

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,        )  
    )  
V, HAZARD and M. HAZARD,                ) OTA NO. 230713723  
    )  
    )  
APPELLANTS.                                )  
    )  
    )  
    )  
\_\_\_\_\_

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, June 18, 2025

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER

1 BEFORE THE OFFICE OF TAX APPEALS

2 STATE OF CALIFORNIA

3

4

5 IN THE MATTER OF THE APPEAL OF, )  
6 )  
7 V, HAZARD and M. HAZARD, ) OTA NO. 230713723  
8 )  
9 APPELLANTS. )  
10 )  
11 )  
12 )  
13 )  
14 )  
15 )  
16 )  
17 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )

---

14 Transcript of Proceedings, taken at  
15 12900 Park Plaza Drive, Suite 300, Cerritos,  
16 California, 90703, commencing at 9:30 a.m.  
17 and concluding at 10:13 a.m. on Wednesday,  
18 June 18, 2025, reported by Ernalyn M. Alonzo,  
19 Hearing Reporter, in and for the State of  
20 California.

1 APPEARANCES:

2  
3 Panel Lead: ALJ SUZANNE B. BROWN

4  
5 Panel Members: ALJ ERICA PARKER  
ALJ KIM WILSON

6 For the Appellant: V. HAZARD

7 For the Respondent: STATE OF CALIFORNIA  
8 FRANCHISE TAX BOARD

9  
10 AMELIA BREEN  
11 JACKIE ZUMAETA

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

(Appellants' Exhibits 1-23 were received into evidence at page 8.)

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

## OPENING STATEMENT

By Mr. Hazard 10

By Ms. Breen 21

By Ms. Breen 21

## CLOSING STATEMENT

PAGE

By Mr. Hazard 28

1 Cerritos, California; Wednesday, June 18, 2025

2 9:30 a.m.

3

4 JUDGE BROWN: We will go on the record.

5 We are on the record for the Appeal of Hazard.

6 This is OTA Case No. 2030713723. Today is Wednesday,

7 June 18th, and it is approximately 9:30 a.m.

8 I will start by asking each of the participants  
9 to please state their names for the record.

10 Appellant, Mr. Hazard, you can go first.

11 MR. HAZARD: Yes. My name is Victor Hazard.

12 JUDGE BROWN: Thank you.

13 And for FTB.

14 MS. BREEN: Yes. This is Amelia Breen for FTB.

15 MS. ZUMAETA: And Jackie Zumaeta for FTB.

16 JUDGE BROWN: Thank you, everyone.

17 I'm Suzanne Brown, and I am the lead panel member  
18 for this hearing. My co-panelist today are  
19 Hearing Officer Erica Parker and  
20 Hearing Officer Kim Wilson. Although I am the lead panel  
21 member for purposes of conducting the hearing, all three  
22 panel members are coequal decision makers in this process;  
23 and they are free to ask questions or otherwise speak up  
24 at any time.

25 This hearing is before the Office of Tax Appeals

1 or OTA. OTA is not a court but is an independent appeals  
2 body. OTA is staffed by tax experts and is independent  
3 from the State's tax agencies and is independent from the  
4 Franchise Tax Board. Because OTA is a separate agency  
5 from FTB, any arguments and evidence that may have been  
6 submitted to FTB prior to the appeal coming to OTA were  
7 not necessarily part of the record before OTA, unless the  
8 parties have submitted those records to OTA during this  
9 appeals process.

10 OTA's written opinion for this appeal will be  
11 based upon the written arguments that the parties have  
12 submitted to OTA, and the exhibits that I'm going to admit  
13 into evidence today, and the arguments presented at the  
14 hearing today. As a reminder, the panel does not engage  
15 in what's called ex parte communications, meaning that the  
16 panel members do not speak to one party without the other  
17 party present.

18 I'm just going to recap that we held a prehearing  
19 conference in this matter, and I issued a document called  
20 Prehearing Conference Minutes and Orders that I hope  
21 everyone received. And during the prehearing conference,  
22 we covered the logistics of what's going to happen at the  
23 hearing today, including the amount of time that the  
24 parties are each going to spend making presentations, and  
25 we talked about admitting documents into evidence.

1                   And we clarified the issue today, and the issue  
2 is whether Appellant's have established reasonable cause  
3 to abate the late-payment penalty imposed under  
4 Revenue & Taxation Code section 19132. And I'll just  
5 confirm with the parties that that is your understanding  
6 of the issue.

7                   Mr. Hazard?

8                   MR. HAZARD: Yes, that is.

9                   JUDGE BROWN: Okay. And FTB?

10                  MS. BREEN: Yes, that is the issue.

11                  JUDGE BROWN: Okay. Thank you.

12                  I'm just going to briefly address the documentary  
13 exhibits that both parties have submitted. And then once  
14 we're done, I will admit the exhibits into the evidence.  
15 Under our regulations, we have a 15-day deadline, 15 days  
16 before the hearing for everyone to submit their exhibits.  
17 Both parties timely submitted their exhibits and -- let's  
18 see. I have Appellants submitted a total of Exhibits 1  
19 through 23. I first want to ask, does Franchise Tax Board  
20 have any objection to admitting Appellant's Exhibits 1  
21 through 23 into evidence.

22                  MS. BREEN: No objections?

23                  JUDGE BROWN: Okay. Appellant's Exhibits 1  
24 through 23 are admitted.

25                  ///

(Appellants' Exhibits 1-23 were received into evidence by the Administrative Law Judge.)

3 JUDGE BROWN: And then from Franchise Tax Board,  
4 I have proposed Exhibits A through I. And I'll ask  
5 Appellants, do Appellants have any objection to admitting  
6 FTB's Exhibits A through I into evidence?

7 MR. HAZARD: I have no objection.

8 JUDGE BROWN: Thank you.

9 FTB's Exhibits A through I are admitted.

10 (Department's Exhibits A-I were received into  
11 evidence by the Administrative Law Judge.)

12 JUDGE BROWN: I will be referring to Appellants  
13 in the plural because I understand Mr. Hazard is both you  
14 and Mary Hazard are the plural Appellants, even though you  
15 are the representative today.

16 MR. HAZARD: Yes.

17 JUDGE BROWN: Okay. All right. So I've admitted  
18 the exhibits, and then we're going to move on to talking  
19 about the witness testimony today.

20 Mr. Hazard, you indicated at the prehearing  
21 conference, and I put in my prehearing conference order,  
22 that you'll be testifying as a witness today?

23 MR. HAZARD: That's correct.

24 JUDGE BROWN: Okay. So before we start with your  
25 presentation, I'm going to swear you in as a witness.

1                   Okay. And FTB indicated it is not calling any  
2                   witnesses today.

3                   Okay. So the timeline of the hearing will be  
4                   approximately as follows: We're going to have Appellants'  
5                   presentation first. And the time estimate we had for that  
6                   was about 10 minutes, and then we may have questions for  
7                   Appellants at that time, or we may hold questions until  
8                   after we've heard both parties' presentations. And then  
9                   after any questions, we'll have FTB's presentation, and  
10                  the estimate we had for that was about 10 minutes. And at  
11                  that time, we'll have questioning from the panel. And  
12                  then once we're done with the questioning, we will have  
13                  Appellants' rebuttal, which may be up to 5 to 10 minutes.

14                  Is that a --

15                  MR. HAZARD: Correct.

16                  JUDGE BROWN: -- correct summary of the time  
17                  estimates from everybody?

18                  Okay. If, at some point, anybody needs a break,  
19                  say so, but this should be relatively quick. So I don't  
20                  anticipate needing to take a break.

21                  Okay. All right. We clarified the time. I've  
22                  admitted the exhibits. Does anyone have any questions or  
23                  anything that they want to raise before we begin with  
24                  Appellants' presentation?

25                  MR. HAZARD: I have no questions.

1 JUDGE BROWN: Okay. Thank you.

2                   Then, Mr. Hazard, I'm going to swear you in as a  
3 witness. I will ask you to please raise your right hand.

5 | V. HAZARD,

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

10 JUDGE BROWN: Thank you.

11 And now we can have Appellants' presentation.

12 You have ten minutes.

13 MR. HAZARD: Thank you.

15 PRESENTATION

16 MR. HAZARD: I appreciate the opportunity to  
17 recap some of the reasoning as why the late-payment  
18 penalty should not apply to my 2021 tax payment. The 2021  
19 tax payment of \$25,706 was made on a timely-filed return  
20 of October 15th, 2022. It was due on April 15th, 2022,  
21 and I admit it was late. I requested the FTB to abate the  
22 penalty for late filing due to reasonable cause and not  
23 willful neglect. At the same time, I requested IRS abate  
24 the penalty for the same reason.

Willful neglect means a conscientious intentional

1 failure or reckless indifference to carry out a legal  
2 obligation. I did not disregard the rules and regulations  
3 intentionally. There were factors beyond my control that  
4 caused the late payment. IRS approved my request to  
5 remove the failure-to-pay penalty, citing my history of  
6 never paying late, which was number 8 of the 11  
7 circumstances that I listed on both the IRS and the FTB  
8 request for abatement.

9 The FTB denied my request. The FTB dismissed as  
10 reasonable cause for late payment a documented robbery  
11 indicating that the stolen information could be easily  
12 replaced. It could be accessed digitally, or duplicates  
13 were available; but it wasn't easy to obtain the stolen  
14 information. All the information was not available  
15 digitally. And as the FTB contends, all duplicates were  
16 not available. For example, data taken had to be  
17 reanalyzed as evidenced but the 1,033 credit card entries  
18 I submitted with the recent exhibit. New bank accounts  
19 had to be set up and obtained, and I had to follow up with  
20 law enforcement. That was a priority.

21 Moving to the IRS abatement, the FTB takes the  
22 position that they do not have to follow the rules of the  
23 IRS. The problem with this stance is the law is exactly  
24 the same, and the reasons the IRS provides additional  
25 relief is also the same.

1                   I'm going to read a quote of the IRS  
2 Commissioner: Throughout the pandemic, the IRS has worked  
3 hard to support the nation and to provide relief to people  
4 in many different ways. The penalty relief for late  
5 payment is yet another way the agency is supporting people  
6 during this unprecedented time. The IRS had to take  
7 extraordinary steps to deal with the extraordinary events  
8 associated with the pandemic. The pandemic and the  
9 disruption it created is unprecedented. The IRS is taking  
10 steps to waive failure-to-pay penalties for years 2020 and  
11 2021. The IRS estimates that five million tax returns are  
12 eligible for relief.

13                   I want to move on to another factor, which is my  
14 medical condition. When I submitted my first request, I  
15 wrongly thought that with all the evidence submitted to  
16 FTB, that my penalties would be abated. I did have  
17 additional facts that were not revealed in my  
18 additional -- my initial request. So I responded to the  
19 FTB's denial. So in addition to more evidence concerning  
20 the fact that IRS abated the same penalty and further  
21 details concerning the consequences of the robbery, I  
22 introduced the realities of my medical condition.

23                   During 2019, I was diagnosed with prostate  
24 cancer. My Gleason score was five, which meant I had  
25 highly-developed cancer cells in the tissue. During the

1 years 2019, 2020, 2021, and 2022, I was treated at the  
2 Ellison Institute for Cancer with Lupron. The side  
3 effects of the Lupron are enormous. Then April, May, and  
4 June of 2022, I had to endure radiation treatments at a  
5 City of Hope facility in addition to the Lupron. During  
6 the daily radiation treatments, they were horrific because  
7 the effects of the radiation on bladder. In addition to  
8 loss of bladder control, I suffered from skin burns. I  
9 was extremely tired. I lost my appetite. There are a lot  
10 of effects to chemo, especially when mixed with radiation.

11 The circumstances of this illness prevented me  
12 from exercising ordinary business care and prudence to  
13 timely pay my tax by the original due date. The original  
14 due date occurred right in the middle of the radiation  
15 treatments. And ordinarily -- an ordinarily intelligent  
16 and prudent businessperson would have acted so under  
17 similar circumstances. Each individual part contributed  
18 to the reasonableness of the late payment, just like the  
19 sum of the parts of an old car worth \$2,000 is greater  
20 than \$2,000. The sum of my documented reasonable cause  
21 circumstances exceeds the normal threshold for reasonable  
22 cause relief.

23 The extraordinary events associated with COVID,  
24 the robbery, my record of never paying a tax late, and my  
25 medical condition are all parts of evidence, that when

1 taken as a whole, supports the fact that I acted  
2 reasonably under the circumstances; and the late payment  
3 was not due to willful neglect. There was no reckless  
4 indifference or intentional disregard for the rules.

5 To add perspective, my 2020 California tax was  
6 less than \$29,000. 2020 was the year before. I paid in  
7 over \$36,000 during 2021, but I had a bigger balance than  
8 I thought. I did not know my balance until October 15th  
9 when I filed the tax return. I worked day and night to  
10 file that tax return on time. I paid the balance of under  
11 \$26,000, with interest, by the extended due date of the  
12 tax return.

13 Now, I want to comment on inconsistency. The  
14 recent Palisades and Altadena fires were devastating in  
15 their communities. But FTB Chair Malia Cohen considered  
16 it reasonable to allow a six-month extension on making  
17 payments, ordinarily due on April 15th, to all residents  
18 of L.A. County, whether or not they were affected by the  
19 fires. L.A. County is the most populous county in the  
20 United States. The 2024 estimate is over 9.6 million  
21 residents. Less than 43,000 inhabit Altadena, and less  
22 than 24,000 people live in Palisades. That's less than  
23 7,000th of 1 percent. So even other people were  
24 effected -- even if 200,000 people are affected by the  
25 fires, over 9.4 million individuals and businesses were

1 not effected.

2                   So on the one hand, according to FTB, Victor  
3 Hazard acted unreasonably, despite COVID, despite an  
4 excellent payment record, despite a robbery, and despite a  
5 medical condition that prevented him from exercising  
6 ordinary business care and prudence. And, on the other  
7 hand, the head of the California FTB determined that it is  
8 reasonable that all individuals, that all non-profits, and  
9 all businesses located within Los Angeles County during  
10 the fires that began on January 7th qualified for  
11 postponement to pay taxes otherwise due on  
12 April 15th, 2025, until six months later on  
13 October 15th, 2025.

14                   How can it be unreasonable for me, considering  
15 all the extraordinary circumstances I encountered, and  
16 reasonable for well-over 9.4 million individuals and  
17 businesses that were un-affected by the fires to pay taxes  
18 otherwise due on April 15th on October 15th.

19                   Thank you for your consideration. That's all I  
20 have.

21                   JUDGE BROWN: Thank you very much.

22                   Now, first I will turn to FTB and ask if they  
23 have any questions for the witness.

24                   MS. BREEN: No questions.

25                   JUDGE BROWN: Thank you.

1           I'm going to start with a couple of questions --

2           MR. HAZARD: Sure.

3           JUDGE BROWN: -- and I'll give my co-panelist --

4           as I said, they may have more questions once we've heard  
5           FTB's presentation. One second.

6           I want to ask about the documents that you said  
7           were stolen during the robbery.

8           MR. HAZARD: Yes.

9           JUDGE BROWN: Can you identify what specific  
10          documents were stolen that you needed to prepare your  
11          return, and why you weren't able to obtain that  
12          information before the deadline?

13          MR. HAZARD: Yes, that's a good question. The  
14          first significant factor was the analysis of my credit  
15          card information that I had in the safe. And that credit  
16          card information, 1,033 entries, was a combination of  
17          personal expenses, business expenses, expenses that had to  
18          do with my real estate rentals, expenses that had to do  
19          with other businesses that we were conducting. And, you  
20          know, that took, you know, several days to -- to  
21          reconstruct. That was probably the biggest thing.

22          The other factor was that we did have to -- I  
23          believe it was, contact eight different K-1 organizations  
24          to get duplicate information, and they just sort of strung  
25          us out because accountants prepared them for the promoters

1 of the entity, and they kept pointing fingers at each  
2 other. Well, you got to -- well, you got prepare it.  
3 It -- it just was a -- a tough time getting -- getting  
4 that information. So those were the two major portions.

5 You know, the other things is there were just a  
6 lot of, you know, phone calls and emails and  
7 correspondence, you know, to -- to get duplicate 1099s.  
8 They weren't immediately available. But, on the other  
9 hand, you know, I got them within a couple of weeks. But  
10 the biggest one was the re-analyzation of all the credit  
11 card that we had done back in January that were -- had to  
12 be redone and -- after the stolen safe.

13 JUDGE BROWN: I also wanted to ask, I understand,  
14 Mr. Hazard, that you are a CPA.

15 MR. HAZARD: Yes.

16 JUDGE BROWN: Is your spouse also a CPA?

17 MR. HAZARD: No.

18 JUDGE BROWN: So I'm sure you may be familiar  
19 that the standard for when a couple is filing as married,  
20 filing jointly, is that they both need to be unavailable  
21 during the relevant time period to establish reasonable  
22 cause.

23 MR. HAZARD: Yes.

24 JUDGE BROWN: All right. So can you address when  
25 you were not available during your medical treatments, is

1       there a reason why your spouse could not have handled  
2       filing -- timely filing the return?

3                    MR. HAZARD: Yes. Yeah Mary Jo Hazard is not  
4       familiar with any financial records. She's a -- a  
5       therapist, an, MFCC, and she does -- does not deal with  
6       tax returns. She has never prepared any part of any tax  
7       return in the 64 years we've been married.

8                    JUDGE BROWN: Thank you.

9                    I'm going to turn to my co-panelist now and ask  
10       if they have any questions, or if they want to hold their  
11       questions until we hear both presentations.

12                  First, I'll say, Hearing Officer Parker, do you  
13       have any questions at this time?

14                  HEARING OFFICER PARKER: I do have a question  
15       regarding the information that was in the safe --

16                  MR. HAZARD: Yes.

17                  HEARING OFFICER PARKER -- that was stolen, which  
18       is what the contention is, is that the information that  
19       you needed to prepare --

20                  MR. HAZARD: Yes.

21                  HEARING OFFICER PARKER: -- your estimate was  
22       inside of the safe. So is it your testimony that the  
23       credit card analysis was in a physical document that was  
24       inside of the safe that was stolen, and that precluded you  
25       from being able to prepare your estimate?

1 MR. HAZARD: Yes.

2 HEARING OFFICER PARKER: Okay. And in your  
3 briefing, you had mentioned that there was also a specific  
4 K-1 that was higher than anticipated?

5 MR. HAZARD: Yes.

6 HEARING OFFICER PARKER: And I didn't find any  
7 information, or it wasn't submitted on appeal, where  
8 there's any communication between the preparer of that K-1  
9 that would explain the delay in getting a copy of that  
10 K-1.

11 MR. HAZARD: Yeah. That -- that K-1 was from an  
12 office building that the -- I was surprised by the fact  
13 that we received a modest distribution during the year and  
14 an enormous profit at the end of the year. And I think  
15 that had to do with some of the surprise that -- or some  
16 of the reason that on April 15th I did not, you know, pay  
17 the entire taxes due. But it was -- I -- I believe that  
18 K-1 was timely submitted to me, but in preparing my  
19 estimate for April 15th, I did not put forth the amount of  
20 the income that I had to recognize as taxable income. And  
21 that was, you know, partly due.

22 I think if I had done that, we might have had  
23 more taxes that I would -- would have paid back in April.  
24 But the fact is, is that that information that was in the  
25 safe, it was available to me afterwards, but I didn't

1 start the preparation of the tax return right away because  
2 of the medical situation I was going through. And that  
3 was one of the parts that, you know, I feel was beyond my  
4 control.

5 HEARING OFFICER PARKER: Thank you. And how many  
6 employees were part of the business that was burgled?

7 MR. HAZARD: Eight.

8 HEARING OFFICER PARKER: And also, in your  
9 briefing, you mentioned that one of the priorities was to  
10 secure your clients' data.

11 MR. HAZARD: Yes.

12 HEARING OFFICER PARKER: And you also are  
13 involved in tax preparation for your clients?

14 MR. HAZARD: Yes.

15 HEARING OFFICER PARKER: And were you able to  
16 secure all of their information and get their, either  
17 their extensions and their payments timely by April 15th,  
18 or did you also experience difficulties in that?

19 MR. HAZARD: There was no difficulties with the  
20 clients, except to inform them that there was a breech at  
21 the office and that we did everything proper to make sure  
22 that they were protected as far as their specific  
23 information. But the -- fortunately, all our tax files  
24 are secured in the cloud, and, you know, they're beyond  
25 theft by physical means. We have no physical tax files.

1                   HEARING OFFICER PARKER: Okay. And then -- I'm  
2 so sorry. Back to that K-1, were you the preparer of that  
3 one entity?

4                   MR. HAZARD: No.

5                   HEARING OFFICER PARKER: But you did have that  
6 K-1, the estimate at least of it, prior to 4/15?

7                   MR. HAZARD: Yes.

8                   HEARING OFFICER PARKER: Okay. Thank you.

9 That's all for now.

10                  JUDGE BROWN: Thank you.

11                  And now I will turn to Hearing Officer Wilson  
12 just to ask if you have any questions at this time, or if  
13 you wish to wait?

14                  HEARING OFFICER WILSON: I don't have any  
15 questions at this time. Thanks.

16                  JUDGE BROWN: Okay. Thank you.

17                  So now I'm going to turn to Franchise Tax Board  
18 and say they can go ahead with their presentation, and you  
19 have 10 minutes.

20

21                  PRESENTATION

22                  MS. BREEN: Good morning. My name is Amelia  
23 Breen. With me is my co-counsel Jackie Zumaeta, and we  
24 represent Respondent Franchise Tax Board.

25                  The issue on appeal is whether Appellants have

1 demonstrated reasonable cause to abate the late-payment  
2 penalty for the 2021 tax year. The law states that the  
3 Franchise Tax Board is required to impose a penalty for  
4 the late payment of tax when a taxpayer fails to pay the  
5 tax due on or before the due date of the tax return,  
6 unless the taxpayer establishes that the late payment was  
7 due to reasonable cause and not willful neglect.

8 Here, Appellants jointly filed and paid their  
9 taxes for the 2021 tax year on October 15th, 2022. A  
10 late-payment penalty was imposed because this was after  
11 the April 15th, deadline. When the Franchise Tax Board  
12 imposes a late-payment penalty, the law presumes it was  
13 correctly imposed. The taxpayer has the burden of proof  
14 to demonstrate reasonable cause exists for abating the  
15 penalty. To establish reasonable cause, a taxpayer must  
16 show that the failure to timely pay the tax occurred  
17 despite the exercise of ordinary business care and  
18 prudence. That is to say that the taxpayer acted as an  
19 ordinarily intelligent and prudent businessperson would  
20 have acted under similar circumstances.

21 Here, Appellants argue that their business was  
22 burglarized, causing difficulty and delay in business  
23 priorities, ascertaining income, filing, and paying. They  
24 also state that they received K-1s and other information  
25 late. Lastly, Appellant-husband was diagnosed with a

1 serious illness in 2021.

2 First, as to the difficulty obtaining records, if  
3 a taxpayer asserts that they do not have necessary -- the  
4 necessary information to estimate their income, they must  
5 show the efforts made to acquire the information and  
6 difficulties in obtaining it led to the delay. Appellants  
7 have presented no evidence of their attempts to obtain the  
8 information needed to file and pay their taxes. To the  
9 extent that Appellants had first secured their client  
10 information and informed business clients of their robbery  
11 and prioritize other business activities, then filing and  
12 paying their taxes, they must bear the consequences of  
13 that choice.

14 Secondly, although FTB is sympathetic to the  
15 circumstances of a serious illness, when a joint return is  
16 filed by a husband and wife, the liability is joint and  
17 several, meaning that each individual person is  
18 responsible for timely filing and paying the tax.  
19 Appellants present no evidence that Appellant-wife was  
20 also incapacitated during the 2021 year and could not  
21 file.

22 On the federal level, the late-payment penalty  
23 was also imposed. The IRS did abate the penalty, but not  
24 for reasonable cause. The IRS abated the penalty under  
25 the federal First Time Abatement program. Because the tax

1 year at issue is 2021, Appellants are not eligible for  
2 FTB's One-Time Abatement program.

3 The late-payment penalty was properly imposed  
4 because Appellants failed to pay the total tax owed by the  
5 deadline. Appellants failed to demonstrate reasonable  
6 cause to abate the penalty. Franchise Tax Board  
7 respectfully requests its position sustained.

8 Thank you. I'm happy to answer any questions the  
9 panel may have.

10 JUDGE BROWN: Thank you.

11 Actually, I'll turn to my co-panelist first, and  
12 say do they have any questions for FTB.

13 Hearing Officer Parker?

14 HEARING OFFICER PARKER: Yes. I have one  
15 clarification. The FTB is not alleging that the Appellant  
16 acted with willful neglect, correct? The denial was based  
17 on reasonable cause?

18 MS. BREEN: Correct.

19 HEARING OFFICER PARKER: Okay. Thank you.

20 JUDGE BROWN: And I'll turn to  
21 Hearing Officer Wilson. Do you have any questions?

22 HEARING OFFICER WILSON: No, I do not have any  
23 questions. Thank you.

24 JUDGE BROWN: I wanted to ask FTB if they could  
25 respond specifically to Appellants' testimony regarding

1 the efforts that they went through to reconstruct the  
2 information regarding the credit card entries, and the  
3 efforts to contact the entities that were providing the --  
4 the organizations that were providing the K-1 schedules.  
5 Is FTB arguing that that evidence does not establish  
6 reasonable cause, and if you could address that.

7 MS. ZUMAETA: So I think FTB's position as to  
8 that is, I think that there's very little evidence in the  
9 record beyond Appellant's testimony today, that  
10 corroborates Appellants' testimony today. And so I think  
11 we would need additional evidence to show, pursuant to  
12 like the Appeal of Moren, the efforts that were made to  
13 able obtain that information; any emails, any  
14 contemporaneous efforts, phone calls, things like that  
15 that were documented. Those are the kinds of things that  
16 we would be able to take a look at and decide that there  
17 was reasonable cause as it relates to trying to recreate  
18 those documents.

19 JUDGE BROWN: Actually, then I will turn to  
20 Mr. Hazard and say do Appellants want to address that?

21 MR. HAZARD: Yes. Just that one factor or the  
22 whole --

23 JUDGE BROWN: Well, I was talking specifically if  
24 you can address what FTB said about what efforts you made  
25 to obtain the information that you needed.

1                   MR. HAZARD: Yes. Well, with respect to  
2 analyzing the 1,033 different entries that had different  
3 significance that, you know, I use the same credit card  
4 for everything for different reasons. But there was a lot  
5 of personal that I did not -- or we cannot deduct for tax  
6 purposes. There was also a lot of business expenses, and  
7 each of them had to be addressed. My wife Mary Joe also  
8 uses the same credit cards. So we had to get together to  
9 take care of those.

10                  And during that period -- and it's hard to  
11 realize that when you're sick, and you're -- you've -- I  
12 knew every single restroom from San Pedro to Santa Monica  
13 where the Ellison Institute is and every single restroom  
14 to the City of Hope where we had to do the radiation  
15 because I could only go a mile or two or three, you know,  
16 sometimes five. But 20-mile trip would take a couple of  
17 hours. It was a tough period, and to go down and recreate  
18 these expenditures was -- was just something that was not  
19 a priority.

20                  But I think I acted reasonably because I'm still  
21 alive. I got my health back. Doctors did amazing things,  
22 but it -- it's a terrible situation when you lose all  
23 bladder control, when you're -- you're skin is -- is  
24 turn -- turning red.

25                  JUDGE BROWN: I want to gently interrupt you

1 because I want to redirect you because I think we're  
2 getting a little far afield of --

3 MR. HAZARD: Okay. I'm sorry.

4 JUDGE BROWN: -- the specific -- it's okay.

5 MR. HAZARD: Rambling on is --

6 JUDGE BROWN: I want to ask about any evidence.

7 FTB pointed out that there's no evidence other than --  
8 argue that there's no evidence other than your testimony  
9 about your efforts to obtain the schedule K-1 information,  
10 and I wanted to say can you address that. Is there  
11 anything in the exhibits that we have that you want to  
12 point us to? Did you only make phone calls? Were there  
13 emails?

14 MR. HAZARD: Yes, phone calls and emails.

15 Collecting the K-1s was just a part of my argument.

16 Collecting the K-1s probably took two or three weeks  
17 but -- and that's, I think, normal under the circumstance.  
18 But that's not my sole argument.

19 JUDGE BROWN: Okay. Then I'll say thank you. I  
20 think you addressed my question for now.

21 I think if my co-panelists don't have any further  
22 questions for either party at this time, then -- go ahead.

23 HEARING OFFICER PARKER: No, I don't think I have  
24 any further questions at this time. Thank you so much.

25 JUDGE BROWN: Okay. If my co-panelist don't have

1 any further questions for the parties at this time, I  
2 think then I can say we can turn back to Appellants, and  
3 it can be time for Appellants' rebuttal.

4 And now, Mr. Hazard, you can address all the  
5 topics --

6 MR. HAZARD: Okay.

7 JUDGE BROWN: -- that you were responding to  
8 FTB's argument.

9 One second.

10

11 CLOSING STATEMENT

12 MR. HAZARD: Yes, I have a few observations.  
13 In -- in reading the law, I do not see where it says that  
14 the FTB is absolutely required to -- to assess a penalty  
15 in all situations for any reason. I agree that they have  
16 the right to unilaterally assess a penalty for  
17 late-payment penalty, but I -- I just don't think that's  
18 right.

19 Now, I want to also make a comment about -- and  
20 the panel asked this question also, and the FTB thought it  
21 was important about the joint and several liability of  
22 Mary Joe Hazard. Well, when you're husband is -- got 36  
23 radiation appointments and has to go in for routine chemo  
24 treatment, she's the driver. She accompanies, and she's  
25 there with the doctors. And just because she wasn't sick

1 herself, it was a -- a bit of a hassle for her.

2 You know, Mary Joe also, during that period of  
3 time, had -- you know, I -- I didn't bring this up, but,  
4 you know, you can certainly substantiate the fact that she  
5 had, you know, hip surgery, that she has problems with  
6 her -- with here eyes that require -- they required a lot  
7 of treatment during that period, and a lot of problems  
8 with her hips. But the point I want to make is that she  
9 accompanied me to all of these -- these appointments  
10 and -- and stood by me. So, in other words, if I didn't  
11 have her helping me, you know, I wouldn't -- I don't know  
12 what I would have done. She accompanied me to everything.

13 And the first-time payment that the IRS abated  
14 because I had never been late before, I think that was a  
15 good thing. The FTB seems to think it's a bad thing  
16 because they didn't have the rule at the time. You know,  
17 a year later they come up with the same rule that says the  
18 first time you are late, you know, we'll let -- we'll  
19 ignore that because you've had a long late -- long record  
20 of making payments. So what was different between 2021  
21 and 2022? You know, nothing, except that the FTB hadn't  
22 gotten around to making the rule by that time.

23                   But, nevertheless, there is a rule at this point  
24                   on the books of the FTB that says if you have never been  
25                   late with a payment, we'll abate the penalties the first

1 time. And that's the rule that exists today. It did not  
2 exist for the year 2021, but it could have.

3 The other thing that the IRS could have abated  
4 the penalty for another reason. They didn't have to use  
5 the first-time abatement penalty. I gave them 8  
6 different or 11 different reasons to abate the penalty.  
7 But they chose to abate it because it was my first time  
8 ever in 60-plus years of filing tax returns, of making  
9 even one late payment. And they said well, that's easy.  
10 I'll just abate it because of that reason. But they could  
11 have abated it for 11 other different reasons, and I think  
12 that's important.

13 And, you know, the fact that I had these work  
14 papers in the safe that -- that were gone, that had to be  
15 recreated, you know, that should -- that should count  
16 as -- as something that had to be done. I acted in a  
17 reasonable manner. I -- I did not disregard the rules and  
18 regulations intentionally. It was one of these situations  
19 where once in a lifetime where a person is stuck with so  
20 many different things coming at you, that a -- a payment  
21 was made late. And based on prior years, you know, for a  
22 lot of reasons, 2021 turned out to be the -- double the  
23 taxes I had been used to paying for my life, even before  
24 or after.

25 And I didn't realize that, even after working

1                   weekends, Saturday, Sundays, late at night trying to get  
2                   this tax return done, you know, I had hours and hours of  
3                   putting it together. It was a very complex tax return  
4                   that I managed to file on time, and I managed to make the  
5                   payment due by the extended due date. So that should  
6                   count for something as far as acting in a reasonable  
7                   manner, and not as Hearing Officer Parker brought up, and  
8                   not willfully neglecting the rules and regulations of the  
9                   Franchise Tax Board.

10                  I can end it there.

11                  JUDGE BROWN: Thank you very much.

12                  I will turn one last time to my co-panelists and  
13                  make sure that they don't have any other questions. Okay.  
14                  One second.

15                  All right. I have admitted the exhibits and  
16                  heard both parties' presentations, so I can now say that  
17                  we can close the record.

18                  This concludes the hearing.

19                  The Judges will meet and decide the case based on  
20                  the evidence, arguments, and applicable law, and OTA will  
21                  mail both parties our written opinion no later than  
22                  100 days from the date the record closes, which is today.

23                  The hearing is now adjourned.

24                  Thank you, everyone.

25                  The next hearing will begin in about 10 minutes,

1 and we're off the record.

2 (Proceedings adjourned at 10:13 a.m.)

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

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

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

14 I have hereunto subscribed my name this 9th day  
15 of July, 2025.

ERNALYN M. ALONZO  
HEARING REPORTER