLC,) OTA NO. 240315692
)
 APPELLANT.)
)
)

Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 9:47 a.m. and concluding at 10:37 a.m. on
Wednesday, May 21, 2025, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

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

APPEARANCES:

Panel Lead:	ALJ TERESA A. STANLEY
Panel Members:	ALJ SHERIENE ANNE RIDENOUR ALJ KEITH T. LONG
For the Appellant:	J. MORRIS SUZANNE BRYANT AARON HAGHVERDIAN
For the Respondent:	STATE OF CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION NALAN SAMARAWICKREMA CHRISTOPHER BROOKS JASON PARKER

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

I N D E X

E X H I B I T S

(Appellant's Exhibit 1 was received into evidence at page 7.)

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

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

	<u>PAGE</u>
By Mr. Haghverdian	9
Mr. Morris	9
By Mr. Samarawickrema	18

CLOSING STATEMENT

	<u>PAGE</u>
By Mr. Morris	28

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

California; Wednesday, May 21, 2025

9:47 a.m.

JUDGE STANLEY: We're going on the record in the Appeal of Anytime2Buy Auto, LLC, OTA Case No. 240315692. The date is May 21st, 2025, and the time is 9:47 a.m. The hearing is being held electronically with the agreement of the parties.

I'm Judge Teresa Stanley, and I will be the lead for purposes of conducting this hearing. My Co-Panelists Judge Sheriene Ridenour and Judge Keith Long are equal participants in deliberating and determining the outcome of this appeal.

So I'm going to ask the parties to introduce themselves, starting with Appellant Mr. Morris.

MR. MORRIS: Yes.

JUDGE STANLEY: Okay. Mr. Morris is present, and can you introduce representatives.

MR. MORRIS: Suzanne Bryant is the -- my accountant, and Aaron is the tax attorney and the filing auditor or -- for, yeah, payment.

JUDGE STANLEY: Okay. And can you pronounce Mr. -- or maybe he can do so, Aaron's last name.

MR. HAGHVERDIAN: Hi. Good morning. My name is Aaron Haghverdian. I'm an enrolled agent representing

1 Mr. Morris Anytime2Buy Auto, LLC.

2 JUDGE STANLEY: Okay. Thank you very much.

3 And for CDTFA.

4 MR. SAMARAWICKREMA: This is Nalan
5 Samarawickrema, Hearing Representative for CDTFA.

6 MR. PARKER: This is Jason Parker, Chief of
7 Headquarters Operations Bureau with CDTFA.

8 MR. BROOKS: Good morning. This is Christopher
9 Brooks, attorney for CDTFA.

10 JUDGE STANLEY: Okay. Thank you everyone.

11 As stated in the Minutes and Orders, the issues
12 to be decided in this appeal are whether Appellant has
13 established that a reduction in the audited measure of tax
14 is warranted, and more specifically, Appellant has alleged
15 that there are unwinds and bad debts during the liability
16 that exceeded those allowed by CDTFA.

17 Ms. Bryant, is that accurate?

18 MS. BRYANT: Yes. So John asserts that some of
19 the amounts that were on the DMV report, that the sales
20 tax auditor used were un -- unwind.

21 JUDGE STANLEY: Okay. Can I just stop you? I'm
22 just trying to establish that you agree that that and the
23 negligence penalty are the issues in this case.

24 MS. BRYANT: Yes.

25 JUDGE STANLEY: Okay. Thank you.

1 Mr. Samarawickrema, do you agree that those are
2 the issues today?

3 MR. SAMARAWICKREMA: Yes, Judge.

4 JUDGE STANLEY: Okay. For exhibits, Appellant
5 submitted one exhibit, which appears to be the audit work
6 paper Schedule E. CDTFA had no objection to that evidence
7 at the prehearing conference, so that's admitted into
8 evidence at this time.

9 (Appellant's Exhibit 1 was received into
10 evidence by the Administrative Law Judge.)

11 JUDGE STANLEY: CDTFA submitted Exhibits A
12 through H.

13 Ms. Bryant, I assume you're taking the lead on
14 this hearing, right? Should I be asking you these
15 questions?

16 MS. BRYANT: Well, I helped with the actual
17 audit, but now John has his attorney that --

18 JUDGE STANLEY: Okay.

19 MS. BRYANT: -- I think that is maybe going to
20 take the lead.

21 JUDGE STANLEY: Okay. Mr. Haghverdian, then I
22 will ask you if you have any objections to Exhibits A
23 through H?

24 MR. HAGHVERDIAN: No. No objection.

25 JUDGE STANLEY: So Exhibits A through H are

1 admitted into the record as well.

2 (Department's Exhibits A-H were received into
3 evidence by the Administrative Law Judge.)

4 JUDGE STANLEY: I was uncertain, and we didn't
5 have Appellant or representative at the prehearing
6 conference, is Mr. Morris and Ms. Bryant, are they both
7 going to testify today, Mr. Haghverdian?

8 MR. HAGHVERDIAN: Yes, ma'am.

9 JUDGE STANLEY: Okay. Then I'm going to ask
10 Mr. Morris and Ms. Bryant to please raise your right
11 hands.

12

13 J. MORRIS,

14 produced as a witness, and having been first duly sworn by
15 the Administrative Law Judge, was examined, and testified
16 as follows:

17

18 MS. BRYANT,

19 produced as a witness, and having been first duly sworn by
20 the Administrative Law Judge, was examined, and testified
21 as follows:

22

23 JUDGE STANLEY: In the hearing response, you
24 requested 30 minutes for your presentation. That can be
25 either people testifying in the narrative or a

1 presentation.

2 Mr. Haghverdian, you can proceed whenever you're
3 ready.

4

5 PRESENTATION

6 MR. HAGHVERDIAN: Yes. So I spoke with
7 Mr. Morris regarding the -- there was some bad debts from
8 sales of vehicles that were returned. Sales tax was never
9 collected on these vehicles. And as far as I'm aware,
10 Mr. Morris is willing to settle on the tax that is owed.
11 It is the penalties that he wants removed, and he's
12 willing to give them some kind of a payment arrangement.
13 That's as far as we've gotten with Mr. Morris. But,
14 unfortunately, that's all the information that I have.

15 JUDGE STANLEY: Okay. Would you like to have
16 Mr. Morris then provide information via testimony?

17 MR. HAGHVERDIAN: Mr. Morris?

18 MR. MORRIS: Yes.

19 MR. HAGHVERDIAN: Yes, ma'am.

20 MR. MORRIS: Yes.

21 JUDGE STANLEY: You can proceed when you're
22 ready, Mr. Morris.

23 MR. MORRIS: Oh, okay. I'm sorry. I was just
24 waiting for -- okay.

25 Yeah. So when the -- the -- they originally did

1 the audits and stuff, we, you know, they were saying that
2 this amount of taxes was collected, when in all reality it
3 wasn't. There were -- there were a ton of repossessions
4 with the -- with the buy here, pay here, there was a ton
5 of people that didn't -- didn't make their payments. And,
6 you know, we had to take the vehicle back, and we, you
7 know, got nothing for that. We -- Suzanne and I spent
8 hours, like, pulling out files and -- and -- of different
9 cars and -- and different buy here, pay heres, or -- or
10 vehicles that we had to buy back, you know. And -- and
11 we -- we just didn't get any credit for them, you know.

12 We tried to present that, and that just wasn't --
13 it was kind of like all that work that we did was for
14 nothing, you know. I felt like, you know, we -- we
15 presented pretty good cases on each file. We -- we pulled
16 them out and said, hey, this is one was a buy back, or
17 this one might have been a repossession that we never
18 collected all the -- all the monies owed. But yet, I was
19 still charged fully for -- for the -- for the deal, you
20 know. And then if -- if it was something, like say, it
21 was a repossession or say, it was a -- a buy back or
22 anything and we resold the vehicle, then the tax was
23 collected again.

24 So the tax was actually collected twice, if -- if
25 you go back to what they're saying is owed. And -- and

1 the -- the tax was paid, you know, eventually with another
2 person or -- or however. But they're -- they're double
3 dipping me is -- is basically what I'm stating, and
4 that -- that was the problem that I had. And I said, hey,
5 it's like look. We can't -- it's not like I -- I didn't
6 collect the first one. Yes, I collected the second one,
7 but I paid you. And -- but that wasn't good enough is --
8 is kind of the -- the narrative that -- that Suzanne and I
9 were getting is, anything that we brought forward in all
10 the paperwork and documents and files that brought
11 forward, whether it was a repossession or buy it back,
12 whatever the situation was, there was a loss there on my
13 part. And then the State just was basically saying we
14 don't care. We want to collect it. But yet, you guys
15 collected it again if we resold the vehicle, you know. Or
16 sometimes we, you know, if the vehicle was in poor, poor
17 condition, we had to wholesale it, and then it was a total
18 loss.

19 So, you know, I felt like we just never got to
20 that, you know, that fair number. And, you know, we -- we
21 had -- we had projected what we had thought was what it
22 should be. And, you know, they put all these, you know,
23 late fees and this fee. And, you know, my gosh, it, you
24 know, it went from \$80,000 to \$200 in a blink of an eye.
25 And it was like, wait a minute. Okay. We're not \$200. I

1 mean, that's crazy. You know, we're not even a \$100 and,
2 you know, so -- like I said. I feel like we just didn't
3 get a real fair shake or a fair look at what -- the losses
4 that we had and all the money that supposedly they said we
5 collected, but we actually never received.

6 So that was -- you know, that's my end point the
7 whole time, and I've stayed with that narrative and -- so,
8 you know, I -- if -- if we owe on a certain thing, I
9 understand that, yes. And -- and, you know, you were paid
10 or should be paid for whatever, you know, if there's
11 something that we missed or something like that. That's
12 understandable, but to -- to put on top of all of that
13 other stuff and say, hey, those -- those -- those jackets
14 that we have or those fees that we have are still going to
15 stay no matter what, you know. And that's -- that's not
16 fair. That's not fair to my business, and it's not fair
17 to me, you know. And -- and -- so I'm just saying it's --
18 you know, let's look at in a perspective of, you know,
19 hey, you know, it -- it did get paid. It got paid the
20 second time if it was a resale or if it got paid if we
21 redid the deal or -- or if there was even a total loss.

22 So, you know, that's all I'm saying. I'm not --
23 I'm not trying to, you know, say, oh, this whole thing
24 should be abolished. I understand that. But, you know,
25 I'm saying let's -- let's sit down, figure it out and be

1 fair about things, and -- and work something out that's --
2 that's doable so I can still stay in business, and I can
3 still continue to sell cars, and I can still -- you know,
4 I have employees. I have families, you know. So, you
5 know, I -- we just don't want to get to a point where it's
6 like so insurmountable that we can't overcome it.

7 Does that make sense, what I'm trying to pitch
8 there? So that's kind of what I'm trying to say. So --

9 JUDGE STANLEY: Okay. Ms. Bryant, do you have
10 anything that you want to add at this point?

11 MS. BRYANT: Well, I just want to say that I do
12 agree with John. He contributes to the local economy
13 here, and that he hires probably 10 people. He -- he also
14 hires people to repair the vehicle, and he hires me to do
15 his accounting and his taxes, not his sales tax. He does
16 that. But he contributes to the economy. And I just feel
17 like all these penalties would create quite a bit of
18 unemployment in this town. So I just think that the
19 penalty should come off, and then he should go on a
20 payment plan.

21 That's all that I have to say.

22 JUDGE STANLEY: Okay. Mr. Haghverdian or
23 Mr. Morris, does that conclude the presentation before I
24 get to questions?

25 MR. MORRIS: Yeah. I --

1 MR. HAGHVERDIAN: Yes.

2 MR. MORRIS: Yeah. I believe that's everything.
3 If there's something I missed, we can go back over it, I
4 guess, if you need us to.

5 JUDGE STANLEY: Okay. Well, I'm going to turn to
6 Mr. Samarawickrema to see if CDTFA has any questions for
7 any of the witness.

8 MR. SAMARAWICKREMA: This is Nalan
9 Samarawickrema. No, Judge, we don't have any questions
10 for the witnesses.

11 JUDGE STANLEY: Okay. Judge Ridenour, do you
12 have any questions.

13 JUDGE RIDENOUR: No questions. Thank you.

14 JUDGE STANLEY: Judge Long, do you have any
15 questions?

16 JUDGE LONG: No questions. Thank you.

17 JUDGE STANLEY: And, Mr. Morris, I just have one
18 question, and I think it would be for you. On the
19 attachment that was sent in with Appellant's appeal, it's
20 the whole bad debt schedule as scheduled by CDTFA. Is
21 there anywhere on there that you can point to --

22 MR. MORRIS: I -- let me see. I don't -- do you
23 have -- because I have a few -- Suzanne has most of the
24 copies and stuff. Is there something that you have that
25 you can show me that maybe I could point out that -- what

1 you're asking. I'm sorry. I'm trying to --

2 JUDGE STANLEY: Well, I'm sorry. I don't mean to
3 interrupt, but I'm just asking if there's anywhere on
4 CDTFA's schedule that you can point to that said that is
5 something that they included that they shouldn't have.

6 MR. MORRIS: Yeah. We -- we pointed out several
7 things that when we were -- when we were originally going
8 through the audit of what we thought it was and then what
9 they originally thought it was. I think, if I remember --
10 I don't have the document in front of me. Like I said, I
11 think Suzanne has most of that. But I think originally it
12 was like 121 or 127. I don't -- I -- don't quote me on
13 that, but it was -- anyway, and what we had -- what we had
14 come up with was about 76, the difference in between
15 there. And then everything else was just these tacked-on
16 fees and tacked-on lates or this or that and then somehow
17 gets to 200.

18 And so, you know -- you know, what Suzanne and I
19 had figured out and what they had figured out, there --
20 there was a difference in there and -- on -- on several
21 jackets that we brought forward. And we still never
22 even -- they said, hey, we're not going to give you credit
23 for those. And it's like, well, wait a minute. Like, I
24 mean, we took the time to bring these forward. I wouldn't
25 have just arbitrarily come up with these figures or

1 these -- these jackets that, hey, this was either a repo
2 or a non-pay or -- or, you know, the car blew up that
3 people -- people wouldn't pay.

4 So those were the numbers that we had, and the
5 difference was somewhere in \$50 -- \$47 to \$53,000
6 difference in -- compared to what they had, compared to
7 what we had. And what I was saying was, hey, let's just
8 find a commonality of, like, okay. I -- I know there's
9 some -- and -- and I have been -- just so you know, Judge.
10 I have been paying on that biweekly that -- that balance.
11 And everything I pay, they just -- they just add more to
12 it. They just add whatever. I don't know if it's a late
13 fee or if it's just a fee, period, or a balance fee, or
14 whatever, or interest. I -- I have been paying on this
15 for well over a year now knowing that -- I knew there was
16 a balance. So I was just making payments so -- so I could
17 say, hey, it's -- you know, it's not like I'm trying to
18 skate it, or I'm trying to run from it or hide from it.

19 I'm just saying, hey, let's come in with a fair
20 amount and, you know -- you know, this wasn't stuff that
21 was purposely done. This wasn't stuff that was
22 maliciously done. I wasn't trying to dodge or duck or --
23 or hide or anything like that. So I -- I was just saying,
24 you know, the difference was between 47 to 53 is what I
25 remember. Like I said, I don't have it in front of me.

1 Maybe if I could get the document, I could give you an
2 exact. But that was -- that was what I was saying was,
3 hey, you know, we -- we have this. The -- they have --
4 the State had their number. We had our number. There's
5 still a number. We still know there's a balance, and
6 hence why I was making payments on that.

7 But I -- I kind of want to -- what Suzanne said.
8 I just wanted to get into a situation that was fair. That
9 was doable that I could still stay in business. I could
10 still keep people employed, and I could still, you know,
11 keep making payments until we're -- you guys are made
12 whole or whatever, if -- if that makes sense in -- in all
13 respect.

14 JUDGE STANLEY: Okay. Thank you. Thank you,
15 Mr. Morris.

16 And just to differentiate a little bit, we're not
17 associated with CDTFA. So it's not the Office of Tax
18 Appeals that is being paid or being made whole as you
19 said. So I just want to make sure that differentiation is
20 clear. We're not associated -- we're not affiliated with
21 them at all.

22 So if nobody else has any other questions, I will
23 turn it over to Mr. Samarawickrema. CDTFA is not
24 presenting any witnesses, so we won't be swearing anybody
25 in.

Mr. Samarawickrema, you'll have 30 minutes for your presentation. Please proceed when you're ready.

MR. SAMARAWICKREMA: Thank you, Judge.

PRESENTATION

MR. SAMARAWICKREMA: Appellant, a California limited liability company, operates a used car dealership in Oceanside, California. Appellant was issued a seller's permit with the effective start date of April 19th, 2016. The Department audited Appellant's business for the period of January 1st, 2017, to September 30th, 2020. This is Appellant's first audit. During the audit period, Appellant reported a little over \$1.8 million as taxable sales and claimed almost \$14,000 as returned taxable merchandise; and these amounts are shown on Exhibit A, pages 53 and 54.

During our presentation, we will explain why the Department rejected Appellant's reported taxable sales; why the Department used an indirect audit approach; how the Department determined Appellant's unreported taxable sales for the audit period; and why the Department recommended a negligence penalty for this Appellant.

During the audit, Appellant failed to provide complete sales records. Appellant did not provide complete documents of original entry, such as complete

1 Department of Motor Vehicle report of sales, dealer
2 jackets, sales contracts, financing contracts,
3 repossession documents, sales journals, or sales summaries
4 to support its reported taxable sales for the audit
5 period. Appellant also did not provide complete purchase
6 information or purchase journals for the audit period.

7 During the audit, Appellant was unable to explain
8 how it reported its sales on its sales and use tax returns
9 or explain what sources it relied upon to file them. The
10 Department did not accept Appellant's reported taxable
11 sales due to lack of reliable reports. The Department
12 also determined that Appellant did not provide complete
13 books and records that could be used to verify its
14 reported taxable sales for the audit period. The
15 Department completed three verification methods to verify
16 the accuracy of Appellant's reported taxable sales.

17 The first, Appellant provided federal income tax
18 return for years 2018 and 2019, but failed to provide its
19 2017 federal income tax return. The Department compared
20 recorded gross receipts on Appellant's 2018 and 2019
21 federal income tax return to Appellant's reported total
22 sales for the same period and calculated an overall
23 difference of around \$557,000. And this calculation is on
24 Exhibit D page 555.

25 Second, Appellant provided profit and loss

1 statements for years 2018, 2019, and 2020. And this is
2 shown on Exhibit D, page 554. For years 2018 and 2019,
3 those statements recorded total sales of around
4 \$1.3 million. That did not match with the reported total
5 sale of around \$985,000 for the same period.

6 Third, because Appellant did not provide complete
7 sales records, the Department obtained Appellant's DMV
8 sales information; and that is shown on Exhibit E. The
9 Department compared Appellant's DMV sales to federal
10 income tax returns and to sales and use tax returns and
11 found significant differences. For federal income tax
12 returns, the Department calculated an overall difference
13 of around \$772,000 for year 2018 and 2019. And the
14 information required to calculate these sales difference
15 is shown on Exhibit A, page 156 and 555. For sales and
16 use tax returns, the Department calculated an overall
17 difference of around \$2 million for the audit period. And
18 the information required to calculate this sales
19 difference is shown on Exhibit A, page 53 and pages 93 to
20 156. Based on these three verification methods, the
21 Department concluded that Appellant's records were
22 unreliable.

23 Further, the Department determined that it could
24 not use a direct audit approach based on Appellant's books
25 and records. Therefore, the Department conducted further

1 investigation by analyzing Appellant's DMV information.
2 Automobile dealerships are required to submit a retail
3 report of sales to DMV after the completion of a retail
4 motor vehicle sale. The DMV then comprise this
5 information as part of its report of sales data. The
6 Department was able to obtain DMV information, which
7 included report of sales data, sorted by the dealer's
8 license number. When the DMV receives a report of sale,
9 the actual selling price is converted to a two-digit alpha
10 code, also known as "Vehicle License Fee Code." And these
11 vehicle license fee codes are shown on Exhibit D,
12 column 19.

13 Vehicle license fee codes are established in \$200
14 increments. The Department converted these vehicle
15 license fee codes to dollar values and used the lowest
16 value in the vehicle license fee codes range to estimate
17 the sales price. This is shown on Exhibit E. Filing of a
18 report of sales is presumptive evidence that the dealer
19 who filed the report of sale is the person who actually
20 made the sale. The Department analyzed Appellant's DMV's
21 information and removed duplicate sales and unwinds. The
22 Department then calculated audited vehicle sales per DMV
23 information. Based on Appellant's records, Appellant
24 charged a smog fee and a document fee for each vehicle
25 sold.

1 The Department also determined that these fees
2 were taxable, and these fees were not included in the
3 estimated DMV vehicle sales amount. Therefore, the
4 Department added these fees to the estimated vehicle sales
5 amounts and determined audited taxable sale of around
6 \$3.9 million for the audit period. And these calculations
7 are on Exhibit A, pages 93 through 156. Audited taxable
8 sales were compared with reported taxable sales to
9 calculate unreported taxable sales based on DMV
10 information of around \$2.1 million for the audit period;
11 and these calculations are shown on Exhibit A, page 65.
12 Appellant later provided a bad debt transaction ledger for
13 36 transactions, including information for two vehicle
14 returns. And this information is shown on Exhibit D,
15 pages 556 through 573.

16 Based on the documentation provided, the
17 Department determined five transactions qualified as bad
18 debts in the amount of around \$5,000, and that the two
19 vehicle returns qualify for adjustments; and this is shown
20 on Exhibit D, page 556. As a result, the Department made
21 these additional adjustments. In total, the Department
22 determined unreported taxable sales of \$2.1 million; and
23 this is shown on Exhibit A, page 64. Unreported taxable
24 sales were compared with reported taxable sales of around
25 \$1.8 million to calculate error rate of around 121 percent

1 for the audit period. And the information required to
2 calculate this error rate is on Exhibit A, page 64.

3 The Department has discovered that two retail
4 vehicle sales were missing from the DMV information for
5 the audit period. And these two vehicles sales are shown
6 on Exhibit F. Nevertheless, the Department did not use
7 this additional taxable sales to increase Appellant's
8 sales tax liability for the audit period. The Department
9 notes that the DMV data audit approach is a recognized
10 indirect audit method. The audit calculation of
11 unreported taxable sales based on Appellant's DMV
12 information was reasonable and was in Appellant's favor.

13 When the Department is not satisfied with the
14 accuracy or the sales and use tax returns filed, it may
15 rely upon any facts contained in the return or upon any
16 information that comes into the Department's possession to
17 determine if any tax liability exist. Taxpayer shall
18 maintain and make available for examination, on request by
19 the Department, all records necessary to determine the
20 correct tax liability under the sales and use tax laws and
21 all records necessary for the proper completion of the
22 sales and use tax returns.

23 When a taxpayer challenges an audit of
24 determination, the Department has the burden to explain
25 the basis for that deficiency. When the Department's

1 explanation appears reasonable, the burden of proof shift
2 to the taxpayer to explain why the Department's asserted
3 deficiency is not valid. Since Appellant failed to
4 provide necessary records, the Department relied upon the
5 best available information to determine the unreported
6 taxable sales for the audit period. The DMV data audit
7 approach is a recognized indirect audit method.
8 Therefore, the audit calculation of unreported taxable
9 sales was reasonable.

10 Appellant continues to claim that it is entitled
11 to additional adjustments for bad debts, unwinds, and
12 recovery adjustment for return vehicles. Appellant
13 however, has not specified the amount of additional bad
14 debt adjustment it seeks, nor has it provided reasonable
15 supporting documents. Appellant did not claim any bad
16 debts on its 2018 or 2019 federal income tax returns; and
17 this is shown on Exhibit D, page 555. To date, Appellant
18 has not provided any evidence supporting additional bad
19 debts on repossessed vehicles for the audit period. But
20 the Department -- the Department also adjusted for known
21 unwind sales and vehicle returns, and Appellant did not
22 provide any additional evidence or documents to support
23 additional adjustments for unwinds and recovery adjustment
24 for returned vehicles.

25 Finally, the Department imposed a negligence

1 penalty based upon its determination that Appellant's
2 books and records were incomplete and inaccurate for sales
3 and use tax purposes, and because Appellant failed to
4 accurately report its taxable sales. The Department
5 generally does not impose a negligence penalty when the
6 taxpayer has not been previously audited. Nevertheless,
7 even in connection with the first audit, the imposition of
8 the negligence penalty is warranted if there is evidence
9 establishing that any bookkeeping and reporting errors
10 cannot be attributable to the taxpayer's good faith and a
11 reasonable belief that its bookkeeping and reporting
12 practices were in substantial compliance with the
13 requirement or the sales and use tax law or regulations.

14 Relevant factors, such as general state of the
15 books and records and Appellant's business experience must
16 be considered when the evidence clearly shows that the
17 understatement is due to negligence. Then the penalty
18 applies, even when the Appellant has not been previously
19 audited. Specifically, the Department noted that
20 Appellant failed to provide complete records for the audit
21 period, and Appellant failed to provide documents of
22 original entry to support its reported taxable sales.
23 Appellant's failure to provide complete books and records
24 for the audit period is evidence of negligence. In
25 addition, the audit examination disclosed an error rate of

1 around 121 percent. This high error rate is additional
2 evidence of negligence.

3 In conclusion, since Appellant did not provide
4 complete books and records, the Department was unable to
5 verify the accuracy of reported taxable sales using a
6 direct audit method. Therefore, an alternative audit
7 method was used to determine unreported taxable sales.
8 Accordingly, the Department determined the unreported
9 taxable sales based upon the best available information.
10 The evidence shows that the audit produced reasonable
11 results. Appellant has not provided any documentation to
12 show that the unreported taxable sales determined in the
13 audit are incorrect. Appellant has not determined any
14 errors in the Department's computations or provided any
15 documentary evidence to establish a more accurate
16 determination. Therefore, the Department requests the
17 appeal be denied.

18 This concludes our presentation. We are
19 available to answer any questions the panel may have.

20 Thank you.

21 JUDGE STANLEY: Thank you. This is Judge Stanley
22 speaking.

23 Judge Ridenour, do you have any questions for
24 CDTFA?

25 JUDGE RIDENOUR: No. Thank you.

1 JUDGE STANLEY: Judge Long, do you have any
2 questions?

3 JUDGE LONG: Yes, just one. I want to make sure
4 that I'm clear on the review of the bad debts and returns
5 unwinds. So schedule 12G-2 notes that there were 57
6 vehicles that were viewed. And then of that, I think only
7 36 were within the audit period; is that correct?

8 MR. SAMARAWICKREMA: Yes, Judge.

9 JUDGE LONG: Okay. And then of those 36 there
10 were allowable bad debt deductions for 4 vehicles, and
11 then 2 returns -- is that correct? -- leaving 30 vehicles
12 in dispute?

13 MR. SAMARAWICKREMA: Allow five right. I think
14 the Department allow -- oh, yeah, four. Yes. Yes, Judge.

15 JUDGE LONG: Four?

16 MR. SAMARAWICKREMA: Yeah.

17 JUDGE LONG: Okay. Four and then two returns.
18 So 30 still in dispute, right?

19 MR. SAMARAWICKREMA: Right. Yeah.

20 JUDGE LONG: Okay. Thank you. No further
21 questions.

22 JUDGE STANLEY: Okay. This is Judge Stanley
23 speaking. I do not have any questions at this time.

24 I'm going to turn it back to you, Mr. Morris, so
25 you can have the final statement or have either of your

1 representatives make a final statement. But I wanted to
2 clarify first, Mr. Morris, what is your title at the
3 company?

4 You're muted. Mr. Morris? Can you unmute your
5 microphone, Mr. Morris. It would be ALT A, if you want to
6 try that.

7 MR. MORRIS: Can you hear me now?

8 JUDGE STANLEY: Yes.

9 MR. MORRIS: I apologize. I didn't even know I
10 was muted. Okay.

11 JUDGE STANLEY: So what is your title first?

12 MR. MORRIS: I'm the owner.

13 JUDGE STANLEY: Okay. And you can go ahead and
14 make a final statement.

15

16 CLOSING STATEMENT

17 MR. MORRIS: Okay. Well, one of them I was
18 writing small notes. I was having a hard time
19 understanding everything. But anyway, one of them he was
20 talking about the year 2017. In 2017, I -- I opened in --
21 well, I didn't open. I started the license in July of --
22 of 2016. But shortly after that, I was diagnosed with
23 squamous cell carcinoma cancer. So in 2017 I was
24 completely -- I was going through radiation and chemo.
25 I -- so there wasn't -- there's nothing going on as far as

1 sales go. Anything didn't really start until 2000 mid --
2 or maybe March or April of, like, '18.

3 But also, like I said, we had more than 54 deals
4 on there, and I -- I'm just -- he said -- he said there
5 was only 54, but I have a higher count than that. So I'm
6 just wondering what -- maybe if there were other deals
7 that he didn't see or whatever. But I mean, they -- they
8 kind of disqualified everything that we threw at them
9 anyway. So I don't know -- I -- I don't -- I don't know.
10 It's very frustrating. I just -- I feel like I -- I don't
11 know. Yeah.

12 I -- I -- I just feel like we're -- I'm not being
13 heard fully. So I don't know what to say other than that.
14 Gosh, you know, like I said, I -- I know there was more
15 deals that, but I -- for those to all just kind of put
16 aside or disqualified, I just -- I don't feel -- I don't
17 believe that's -- that should be accurate or fair. I
18 think those aren't -- we didn't bring those jackets to
19 the -- to -- to the State for, you know, them just to say,
20 hey, it's not -- it doesn't count or whatever 'cause the
21 taxes were paid if it is were a resale, or the taxes were
22 taken care of, you know, if it was still that one.

23 So I -- I don't -- I -- I guess I'm just confused
24 about everything. It's -- it's really tough for me to
25 swallow all of that. It just -- it makes it sound like I

1 blatantly didn't do anything during that period of time,
2 and that's not true at all. So I -- I don't know what to
3 say other than that. It's just it's -- it's tough for me
4 to grasp everything what they were trying to say or
5 impose. But anyway, maybe you can help me understand that
6 a little better. I -- I don't know.

7 JUDGE STANLEY: Thank you, Mr. Morris, and I will
8 ask Mr. Samarawickrema to once again clarify why your
9 number is 57 and the Department's number is 36.

10 And I believe, Mr. Samarawickrema, you just --
11 you just clarified that only 36 out of the 57 vehicles on
12 schedule 12G-2 are inside the audit period; is that
13 correct?

14 MR. SAMARAWICKREMA: Yes, Judge. So the -- from
15 that 36, 2 returns were recognized, and we -- the
16 Department adjusted 2 vehicles. And also, we -- the
17 Department saw 9 vehicles subject to bad debt adjustments.
18 And from that 9, only 5 apply for the audit period, and
19 the other 4 is outside the audit period. And the 25 were
20 disallowed because the Department did not receive the
21 supporting information.

22 So basically, we recognized 9 transactions
23 subject to bad debts, but from that 9, 5 are within the
24 audit period, and the 4 is outside the audit period. And
25 it shows on the schedule 12G-1 page in our exhibit there

1 is -- that is the pages 557 through 561.

2 MR. MORRIS: Would it be okay, Judge, if -- if
3 Suzanne talked, or is that out of line?

4 JUDGE STANLEY: This is Judge Stanley speaking.
5 No, that's fine.

6 Ms. Bryant, you can proceed.

7 MS. BRYANT: Well, what I wanted to say is John
8 did get a new program for his car sales. And since that
9 time that they had the audit, he has learned how to use
10 it. So he can gather the information that they need, but
11 they closed the audit really fast, and we didn't get a
12 chance to get them everything. They -- they said that he
13 didn't have documentation on the unwound deals, which he
14 didn't at the time, but he does now. So is it possible to
15 maybe give us some time to get that together so that we
16 could, you know, show them or --

17 JUDGE STANLEY: This is Judge Stanley speaking.
18 We can, if you have obtained information on any other bad
19 debts or unwinds, in particular on the 25 vehicles that
20 were disallowed within the audit period. We can hold the
21 record open to allow you to submit that to us, to the
22 Office of Tax Appeals, with a copy to CDTFA. How long do
23 you think it will be? You said it's already collected,
24 Ms. Bryant. How long do you think it would take to get
25 those documents to us?

1 MS. BRYANT: Well, maybe a month. Could you give
2 us a month?

3 JUDGE STANLEY: I can. Okay. But at this time,
4 does that conclude Appellant's presentation?

5 Mrs. Bryant, is that everything that you wanted
6 to present?

7 MS. BRYANT: Yes. I just wanted to say that I
8 think he could gather the documentation now.

9 JUDGE STANLEY: Okay. All righty. Then I'm
10 going to ask, Judge Ridenour, do you have any final
11 questions?

12 JUDGE RIDENOUR: Not at this -- actually, I do.

13 Mr. Haghverdian, can you clarify the record. Are
14 you an attorney or an enrolled agent?

15 MR. HAGHVERDIAN: No. I'm an enrolled agent.

16 JUDGE RIDENOUR: Okay. Thank you. No other
17 questions.

18 JUDGE STANLEY: Thank you for that clarification,
19 Judge Ridenour.

20 Judge Long, do you have any final questions?

21 JUDGE LONG: No questions. Thank you.

22 JUDGE STANLEY: Okay. One of the things that
23 came up a few times during the hearing was the desire to
24 possibly to settle. I'm going to ask CDTFA at the
25 conclusion of the hearing to please provide Appellant with

1 settlement information so that they have that, if that's
2 the path they want to take.

3 I'm going to hold the record open for additional
4 briefing, which would be limited to evidence of unwinds
5 and bad debts that were disallowed; and I will give
6 Appellant 30 days to provide us with that information.
7 And then I'll give CDTFA 30 days to respond to it and, at
8 that point, we will close the record and submit the appeal
9 for an opinion.

10 And when we hold the record open, we will
11 issue -- once it's closed, we'll issue an opinion within
12 100 days of the date we close the record.

13 I want to thank everybody for coming and
14 participating today.

15 And today's hearing in the Appeal of Anytime2Buy
16 Auto, LLC, is now concluded.

17 OTA is in recess, and the next appeal will begin
18 at 11:00 a.m.

19 Thank you.

20 (Proceedings adjourned at 10:37 a.m.)

21
22
23
24
25

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

HEARING REPORTER'S CERTIFICATE

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

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

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

I have hereunto subscribed my name this 2nd day
of June, 2025.

ERNALYN M. ALONZO
HEARING REPORTER