

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
D. ELHAJJ,) OTA NO. 221111924
)
 APPELLANT.)
)
)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Tuesday, July 15, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 2:15 p.m. and concluding at 2:55 p.m. on
Tuesday, July 15, 2025, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

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APPEARANCES:

Panel Lead: ALJ KEITH T. LONG

Panel Members: ALJ ANDREW WONG
ALJ NATASHA RALSTON

For the Appellant: NADER SHAHATIT

For the Respondent: STATE OF CALIFORNIA
DEPARTMENT OF TAX AND
FEE ADMINISTRATION

RAVINDER SHARMA
CHAD BACCHUS
JASON PARKER

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I N D E X

E X H I B I T S

(Department's Exhibits A-F were received into evidence at page 7.)

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California; Tuesday, July 15, 2025
2:15 p.m.

JUDGE LONG: We are opening the record in the Appeal of Elhajj. The OTA Case Number is 221111924. This matter is being held before the Office of Tax Appeals. Today's date is July 15th, 2025, and the time is approximately 2:15 p.m. This hearing is being convened virtually.

Today's hearing is being heard by a panel of three Administrative Law Judges. My name is Keith Long, and I will be the lead Administrative Law Judge. Judge Natasha Ralston and Judge Andrew Wong are the other members of this tax appeals panel. All three panel members will meet after the hearing and produce a written decision as equal participants. Although the lead judge will conduct the hearing, any judge on this panel may ask questions or otherwise participate to ensure that we have all the information needed to decide this appeal.

As a reminder, the Office of Tax Appeals is not a Tax Court. It is an independent appeals body. The panel does not engage in ex parte communications with either party. OTA will issue an opinion based on the parties' arguments, the admitted evidence, and the relevant law.

For the record, will the parties please state

1 their names and who they represent starting with the
2 representatives for CDTFA.

3 MR. SHARMA: This is Ravinder Sharma, Hearing
4 Representative for the CDTFA. Thank you.

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

7 MR. BACCHUS: And Chad Bacchus, attorney for
8 CDTFA's legal division.

9 JUDGE LONG: Thank you.

10 And for Appellant.

11 MR. SHAHATIT: This is Nader Shahatit. I'm the
12 representative for Mr. Elhajj.

13 JUDGE LONG: Thank you.

14 The issues to be decided in the appeal are: One,
15 whether adjustments are warranted on unreported taxable
16 sales; and two, whether adjustments are warranted to
17 unreported cigarette rebates.

18 My understanding is that there are no witnesses.

19 Mr. Shahatit, can you confirm that?

20 MR. SHAHATIT: Yes, sir.

21 JUDGE LONG: Thank you.

22 The exhibits for this appeal consist of CDTFA
23 Exhibits A through F. These exhibits were discussed at the
24 prehearing conference, and they are admitted without
25 objection.

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

3 MR. SHAHATIT: Yes, sir.

4 JUDGE LONG: Mr. Shahatit, you requested 25
5 minutes for your opening presentation. You may begin when
6 you're ready.

7

8 PRESENTATION

9 MR. SHAHATIT: Okay. This taxpayer own a smog
10 shop in San Bernardino. And when they start the audit,
11 they ask him for books and records. He provide all the
12 books and records. That's include federal income tax
13 return for the audit period, purchase invoice. There was
14 a POS system which is point of sale system, and he provide
15 the information to the CDTFA. There was 1099 provided,
16 bank statement provided. Basically, all the books and
17 records that's the auditor asked for, they provide.

18 However; -- and he filed his sales and use tax on
19 time. He paid his sales and use tax on time. There was
20 no communication from the CDTFA that indicate that these
21 reports or these returns are wrong, or there's any problem
22 with them. However, he report \$1,137,187 in taxable
23 sales. With this audit, they come up with they say there
24 is a problem with the taxable sales based on the CDTFA
25 calculation. They did purchase segregation, and they

1 trying to match it to what we have.

2 I don't think there was any problem, however, the
3 markup was okay too. But still, they say the rebate is --
4 there's a problem with the rebate. There's a problem with
5 the self-consumption and, of course, the interest. I want
6 to address each one of them.

7 For self-consumption, this is his first time
8 audit. So, basically, he was not aware that he can claim
9 self-consumption. Neither his accountant told him that he
10 can do it or the auditor. So I'm going to give some
11 information about the self-consumption. He has two
12 employees plus himself, and that will be around \$20 per
13 person per day. That is will be \$60 times 30 days will be
14 \$180 -- \$1,800 for the audit period, which is 36 months.
15 It will be \$43,200 for self-consumption that we would
16 like -- that I would like to be considered as
17 self-consumption for this audit.

18 For the rebate --

19 JUDGE LONG: Wait. Mr. Shahatit, I'm sorry to
20 interrupt. Can you tell me the math on that
21 self-consumption calculation again.

22 MR. SHAHATIT: Yes. There was two employees plus
23 the owner, which is three employee, times \$20 a day for
24 consumption of the cigarettes and water and soda and the
25 one that we have. So that will be for 30 days. That will

1 be \$1,200. So it's basically 60 times 30, \$1,200, times
2 36 months. And that's the self-consumption that we're
3 asking for.

4 JUDGE LONG: Thank you.

5 MR. SHAHATIT: For the --

6 JUDGE LONG: You can continue.

7 MR. SHAHATIT: Yeah. For the rebate, my taxpayer
8 or my client said that the rebate is included in -- in the
9 sales and use tax that he reported, the one that is
10 taxable. Because, basically, he has rebate cigarettes
11 that is taxable, and rebate cigarettes that's nontaxable.
12 So the one that -- that was in the statement -- the bank
13 statement, he reported in sales and use tax. So by
14 putting it again, means you are charging him twice on the
15 rebate. That is for the rebate.

16 Now, there's a problem with the pilferage because
17 they try to calculate it, and they give him 2 percent.
18 However, there was some stealing. And there's a police
19 report that there was break in the store, people taking
20 products from -- from his store. Therefore, I'm asking
21 instead of 2 percent, to have it like 3 percent for the
22 pilferage when they calculate the unreported taxable sales
23 for them.

24 The other issue is the interest charged. I think
25 there was a delay in this case because it's from 2022, and

1 it's unfair to charge him interest which equal more than
2 the tax or less -- probably more than 40 percent of the
3 tax is interest. There was a period of COVID, and there
4 was other issue that -- that delay this case up to now.
5 So I would like the Court to consider waiving some of
6 these interests or whatever applicable during the -- this
7 audit period.

8 Other than that, that's it. Thank you very much.

9 JUDGE LONG: Okay. Thank you.

10 Before we move to CDTFA, I have a few questions,
11 and I want to make sure that my co-panelists have the
12 opportunity to ask questions. But first, I wanted to ask
13 regarding -- CDTFA, regarding the interest issue that was
14 brought up. That appears to be a new issue, at least for
15 OTA. Was interest previously request -- interest
16 abatement previously requested of CDTFA?

17 MR. SHARMA: This is Ravinder Sharma. No, it was
18 not requested before. This is a new issue.

19 JUDGE LONG: Okay. Thank you.

20 MR. SHARMA: And we don't have a CDTFA 735 form
21 completed by Appellant under penalty of perjury, and the
22 period and the specific reasons for requesting interest.
23 Thank you.

24 JUDGE LONG: Okay. Thank you.

25 MR. PARKER: Judge Long, can I add one thing as

1 far as interest relief real quick?

2 JUDGE LONG: Yes.

3 MR. PARKER: Due to executive orders, March 2020
4 through June 2020 already has interest relief for those
5 periods. So those periods wouldn't be at issue anyways.

6 JUDGE LONG: Okay. Okay. So let me -- I want to
7 go off the record for a minute and send everyone into a
8 waiting room and discuss things with my co-panelists real
9 quickly regarding the interest issue.

10 MR. SHAHATIT: Okay, sir. Thank you.

11 JUDGE LONG: So everyone hang tight. We'll bring
12 you back when we can.

13 (There is a pause in the proceedings.)

14 JUDGE LONG: We are reopening the record.

15 Thank you for your patience.

16 Before we continue, Judge Ralston, did you have
17 any questions for Mr. Shahatit?

18 JUDGE RALSTON: No questions at this time. Thank
19 you.

20 JUDGE LONG: Thank you.

21 Judge Wong, did you have any questions?

22 JUDGE WONG: Yeah. I did have a few questions
23 for Mr. Shahatit.

24 Regarding the self-consumption, there was some
25 indications in the record, the audit working papers, that

1 taxpayer didn't claim self-consumption. But now you're
2 claiming there is self-consumption. Could you explain the
3 discrepancy why the CDTFA mentioned that there is no
4 self-consumption in the audit working papers?

5 MR. SHAHATIT: Yes, sir. Basically, when he --
6 when he made the sales and use tax return, he was not
7 aware of that self-consumption; he can claim
8 self-consumption as a nontaxable item, or that it will be
9 taxed by the cost. So, therefore, he did not claim it,
10 but he report every tax he collect to the Board. And he
11 was not aware that he has any credit for self-consumption
12 if -- if they -- if he claim it.

13 And remember this is his first time audit. He
14 never been in business before. Actually, after this
15 business, he even close it, and he -- he just say I'm not
16 being in business anymore because he think it's too much
17 headache. But self-consumption, you know, because he
18 sells cigarettes and people who works there they smoke.
19 And, basically, these are the -- and, you know, they --
20 they consume some sodas and stuff like that during the
21 day. Because, you know, they work long -- long hours.

22 And when I told him, yes, of course the -- it is
23 like this is part of -- of your -- you're supposed to
24 report it. And his accountant did not tell him even --
25 even that he can claim it. And that's the reason we did

1 not claim it before.

2 JUDGE WONG: Okay. Thank you. And then just one
3 more question regarding the allowance for theft. You said
4 that CDTFA had given your client an allowance of 2
5 percent, and you we're asking for a 3 percent allowance.
6 How would you calculate the 3 percent allowance?

7 MR. SHAHATIT: Usually, the CDTFA allow 2 percent
8 as part of their regulations, basically. But we're asking
9 for more because he got, basically, a break-in, and
10 there's a police report for that, and we provide it for
11 the auditor. And because of this policy of, like, less
12 than \$1,000 you cannot report it to the police; we could
13 not bring any other police report. And -- but, basically,
14 he got -- he has a problem with the -- with people
15 breaking in and stealing some products from -- from his
16 business.

17 JUDGE WONG: Okay. So for the police report you
18 did provide CDTFA, they did provide allowance for that; is
19 that right?

20 MR. SHAHATIT: They -- they provide, no. They
21 provide 2 percent, but they did not provide for the police
22 report, I think. Because there -- there is no -- like,
23 there's -- there isn't like how much they steal and stuff
24 like that. We could not -- I could not confirm how much
25 product they took.

1 JUDGE WONG: Okay. And then for the 3 percent,
2 how did you arrive at the figure?

3 MR. SHAHATIT: I just thought that this is the
4 minimum we can ask for.

5 JUDGE WONG: Okay. Thank you.

6 MR. SHAHATIT: Thank you.

7 JUDGE WONG: No further questions at this time.

8 JUDGE LONG: Thank you.

9 I wanted to ask with respect to your contentions.
10 In your opening brief, you discussed differences between
11 the amount of audited taxable sales from quarter to
12 quarter. For example, you cite 1/2018 being at \$448,094,
13 but 2Q '18 being at \$60,867. I noticed that those weren't
14 part of your presentation today, and that you mentioned
15 that the markup actually looked okay in the audit. Are
16 these items that were concluded in your briefing no longer
17 in dispute?

18 MR. SHAHATIT: No, it's a -- it's not me telling
19 you that the markup is okay. The auditor, after his
20 calculation, he -- he said that the markup is okay.
21 That's why they did not do anything about it, regarding
22 the markup.

23 JUDGE LONG: Gotcha. And then regarding these
24 differences, are they still parts of your argument today?

25 MR. SHAHATIT: Yeah. The difference is that my

1 taxpayer believe that he report every -- every -- every
2 taxable sales that he has. So changing any reporting, he
3 could not understand how did they come up with this
4 calculation. I tried to explain to him, and he said
5 neither I have cash register tape. I have the POS system.
6 And every things that I collect, basically, I report.
7 So -- but I told him this is, you know, if the tax -- if
8 the CDTFA could not -- how do I say? -- confirm whatever
9 you report, they have the right to change it based on
10 whatever calculation they have.

11 JUDGE LONG: Okay. Thank you. I have no further
12 questions.

13 CDTFA, you requested 25 minutes for your
14 presentation, and you may begin when you're ready.

15 MR. SHARMA: Thank you, Judge.

16
17 PRESENTATION

18 MR. SHARMA: This is Ravinder Sharma. Appellant
19 operated a smoke shop in San Bernardino, California, since
20 January 2016. The Department performed an audit
21 examination for the period of July 1, 2016, through
22 June 30, 2019. Appellant reported total sales of a little
23 more than \$1.1 million and claimed no deductions,
24 resulting in reported taxable sales of \$1.1 million for
25 the audit period; Exhibit F page 59.

1 Records available for the audit: Federal income
2 tax returns for year 2016 to 2018, bank statements for the
3 audit period, purchase invoices for 2018 and
4 September 2019, point of sale's daily sales report for
5 September 18 through September 23, 2019. Appellant did
6 not provide any cash register tapes for the audit period.
7 Due to lack of sales records, the Department could not
8 verify the accuracy of reported amounts. The Department
9 obtained 1099-K data for the audit period from its own
10 sources.

11 The analysis of Appellant's reported total sales
12 for sales and use tax returns and reported gross receipts
13 per federal income tax return, reveal significant
14 unexplained difference for 2017 and 2018; Exhibit F,
15 page 229. The Department's analysis of reported taxable
16 sales and credit card deposits reveal credit card sales
17 ratio of around 103 percent, means Appellant did not
18 report any cash sales. The Department compared provided
19 purchase invoices for 2018 with federal income tax return
20 purchases and noted an unexplained difference of a little
21 than -- little more than \$45,000; Exhibit F, page 224 and
22 225.

23 Based on these analyses, the Department
24 determined that Appellant's books and records were not
25 reliable and adequate for sales and use tax purposes. In

1 the absence of reliable books and records, the Department
2 used an indirect audit method to verify the accuracy of
3 reported amounts and to determine unreported taxable
4 sales. The Department performed vendor survey, and
5 determined audited taxable purchases of around
6 \$1.4 million for the audit period; Exhibit F, page 85 to
7 223.

8 The Department conducted a shelf test using
9 Appellant's sales invoices for September 2019. Shelf test
10 resulted in a weighted markup of approximately 19 percent;
11 Exhibit F, page 74 to 84. The Department used audited
12 taxable purchases of \$1.4 million, allowed a pilferage of
13 1 percent, plus pilferage for the burglary, and applied
14 weighted markup of 90 percent to determine audited taxable
15 sales of little more than \$1.6 million for the audit
16 period.

17 Appellant reported taxable sales of \$1.1 million,
18 resulting in a difference of around \$506,000 for the audit
19 period; Exhibit E, page 45. The Department used bank
20 statements and determined total credit card sales of
21 around \$1.2 million for the audit period; Exhibit E,
22 page 47. Then the Department compared audited taxable
23 sales with the credit card deposits and calculated an
24 average of 72 percent for the audit period; Exhibit E,
25 page 45. The Department applied calculated credit card

1 ratios to the total credit card deposits of \$1.2 million
2 and determined unreported taxable sales of little more
3 than \$496,000 for the audit period; Exhibit D, page 29.

4 Since the credit card sales ratio method resulted
5 in a lower unreported taxable sales than the markup
6 method, the Department used the credit card sales ratio
7 method to assess the unreported taxable sales of \$496,000
8 for the audit period; Exhibit B, page 29. During the
9 audit process, the Department noted that Appellant
10 received rebates from the cigarette manufacturers. The
11 Department used bank statements and determined cigarette
12 rebates of a little more than \$60,000 for the audit
13 period; Exhibit F, page 226 and 231. Based on these audit
14 processes, the Department determined unreported taxable
15 sales of around \$557,000 for the audit period; Exhibit D,
16 page 28.

17 To verify the reasonableness of the credit card
18 sales ratio, the Department performed an observation test
19 on September 18, 2019, showing credit card sales ratio of
20 around 51 percent; Exhibit F, pages 64 to 68, and
21 Exhibit D, page 30. Appellant provided five daily sales
22 reports from September 19th through September 23, 2019,
23 showing an average credit card sales ratio of 67 percent.
24 The Department combined results from the observation test
25 with the five days of daily sales reports and calculated

1 an average credit card sales ratio of around 64 percent;
2 Exhibit D, page 30. The audited average credit card sales
3 ratio of 72 percent is consistent with the credit card
4 sales ratio of 64 percent and benefits Appellant.

5 Further, audited markup based on the credit card
6 ratio method is around 17 percent, which is lower than the
7 shelf test markup of 19 percent and benefits Appellant;
8 Exhibit D, page 32. When the Department is not satisfied
9 with the amount of tax reported by the taxpayer, the
10 Department may determine the amount required to be paid
11 based on any information which is in its possession or may
12 come into its possession.

13 In the case of an appeal, the Department has a
14 minimum initial burden of showing that its determination
15 was reasonable and rational. Once the Department has met
16 its initial burden, the burden of proof shifts to the
17 taxpayer to establish that a result different from the
18 Department's determination is warranted. Unsupported
19 assertions are not sufficient to satisfy a taxpayer's
20 burden of proof.

21 The Department used Appellant's provided books
22 and records and third-party information to determine the
23 audit liability. Doing so produced a reasonable and
24 rational determination. As of now Appellant has not
25 provided any documentary evidence to show that audited

1 credit card deposits and audited credit card sales ratios
2 are not correct. Based on the foregoing, the Department
3 has fully explained the basis for the deficiency and
4 established that the determination was reasonable based on
5 the available books and records. Further, the Department
6 has used approved audit methods to determine the
7 deficiency. Appellant has not met his burden to prove
8 otherwise. Based on the evidence presented, the
9 Department requests that Appellant's appeal be denied.

10 This concludes my presentation, and I'm available
11 to answer any questions you may have. Thank you.

12 JUDGE LONG: Thank you.

13 Judge Ralston, do you have any questions?

14 JUDGE RALSTON: No questions. Thank you.

15 JUDGE LONG: Judge Wong, do you have any
16 questions?

17 JUDGE WONG: Yes, I did have one question.

18 Appellant today had asked for an allowance for
19 self-consumption. Does CDTFA have a position or a
20 response to Appellant's argument about self-consumption?

21 MR. SHARMA: This is Ravinder Sharma. Yes.
22 Audit findings are based on the credit card sales ratio
23 method, which is 72 percent use for the audit findings
24 because significantly higher than the 64 percent based on
25 the observation test and credit card, and self-consumption

1 is not part of that. But if the Appellant is asking for
2 that, it may increase the liability. And during the audit
3 process, audit staff specifically asked the Appellant and
4 everybody else. They told the audit staff there was no
5 self-consumption. And based on the information we have,
6 we don't use that.

7 JUDGE WONG: Thank you. No further questions at
8 this time.

9 JUDGE LONG: Thank you.

10 I do not have any questions at the moment.

11 Mr. Shahatit, you asked for an additional
12 10 minutes to make your closing presentation, and you may
13 begin when ready.

14 MR. SHAHATIT: Yes. Actually, I have -- before I
15 do my presentation, I have a question for the CDTFA
16 representative.

17 Does the purchase --

18 JUDGE LONG: Mr. Shahatit, I'm sorry to
19 interrupt. The way that this process works, CDTFA is not
20 testifying, and so you don't actually have the opportunity
21 to ask them questions. However, if you would like, you
22 could ask me the question, and I can see --

23 MR. SHAHATIT: It's okay.

24 JUDGE LONG: -- if CDTFA would like to answer it.

25 MR. SHAHATIT: It's okay. I'll put it in the

1 close presentation. You don't have to worry about it.

2 JUDGE LONG: Okay.

3

4 CLOSING STATEMENT

5 MR. SHAHATIT: My client -- you know, the -- the
6 CDTFA and they say that my clients does not have a books
7 and records sufficient to -- to -- for the sales and use
8 tax audit. Actually, we provide the sales and use tax
9 CDTFA with all the books and records that we have. Bank
10 statement -- where do you deposit your money when you do
11 your sales? In the bank. They have all the books and
12 records, and they have all the statement for the audit
13 period. So if they say, oh, your bank statement is wrong.
14 Okay. Show me the other way around.

15 The second thing, the purchases that they did --
16 they did vendor survey that they took them more than six
17 months to do the vendor survey. It match exactly what we
18 have in the books and records. So claiming that our books
19 and record is -- is not sufficient for them, I don't know.
20 There's a big question for that.

21 Number three, the rebate, the rebate they find it
22 in the bank statement. We report from the bank statement
23 our sales and use tax. Plus, when they implement the
24 point-of-sale system, we report from the point-of-sale
25 system. I think we have all the books and records, and

1 it's accurate. And there are -- there's no reason
2 whatsoever that they do the credit card ratio in order to
3 get more money from my taxpayer. My taxpayer report what
4 he collect. He's the middleman between the consumer and
5 the CDTFA.

6 If they have an issue, they already have the
7 1099. They said, oh, we didn't provide it. Actually, I,
8 myself, provided to the auditor the 1099. They have from
9 the 1099 all the credit card sales, and this is with
10 matching. The difference is there are some nontaxable
11 products that is -- that is in our purchases. I was
12 wondering why the auditor did not segregate the purchases
13 to find out what is the percentage of the taxable and
14 nontaxable, then apply it instead of just credit card
15 ratio so they can get more money from my client.

16 I think we have accurate reporting all of our
17 sales and use tax. I think my taxpayer -- or excuse me --
18 my client when he find out this is the way that the tax
19 agency deals with him, he closed the business, and he
20 moved out of state. This is another taxpayer that closing
21 business in California and leaving because of the CDTFA.

22 Thank you, and have a good day.

23 JUDGE LONG: Thank you.

24 We do have a couple business items before we
25 conclude. But I did have I question regarding the books

1 and records because as you noted, you did provide the bank
2 statements. My understanding is that the total bank
3 deposits in the liability period significantly exceeded
4 the amount of total sales reported on Appellant's sales
5 and use tax returns. Do you have an explanation for that?

6 MR. SHAHATIT: No. Actually, I asked the
7 accountant, and he said this is what he report. When --
8 when they collect the tax, that's how much taxable sales
9 they report.

10 JUDGE LONG: Okay. Thank you.

11 Before we move forward, I just want to check in
12 with my co-panelists to see if they have any final
13 questions.

14 Judge Ralston, do you have any questions?

15 JUDGE RALSTON: No questions. Thank you.

16 JUDGE LONG: Judge Wong, do you have any
17 questions?

18 JUDGE WONG: No questions. Thank you.

19 JUDGE LONG: Thank you.

20 Okay. So, Mr. Shahatit, during this hearing, you
21 brought up the issue of interest abatement, and CDTFA
22 indicated that the a portion of the period that this
23 appeal -- or this audit and appeal we're processing are
24 not subject to interest because of the executive order
25 during the COVID-19 pandemic. Did you want to pursue

1 interest abatement further, or was that the period of time
2 that you were arguing for?

3 MR. SHAHATIT: Actually, I think it's not fair
4 for our client -- my client that he's going to pay three
5 years interest and -- plus whatever period that -- that
6 took for the appeal until to this point. Because now the
7 interest is almost one third of the tax, if it's not more.
8 If there's any way that the Court will consider waiving
9 the interest, I appreciate it.

10 JUDGE LONG: Okay. So in order to consider
11 interest abatement, you have to fill out and submit a
12 CDTFA 735 form, which is a request for interest abatement,
13 and you may submit that to us directly. I will leave the
14 record open after this oral hearing and provide you with
15 30 days to provide a completed interest abatement request.
16 Because it is a new issue, I will also allow CDTFA to have
17 30 days, after you submit your completed form, to provide
18 a response. Failure to submit the form will result in us
19 not addressing the issue of interest.

20 Do you understand?

21 MR. SHAHATIT: Thank you very much, Judge. Yeah.
22 Of course, I will send the form directly to -- to the
23 Office of Tax Appeals.

24 JUDGE LONG: Thank you.

25 And then for CDTFA, I just wanted to make sure

1 because the issues weren't necessarily addressed in the
2 briefing. Did you want to take the opportunity to brief
3 the issues of both pilferage further -- of pilferage and
4 self-consumption?

5 MR. SHARMA: This is Ravinder Sharma. As I
6 explained earlier, we already allowed pilferage of
7 1 percent, and based on the police report, whatever that
8 amount it calculates for the loss of tangible personal
9 property, which was \$1,764, which had been already
10 allowed. And that one is on page -- Exhibit E, page 45 to
11 show that.

12 JUDGE LONG: Okay.

13 MR. SHARMA: And as for the self-consumption is
14 concerned, during the audit process -- appeal process,
15 Appellant never claimed it. And as explained earlier,
16 this audit is done based on credit card ratio method,
17 which benefits Appellant. If we go back to the markup
18 method, the liability was already more than \$496,000, it
19 might increase or up -- I mean, up the tax liability if we
20 decide to assess the tax on self-consumption at the cost.

21 JUDGE LONG: Okay. So --

22 MR. SHARMA: Again -- I'm sorry. Again, whatever
23 information they submit, it is subject to verification if
24 that is reasonable or not because Department has never
25 seen information whatsoever for the self-consumption.

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JUDGE LONG: Okay. So --

MR. SHARMA: Thank you, Judge.

JUDGE LONG: So I'm going to take that as a no.
And as a result, we will limit the additional briefing to
just the interest issue. Otherwise, I believe we're ready
to conclude the oral hearing.

Judge Wong, Judge Ralston, are you ready to
conclude the oral hearing?

JUDGE WONG: Yes.

JUDGE LONG: Okay. I want to close the record
now. The record is now closed.

And thank you to everyone for coming in today.

We will be holding the record open.

However, today's hearing in the Appeal of Elhajj
is now adjourned.

(Proceedings concluded at 2:55 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
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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 23rd day
of July, 2025.

ERNALYN M. ALONZO
HEARING REPORTER