

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
SAII ENTERPRISES, LLC,) OTA NO. 231014525
)
)
APPELLANT.)
)
)
_____)

TRANSCRIPT OF PROCEEDINGS

Sacramento, California

Tuesday, July 22, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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: HEARING OFFICER KIM WILSON

Panel Members: ALJ NATASHA RALSTON
ALJ MICHAEL GEARY

For the Appellant: HARPOONAM AULAKH
BIPIN KUMAR

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 Exhibits 1-4 were received into evidence at page 9.)

(Appellant's Exhibit 5 was received into evidence at page 63.)

(Department's Exhibits A-M were received into evidence at page 9.)

OPENING STATEMENT

	<u>PAGE</u>
By Ms. Aulakh	10
By Mr. Samarawickrema	25

WITNESS TESTIMONY

	<u>PAGE</u>
By Mr. Kumar	16

CLOSING STATEMENT

	<u>PAGE</u>
By Ms. Aulakh	62

1 Sacramento, California; Tuesday, July 22, 2025

2 9:26 a.m.

3
4 HEARING OFFICER WILSON: So let's go ahead and go
5 on the record.

6 Good morning and welcome to the Office of Tax
7 Appeals. I'm Hearing Officer Kim Wilson, and this hearing
8 is for the Appeal of SAII Enterprises, LLC, dba,
9 S. Motors.

10 Our stenographer, Ms. Alonzo, is present and
11 reporting this hearing verbatim. To ensure we have an
12 accurate record, we ask that each person speaks one at a
13 time and avoids speaking over one another. Also, speak
14 clearly and loudly. When needed, Ms. Alonzo or any panel
15 member will interject to ensure proper transcription.
16 After the hearing, Ms. Alonzo will produce the official
17 hearing transcript, which will be available on the OTA
18 website.

19 The Office of Tax Appeals is not a court but is
20 an independent appeals body, which is staffed by subject
21 matter experts and is independent of any tax agency.
22 While the Office of Tax Appeals is not a court, we must
23 nevertheless follow certain guidelines to ensure that we
24 establish a proper record on which a decision is based and
25 to conduct an orderly hearing.

1 Each party will have the opportunity to be heard,
2 so please wait for your turn to present your side. Also,
3 I may interrupt the hearing if we get out of order or
4 become counter product, as keeping us on track and
5 creating a clean and efficient hearing record is part of
6 my role as lead.

7 Are there any questions about anything I've said
8 before we -- no.

9 Okay. This is the Appeal of SAII Enterprises,
10 LLC, Case No. 231014525. The date is July 22nd, 2025, and
11 the time is approximately 9:30 a.m., and this hearing is
12 being held in Sacramento, California.

13 As I stated earlier, I'm hearing offer Kim
14 Wilson. I will be the lead for the purpose of conducting
15 the hearing. My Co-Panelists are Judge Geary and
16 Judge Ralston. OTA noticed the parties on July 16th,
17 2025, that Judge Geary is replacing Judge Turner.

18 Does Appellant have any objections to Judge --
19 no.

20 THE STENOGRAPHER: I need a verbal answer for the
21 record.

22 HEARING OFFICER WILSON: Okay. Could you
23 please --

24 MS. AULAKH: No objection.

25 MR. KUMAR: No objection.

1 HEARING OFFICER WILSON: Great. Thank you.

2 Hearing no objection, Judge Geary, Judge Ralston,
3 and I are equal participants in deliberating and
4 determining the outcome of this appeal.

5 Okay. I'm going to ask the parties to identify
6 themselves and who represent starting, with Appellant.

7 MS. AULAKH: So I'm representing like SAII
8 Enterprises.

9 HEARING OFFICER WILSON: And your name?

10 MS. AULAKH: Harpoonam Aulakh.

11 HEARING OFFICER WILSON: Thank you.

12 MR. KUMAR: Myself, Bipin Kumar with the SAII
13 Enterprises.

14 HEARING OFFICER WILSON: Thank you.

15 And CDTFA.

16 MR. SAMARAWICKREMA: Nalan Samarawickrema,
17 hearing represent for CDTFA.

18 MR. PARKER: Jason Parker, Chief of Headquarters
19 Operations Bureau with CDTFA.

20 MR. BROOKS: Good morning. Christopher Brooks,
21 attorney for CDTFA.

22 HEARING OFFICER WILSON: Great. And CDTFA no
23 objections to Judge Geary?

24 MR. SAMARAWICKREMA: No.

25 HEARING OFFICER WILSON: Thank you.

1 All right. As stated in the Minutes and Orders,
2 the issue to be decided in this appeal is whether
3 adjustments to the determination is warranted.

4 Ms. Aulakh, do you agree that this is the issue?

5 MS. AULAKH: No.

6 HEARING OFFICER WILSON: No?

7 MS. AULAKH: Sorry. Can you repeat? Sorry.

8 HEARING OFFICER WILSON: The issue to be decided
9 is whether the adjustments to the determination are
10 warranted.

11 MS. AULAKH: Yes.

12 HEARING OFFICER WILSON: Thank you.

13 CDTFA?

14 MR. SAMARAWICKREMA: Yes.

15 HEARING OFFICER WILSON: Thank you.

16 Appellant submitted Exhibit 1 and bank statements
17 for Bank of America and Wells Fargo. I separated the bank
18 statements into two exhibits as follows: Bank of America
19 statements are Exhibit 2; and Wells Fargo statements are
20 Exhibit 3.

21 Yesterday OTA received a spreadsheet from
22 Appellant that appears to be a summary of deposits that
23 Appellant would like excluded from Exhibits 2 and 3, as
24 well as a calculation for the total tax due.

25 CDTFA, have you had a chance to look at the

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

submission?

MR. SAMARAWICKREMA: This morning we reviewed it.

HEARING OFFICER WILSON: I'm sorry.

MR. SAMARAWICKREMA: This morning we reviewed the document. Yeah.

HEARING OFFICER WILSON: Okay. And no objection?

MR. SAMARAWICKREMA: No objection.

HEARING OFFICER WILSON: Okay. Great. So we will label Appellant's calculation of additional tax due per taxpayer as Exhibit 4. Therefore, Exhibits 1 through 4 are admitted into evidence.

(Appellant's Exhibits 1-4 were received into evidence by the Hearing Officer.)

HEARING OFFICER WILSON: CDTFA submitted Exhibits A through M. Appellant did not object to the admissibility of these exhibits. Therefore, A through M will be admitted into evidence.

(Department's Exhibits A-M were received into evidence by the Hearing Officer.)

HEARING OFFICER WILSON: Appellant indicated, during the prehearing conference, that they will be calling Mr. Kumar as a witness. CDTFA did not object to the witness.

Ms. Aulakh, you will have 30 minutes for your presentation and witness testimony. Before we begin

1 Appellant's presentation, I need to place Mr. Kumar under
2 oath.

3 So, Mr. Kumar, could you please raise your right
4 hand.

5

6

B. KUMAR,

7 produced as a witness, and having been first duly sworn by
8 the Hearing Officer, was examined, and testified as
9 follows:

10

11

HEARING OFFICER WILSON: Thank you.

12

13

Ms. Aulakh, you may have your witness testify in
a narrative or ask specific questions. Please proceed
14 when you are ready.

15

MS. AULAKH: So yes. So I'm ready.

16

17

PRESENTATION

18

MS. AULAKH: Okay. I'll be --

19

20

THE STENOGRAPHER: May I please ask you to bring
the microphone closer to you.

21

MS. AULAKH: Sure.

22

23

So all right. Good morning everyone. So I'll
start with the Exhibit 2 with Bank of America. So the

24

first of all, like for April 25th, 2016, for the amount of
25 \$1,000, so it's like online transfer. And like for

1 April 26, 2016, another like \$1,000. That's transfer from
2 Wells Fargo.

3 So I just want to ask. Do you want to go like
4 with each and every transaction, or should I just go with
5 the summary?

6 HEARING OFFICER WILSON: It's up to you how you
7 want to do your preparation.

8 MS. AULAKH: Okay. Sure.

9 All right. And so like May 5th -- May 2nd for
10 \$3,000 is a transfer from Wells Fargo. And then May 4th,
11 2016, again, \$1,500. That's an online transfer. May 18th
12 for \$1,000, that's transfer from Wells Fargo. May 27th
13 for \$2,000 is a transfer from Wells Fargo. June 6, 2016,
14 for \$1,000 is transfer from Wells Fargo. June 24th for
15 \$1,000, that's transfer from Wells Fargo. July 1st, 2000,
16 that's transfer from Wells Fargo. July 15th, 2016 for
17 \$1,000, that's transfer from Wells Fargo. And then on
18 November 2nd, 2016, \$10,000, that's business is funded via
19 line of credit. Then February 24th, 2017, for \$1,000 is a
20 transfer from Wells Fargo. April 10th, 2017, another
21 \$1,000. Then April 28th for \$3,000, that's transfer from
22 Wells Fargo. Then June 20th, 2017, for \$10,000, business
23 is funded via line of credit. Then June 20, 2017, for
24 \$3,000, that's a transfer from Wells Fargo.

25 And then on July 5th, 2017, for \$59,883, that's a

1 loan from third party because taxpayer, my client, was
2 always kind of short. So they -- he borrowed money from
3 the friends or family. And then on July 17th another
4 \$34,099.37, that's a loan from third party. Then on
5 August 7th, August 9th, August 11th, 15 -- August 15th,
6 August --

7 THE STENOGRAPHER: May I please ask you to slow
8 down a bit with the numbers.

9 MS. AULAKH: Sorry. Sure.

10 August 7th, 2017, for \$1,000. August 9th, 2017,
11 for \$1,000. And August 11th, 2017 for \$1,000, and
12 August 15th, 2016 for \$7,000. August 15, 2017, for
13 \$1,000. August 24, 2017, for \$1,000. These are all
14 transfer from Wells Fargo. Then on September 20th, 2017,
15 \$10,000, that's funded via line of credit. Then
16 September 20th, 2017, \$4,000, that's a transfer from Wells
17 Fargo. Then on October 4th, 2017, \$23,000, they borrowed
18 from friends and family. And then on October 27, 2017,
19 \$7,800 is borrowed from friends and family.

20 November 2nd, 2017, again, \$7,000 is borrowed.
21 November 10, 2017, for \$5,000, that's borrowed from
22 friends and family. November 14, 2017, \$4,500, that's
23 borrowed from friends and family. And then November 17th,
24 for \$79,839, that's an escrow payment. Business was sold,
25 and that's a payment from that. And then December 5th,

1 2017, \$4,000, that's borrowed from friends. So the total
2 amount of Bank of America deposit which should be excluded
3 are \$287,622.95. That's Exhibit 2 from Bank of America.

4 And then Exhibit 3 from Wells Fargo, February
5 9th, 2016, \$10,000, that's funded via line of credit.
6 February 9th, 2016, \$5,000. February 9th, 2016, \$5,000.
7 February 11th, 20 -- sorry. These two are transfers from
8 Bank of America. And then February 11th, 2016, \$10,000,
9 that's a transfer from Bank of America. February 16th,
10 2016, \$5,000, that's borrowed from friends and family.
11 May 10th, 2016, \$2,000 and May 17, 2016, \$5,800, that's a
12 transfer from Bank of America. June 9th, 2017, \$10,000,
13 that's a business loan. June 19, 2017, \$45,475, that's a
14 business loan.

15 August 3rd, 2017, \$3,000, that's a transfer from
16 Bank of America. August 10th, 2017, \$10,000, that's a
17 business loan. August 30th, 2017, \$25,000, that's a
18 business loan. October 13, 2017, \$3,000, that's a
19 transfer from Bank of America. October 16, 2017, \$5,000,
20 that's a business loan. May 1st, 2018, \$30,000 borrowed
21 from friends and family. June 4th, 2018 \$4,200, that's a
22 transfer from Bank of America. June 25th, 2018, \$1,500,
23 that's a transfer from Bank of America. June 27, 2018,
24 \$4,425, that's a Next Gear. That's a -- like, funding,
25 you know, from the option for flooring.

1 And August 6, 2018, \$40,870, that's borrowed.
2 And June -- sorry. October -- September 25th, 2018,
3 \$68,573, that's borrowed from friends and family.
4 October 24, 2018, \$27,500, that's borrowed. October
5 24th, 2018, \$85,000, that's borrowed. November 17, 2018,
6 \$25,965, that's borrowed. December 11th, 2018, \$22,727,
7 that's borrowed from friends and family. And the total is
8 \$455,071.88. So these all the amounts, like, from Bank of
9 America and Well Fargo. They combine almost like
10 \$733,000, roughly.

11 And then the Exhibit 4th, as per the Hearing
12 Officer. So total bank deposits for -- for taxpayer,
13 that's like \$2,158,968. So I'm like reducing to like less
14 reported fixture and equipment sales \$30,000, and then
15 adjusted bank deposits came to \$2,128,968. All those per
16 DMV data, \$1.5 million and -- \$1,530,900, and taxpayer and
17 CDTFA, they are accepting. They have the like same --
18 same number. Less claim demand titled transactions,
19 there's \$308,850. CDTFA is -- is not, like, considering
20 these, but taxpayer does have, you know, receipts from the
21 clients. The clients, they paid the sales tax on that.
22 And then less sales for resale it's considered with -- by
23 the CDTFA. Then taxable auto sales came to \$1,136,605.
24 Reported taxable auto sales, it's just like reported
25 taxable sales, like, \$573,971. Additional taxable sales

1 is \$562,634. So I'm consider like putting the average
2 like tax rate, that's 8 percent. So additional tax on
3 auto sales is like \$45,000 and 10 cents -- 10 dollars.

4 Second part is auto part and labor sales. So
5 from the \$2.1 million, the top adjusted bank deposit. So
6 I'm subtracting all the, like, auto sales per DMV and
7 other. So the it -- it's coming to \$598,000. So taxable
8 percentage per parts -- parts versus labor, like
9 considering 45 percent. So taxable part sales are coming
10 to \$269,130.60. Average tax rate 8 percent, so additional
11 tax on part sales coming to \$21,530. So combined \$45,000
12 from -- for the auto sales is \$21,530 for the parts sales.
13 It's coming to \$66,541. So taxpayer is -- so we are like
14 accepting this tax. You know, taxpayer is ready to pay
15 this tax too. Yes.

16 So any questions on this one?

17 HEARING OFFICER WILSON: We'll hold our questions
18 until after your with your presentation.

19 MS. AULAKH: Okay. Sure.

20 So -- so like the -- after talking to, like,
21 taxpayer, so my -- my client so -- because the bank
22 deposit, they are like \$2.9 million in the bank. But all
23 the -- these Exhibit 2 and 3, they are -- they were not
24 excluded from that. So we had like conversation with the
25 CDTFA before because these are like, you know, like

1 internal, like, transfers. Sometimes the taxpayer he's
2 running short, so he has to borrow from friends, sometimes
3 from line of credit, so in that way. So just to keep,
4 like, the business going on, so taxpayer, he always has,
5 like, borrow money or just, you know, from the, like, line
6 of credit just to keep the business going on.

7 So, yeah. So like taxpayer, we are, like, you
8 know, accepting up to like 63, which make sense, you know,
9 on the basis of the much bank deposit. But for the CDTFA
10 they have so many, like, you know, projections, estimation
11 on the basis of markups. So those numbers, they are,
12 like, really increasing the, like, the tax, you know, the
13 due a lot. So we are not accepting that. So we are
14 accepting up to, like, \$66,000 in tax due.

15 HEARING OFFICER WILSON: Did you want have
16 Mr. Kumar testify at all?

17 MS. AULAKH: Sure. Yeah. Yeah. So if you just
18 want to speak on this side.

19

20 WITNESS TESTIMONY

21 MR. KUMAR: Hi. So this is Bipin.

22 So I've been doing business. I was --

23 THE STENOGRAPHER: Please bring the microphone
24 closer to you and speak louder, please.

25 MR. KUMAR: So I was running two businesses. One

1 was auto sales, and one was auto repairs. So I started
2 the auto sales in 2016, right around in February and
3 stuff. So I was funding that business. And on the
4 another end, I was doing auto repairs where right around
5 in that time period there was a competitor came right to
6 our business. So business slows down from there because
7 there was not much we were doing.

8 The reason for me, so I can do more repairs for
9 my vehicles because not much was going through. And there
10 was always short of funds because if I'm doing auto
11 repairs, something comes in and there's the bills comes up
12 for auto sales or the employees and all those stuff. So
13 wherever the funds were coming in, it was just coming in
14 these two accounts, and I was just taking it out. If, for
15 example, if the funds need to be paid via Wells Fargo and
16 I have some funds came in Bank of America; so I just need
17 to withdraw and make those payments going through. That
18 was going on occasional time period.

19 So what the Department is saying, since I was
20 removing funds from there and depositing in another, and
21 they consider all as a sales. In auto -- auto sales,
22 the -- the max sales we did about, like, half-a-mil a
23 year. Because certain times, the cars we get it from the
24 auction house, couldn't get it fixed on time. It takes
25 time and all that stuff. Some of them we were taking a

1 loss. And resell it back in the auction house, which
2 was -- which is the Department says about \$85,000. So I
3 was not able to sell. The vehicle was sitting there for
4 like six months, eight months. Or I was either taking a
5 loss and just want to because I need to pay the bills and
6 stuff.

7 And there was another occasions where some of the
8 vehicles were sold out of state, or customers wants to do
9 their transfers on their own, which comes up as a demand
10 of title sales where we give all the paperwork with the
11 statement of fact stating to the Department that we are
12 not liable for the tax. The customer, whoever is going to
13 register this, is going to be paying the back fees for the
14 DMV, and they're going to be paying the sales tax at the
15 time when they're going to be process a transaction in the
16 DMV. Without the statement of fact, DMV cannot process
17 that transaction.

18 So we were doing that as -- as a complete packet
19 and performing that. And as a -- as an example, I -- I
20 reached over to, when there was going on regarding this
21 put everything on me, that I'm responsible, I went to the
22 DMV headquarter on Broadway and try to get some
23 information. I -- I took a list of customers and try to
24 get like, okay, if these customers paid or not. But what
25 they were saying, since these vehicles is being

1 transferred, they are not able to share any information
2 with me because it's more private.

3 Then what happened, some of the customers I
4 reached, and I request them to send me a registration
5 cards that way I can see. Because it shows on the
6 registrations if the tax is being collected, paid or not.
7 So we give them at least, like, 10 -- 10 or so, some
8 examples, which showed the vehicles. However, that
9 complete packet was given to the customers, those
10 customers went to the DMV and did process, the
11 transactions; and they did paid the sales tax at the DMV.

12 But what the Department is saying, I'm also liable
13 for all that \$308,850, what the demand of title sale, what
14 I did. So the taxes are being collected, so they want to
15 collect more tax from my end; which I showed the proof.
16 So business -- the Big Tires, I sold that business in
17 2017, I think October the 31st. So just before closing,
18 business was already slow because of the competition.
19 So -- and right around after the second quarter, I was
20 just cleaning up. I was not doing much of the work
21 because I know I'm going to sell -- sell that place
22 because the tenant -- the landlord was going to increase
23 my rent \$3,000 a month higher; which I was not able to do
24 it. So that, I just decided to just sell out and go out,
25 and that's what happened.

1 So automotive sales and the automotive repairs, I
2 was just basically just doing my repairs and just fixing
3 up. Because sometime I would grab like 10 cars from the
4 auction house, and they were sitting at the repair shop.
5 They were not selling everyday. The cars were there post.
6 Some is being sold in a day. Some is being sold in a
7 month, or certain cars was just sitting there for a year.
8 And the -- it -- I've been using flooring lines. So the
9 auction houses give me a flooring line. So I was using
10 it, but at certain time I'm short of funds.

11 So whatever -- wherever I'll be able to grab
12 something from my family, friends. So I kind of -- kind
13 of like keep of it because I bought the vehicles, I need
14 to do the repairs. I need to pay for the employees. I
15 need to pay the, like, the overhead and everything. And
16 that was what going on between my accounts. And the most,
17 if I see \$500,000 -- the \$1.5 mil the most I did in auto
18 sales. That's period. And then on auto repair side, the
19 most on auto repair side, when we was not in competition,
20 I was doing about \$270, \$250, to \$300,000 the most. But
21 right when the competition comes everything drops.

22 And -- but the Department did 300 percent,
23 500 percent increase on just for no reason. They
24 didn't -- they are not looking on -- on logic things. The
25 business is being shut down. How you putting on a 2018?

1 They are putting me, like, 300 percent as -- or
2 200 percent as a auto -- auto repair sales for the whole
3 four quarters. I didn't even did no business. The
4 business was shut down.

5 There's a escrow was -- the escrow check was
6 being received in November, but we were in escrow before.
7 But when I was in escrow, we were not doing no business
8 over there. And -- and I'm just going through this. I
9 don't have that kind of money or anything. I didn't get
10 anything. I just lose the vehicles. The same thing from
11 the auto repair side. I'm just lost everything, but
12 they're just putting me with bills of this, bills of that,
13 which is just ridiculous. It doesn't makes me no sense.

14 Whatever is -- is fair, I'm -- I'm willing to
15 pay. I'll ask my friends and family to help me, otherwise
16 this is just like killing me, you know. I can't survive
17 like that. It's -- it's just like I need to hang myself.
18 This didn't left with me with nothing. I don't have no
19 choice. I have family. I need to live with them, but
20 this thing is just forcing me. I -- I even met with --
21 with Mr. Paul two times. I explain him everything,
22 whatever they need, whatever the information I gather,
23 because two, three times it happened at my place. There
24 was a break-in. Break-in happened. I lost some of the
25 stuff.

1 That is the reason why I'm short of the
2 information. There's a police report. Everything
3 happened. I've been explained to Mr. Paul, but it's just
4 they just putting all those numbers on me for no reason.
5 I -- I did not did that what they're saying. I -- I know
6 the God, you know. I'm just telling straight. The most
7 the business did was a half-a-mil. The most the auto
8 repair business what I did, like, \$250,000 to max, not
9 even touching the \$300,000. They are making it as
10 \$500,000. I wish I had that going. I was not surviving
11 one day. Certain days at the shop I was only getting \$10
12 coming in, just a \$10. And my overhead was over \$400.
13 How was I going to survive with that \$10. What I need to
14 do? I need to shut that down. And they're asking me for
15 this much money, which is -- doesn't make me no sense.

16 That's why we're here. We need the help. We
17 been go through every -- wherever we need to go, I'm
18 trying to go. I'm not running away. But please, at least
19 do something. See what is fair or not. They put --
20 see -- see how much time we spent from that until now.
21 Everything -- we spent it all everything on there.
22 Everybody's time is precious. We should be doing
23 something else, rather than just putting the numbers on
24 somebody. If I -- if the business did like \$3 million --
25 I wish I did \$3 million so I could pay. There's nothing.

1 The business was just doing the max. That's it. I'm very
2 sorry, but it's just killing me.

3 I'm done.

4 HEARING OFFICER WILSON: Okay. Thank you.

5 Ms. Aulakh, do you have anything further you'd
6 like to add on your presentation?

7 MS. AULAKH: No.

8 HEARING OFFICER WILSON: Okay. CDTFA, do you
9 have any questions for the witness?

10 MR. SAMARAWICKREMA: We don't have any questions.

11 HEARING OFFICER WILSON: Thank you.

12 Judge Geary?

13 JUDGE GEARY: Could I defer until after the
14 Department presents?

15 HEARING OFFICER WILSON: Of course.

16 JUDGE GEARY: Thank you.

17 HEARING OFFICER WILSON: Judge Ralston?

18 JUDGE RALSTON: Yeah. I just had a couple of
19 clarifying questions.

20 So you stated that you -- I think during your
21 testimony you said that you had resales back to the
22 auction house where you purchased the cars?

23 MR. KUMAR: Yeah. So we did. Some of the cars
24 being sold it back, since not being sell on my floor, and
25 some we couldn't fix or something. So I sold it as is

1 back in the auction, which is about \$85,445.

2 JUDGE RALSTON: Okay. And then with regard to
3 the money that was borrowed from friends and family, how
4 was that done? Did you sign a promissory note with them?
5 Did they give you a check for the amounts? How did that
6 happen?

7 MR. KUMAR: Some of them is a checks. Some of
8 them a cash. Is -- I've been doing this to the auction
9 houses. The reason the vehicles are not fixed, and those
10 is being sold to the -- the another dealers from the
11 auction house, how we bought it. But from my family and
12 friends, what I got as a -- some of the checks, majority
13 of the checks, and some in the cash.

14 JUDGE RALSTON: Okay. And for any of those
15 loans, did you sign any promissory notes or have any
16 documentation with the family members?

17 MR. KUMAR: Some of them I do.

18 JUDGE RALSTON: Okay.

19 MR. KUMAR: Yes.

20 JUDGE RALSTON: Would you be able to provide that
21 information to us if you we gave you some time to do that?

22 MR. KUMAR: I was looking into -- like I said,
23 some of the documents I -- I lost. There's a couple of
24 occasion it happened my vehicle broken. And there's some
25 occasions when there was a break-in into my business, and

1 I -- that is the reason I'm -- I'm short on some of the
2 documents.

3 JUDGE RALSTON: Okay. And then just my last
4 clarification question. You said that you were in escrow.
5 So when were the businesses closed?

6 MR. KUMAR: It was the 10/31/2017, I believe, was
7 the last day.

8 JUDGE RALSTON: Okay. Thank you.

9 MR. KUMAR: Yes. Big Tires.

10 JUDGE RALSTON: Thank you.

11 HEARING OFFICER WILSON: All right. We'll move
12 on with CDTFA's presentation. Since CDTFA is not having
13 any witness testify, it will -- their only arguing the
14 appeal. So they will not be testifying under oath or
15 affirmation.

16 Mr. Samarawickrema, you will have 40 minutes for
17 your presentation. Please begin when you are ready.

18 MR. SAMARAWICKREMA: Thank you, Judge.

19

20 PRESENTATION

21 MR. SAMARAWICKREMA: Appellant, a California
22 limited liability company, operated two business
23 activities at separate locations in Sacramento,
24 California, under single seller's permit. The first
25 business was called Best Motors, and the second business

1 was called Big Tires and Glass to You. Appellant received
2 its seller's permit on February 2nd, 2016.

3 The Department audited Appellant's business for
4 the period of February 2nd, 2016, through December,
5 31st, 2018. This is Appellant's first audit. Best Motors
6 operated as a licensed used car dealership in Alpine
7 Avenue where it made retail sales of used cars and also,
8 made used cars sales for resale. The second business
9 located on Gerber Road provided sales and services for new
10 and used tires sales and provided sales and services for
11 car window repairs, replacements, and installation. The
12 business also sold various merchandise, including rims,
13 auto parts, and other accessories, and performed various
14 services, such as oil changes, smog certifications, and
15 other related services.

16 In October 2017, Appellant sold the second
17 business and its fixtures and equipment. After that,
18 Appellant began to sell tires and parts from the Best
19 Motor business on Alpine Avenue. On March 31st, 2022,
20 Appellant closed its seller's permit. During the audit
21 period, Appellant reported total sale of around
22 \$1.4 million and claimed various types of deductions
23 resulting in reported taxable sales of around \$574,000,
24 including sale of fixtures and equipment of \$30,000; and
25 these amounts are shown on Exhibit A, page 125.

1 During our presentation, we will explain why the
2 Department rejected Appellant's reported taxable sales;
3 why the Department used an indirect audit approach; and
4 how the Department determined Appellant's unreported
5 taxable sales for Best Motors and unreported taxable
6 merchandise sales for Big Tires and Glass to You for the
7 audit period. During the audit, Appellant failed to
8 provide complete sales records for the audit period.
9 Appellant did not provide complete documents of original
10 entry, such as complete Department of Motor Vehicle
11 reports of sales, dealer jackets, sales contracts,
12 financing contracts, repossession documents, sales
13 journals, or sales summaries to support its motor vehicle
14 sales for its used car sales business.

15 Appellant also failed to provide its POS download
16 with all folders, credit card sales receipts, work orders,
17 estimates, and other related sales documents to support
18 its tire sales and merchandise sales for the second
19 business. Appellant also did not provide complete
20 purchase information or purchase journals for its
21 businesses for the audit period. During the audit,
22 Appellant was unable to explain how it reported its sales
23 on its sales and use tax returns, or explain what sources
24 it relied upon to file them.

25 During the audit field work, Appellant indicated

1 its understanding that all vehicle sales were demand title
2 transactions with customers responsible for sales tax
3 payments to the California Department of Motor Vehicles.
4 Therefore, throughout the audit period, excluding first
5 quarter 2017 and second quarter 2017, Appellant
6 consistently excluded vehicle sales from its taxable sales
7 calculations on its sales and use tax returns, either by
8 netting them out or by claiming them as nontaxable sales;
9 and these are shown on Exhibit A, page 125.

10 The Department did not accept Appellant's
11 reported taxable sales due to lack of reliable records and
12 due to Appellant's unusual reporting practices. The
13 Department also determined that Appellant did not provide
14 complete books and records that could be used to verify
15 its reported total and taxable sales for the audit period.
16 The Department completed four verification methods to
17 verify the accuracy of Appellant's reported total and
18 reported taxable sales.

19 First, Appellant provided federal income tax
20 returns for years 2016 and 2017; and these are shown on
21 Exhibit F. Appellant reported around \$1.6 million in
22 gross receipts on Appellant's federal income tax returns
23 but only reported around \$956,000 as total sales on its
24 sales and use tax returns; and this is shown on Exhibit A,
25 page 291. Thus, Appellant failed to report over

1 38 percent of the sales recorded on its federal income tax
2 return for these periods. The Department also compared
3 the aggregate reported sales of both businesses of around
4 \$956,000 to the cost of goods sold of around \$645,000
5 reflected on Appellant's 2016 and 2017 federal income tax
6 returns.

7 For year 2016, the Department calculated a
8 reported negative book markup of around 39 percent for
9 year 2017. The Department calculated a positive markup of
10 around 62 percent. And the information required to
11 calculate these markups are shown Exhibit A, page 291.
12 From DMV and auction house purchase information, the
13 Department determined Appellant's vehicle sales markup was
14 around 64 percent. And based on the tires and parts, cost
15 profit analysis reports, the Department determined the
16 markup around of 83 percent on taxable merchandise as a
17 second business. And this calculations are shown on
18 Exhibit A, pages 163 and 181.

19 Second, Appellant's stated that it maintained two
20 bank accounts. Appellant used Wells Fargo bank account
21 for Best Motors, and it used Bank of America for Big Tires
22 and Glass to You. Appellant provided Wells Fargo bank
23 statement for the period February 2016 through
24 December 2018, and Bank of America bank statements for the
25 period April 2016 through December 2017.

1 The Department compared Appellant's reported
2 total sale of around \$1.4 million with a net bank deposit
3 of around \$2.9 million and calculated an overall
4 difference of around \$1.5 million. And the information
5 required to calculate this difference is shown on
6 Exhibit A, page 125, and Exhibit J, page 25. Thus, only
7 49 percent of its net bank deposits were reported as sales
8 for the audit period.

9 Third, because Appellant did not provide complete
10 sales records, the Department obtained Appellant's DMV
11 sales information; and that is shown on Exhibit B. As
12 stated earlier, Appellant stated that it considered all
13 vehicle sales as demand of title transactions where
14 customers are responsible for reporting tax payments to
15 the California Department of Motor Vehicles. Therefore,
16 the Department's scheduled Appellant's DMV sales for the
17 audit period and calculated around \$1.1 million for the
18 audit period; and this is shown on Exhibit B.

19 Fourth, Appellant provided its merchandise sales
20 information for year 2016, except for April through
21 July 2016. The Department spot tested sales records for
22 first quarter 2016 and fourth quarter 2016 and noted
23 several letters, including the collection of excess tax
24 reimbursements, some taxable items sold, ex tax, and the
25 recorded taxable merchandise sales exceeded the reported

1 taxable sales for first quarter 2016 and fourth quarter
2 2016 by around \$46,000; and this is shown on Exhibit A,
3 page 183.

4 Based on these four verification methods, the
5 Department concluded that Appellant's records were
6 unreliable. Further, the Department determined that it
7 could not use a direct audit approach based on Appellant's
8 books and records. Therefore, the Department conducted
9 further investigation by analyzing Appellant's DMV
10 information, auction house purchase information, consumer
11 use tax information, and bank statements for Best Motors,
12 and federal income tax return information, form 1099-K
13 information, tire recycling reports, and merchandise sales
14 records for first quarter 2016 and fourth quarter 2016 for
15 Big Tires and Glass to You.

16 Automobile dealerships in California are required
17 to submit a retail report of sales to DMV after the
18 completion of a retail motor vehicle sales. The DMV then
19 comprised this information as part of its report of sales
20 data. The filing of a report of sale is presumptive
21 evidence that the dealer who files the report of sales is
22 the person who actually made the sale. The Department was
23 able to obtain DMV information, which included report of
24 sales data sorted by the Appellant's dealer's license
25 number; and this is shown on Exhibit B.

1 The Department analyzed Appellant's DMV
2 information and removed duplicate sales and unwinds. Then
3 the Department calculated estimated vehicle sales from
4 vehicle license fee code data used by DMV. When the DMV
5 receive a report of sales, the vehicle selling price is
6 converted to a two-digit alpha code, also known as the
7 vehicle license fee code. And these vehicle license fee
8 codes are shown on Exhibit B, column 20. Vehicle license
9 fee codes are established in \$200 increments. So the
10 Department converted these vehicle license fee codes back
11 into dollar values by using the lowest value in the
12 vehicle license fee code's range to estimate the sales
13 price; this is shown on Exhibit K.

14 As a further step, the Department also obtained
15 Appellant's report of sales for year 2017 from its
16 consumer use tax section. The Department compared
17 Appellant's actual vehicle selling prices with the
18 estimated DMV prices and determined that Appellant's
19 vehicle selling prices are around 7 percent more than the
20 estimated DMV prices; and these are shown on Exhibit A,
21 pages 177 and 178. Based on the DMV and actual report of
22 sales information, the Department calculated sales for
23 resale, sales paid at the DMV, and sales tax not paid at
24 the DMV percentages; and these percentages are shown on
25 Exhibit A, page 117.

1 The Department also obtained Appellant's auction
2 house purchase information; and these are shown on
3 Exhibit C. Based on the estimated DMV prices and auction
4 house cost amounts, the Department determined overall
5 audited vehicle sales markup of around 64 percent; and
6 this is shown on Exhibit A, page 163. Based on this
7 auction house purchase information, the Department noted
8 that 104 vehicles were not included in DMV sales
9 information, even though they were sold during the audit
10 period; and this is shown on Exhibit A, pages 167 to 169.
11 The Department calculated the selling prices for those 404
12 vehicles -- those 104 vehicles by using information
13 received from the Department's consumer use tax section
14 and using the overall audited vehicle sales markup; and
15 these calculations are shown on Exhibit A, pages 167
16 through 169. Based on these analyses, the Department
17 determined unreported taxable vehicle sales of around
18 \$832,000 for the audit period; and this is shown on
19 Exhibit A, pages 143 and 153.

20 Further, the Department found Appellant's Wells
21 Fargo net bank deposits for Best Motors exceeded the
22 audited vehicle sales, based on DMV auction house and
23 consumer use tax information, by around \$373,000; and this
24 is shown on Exhibit A, page 139. Therefore, the
25 Department considered the excess net bank deposits as

1 additional vehicle sales, and used this net bank deposits
2 difference with taxable sales and sales tax not paid at
3 DMV percentages to determine additional taxable motor
4 vehicle sales of around \$235,000 for the audit period; and
5 this is shown on Exhibit A, page 139.

6 For Big Tires and Glass to You, the Department
7 used Appellant's federal income tax return information,
8 form 1099-K information, tire recycling reports,
9 merchandise sales records for first quarter 2016 and
10 fourth quarter 2016 to verify the accuracy of reported
11 taxable merchandise sales. Appellant provided its
12 merchandise sales records for first quarter 2016 and
13 fourth quarter 2016; and these are shown on Exhibit D and
14 Exhibit E. The Department spot tested first quarter 2016
15 and fourth quarter 2016 and noted several letters,
16 including the collection of excess tax reimbursements, the
17 taxable item sold ex tax, and the recorded taxable
18 merchandise sales exceeded the reported taxable sales on
19 the first quarter 2016 and fourth quarter 2016 sales and
20 use tax returns; and this is shown on Exhibit A, page 183.

21 Then the Department calculated Appellant's
22 unreported taxable sales percentages; and these
23 percentages are shown on Exhibit A, page 183. The
24 Department used the reported taxable sales and respective
25 unreported taxable sales percentages to determine

1 unreported taxable merchandise sales of around \$725,000
2 for the audit period; and this is shown on Exhibit A,
3 page 182. To verify the reasonableness of these recorded
4 merchandise sales, the Department analyzed Appellant's
5 merchandise purchases and pricing policies. Appellant did
6 not provide complete purchase information for the audit
7 period. Therefore, the Department used the purchases
8 reflected on Appellant's federal income tax return for
9 years 2016 and 2017.

10 To give a benefit to Appellant, the Department
11 used the audited vehicle sales, vehicle sales markup, and
12 total purchases reflected on federal income tax returns to
13 determine Appellant's merchandise purchases of around
14 \$542,000 for years 2016 and 2017, instead of using
15 Appellant's federal income tax returns purchases and
16 auction house purchase amounts. This is shown on
17 Exhibit A, page 289. Then the Department compared the
18 recorded merchandise sales of around \$655,000 with the
19 merchandise purchases of around \$542,000 and calculated
20 recorded merchandise markup of around 38 percent for the
21 year 2016 and 17 percent for year 2017; and these recorded
22 markups are shown on Exhibit A, page 289.

23 To verify the reasonableness of these recorded
24 markups, the Department attempted to conduct a shelf test,
25 but Appellant failed to provide current sales and purchase

1 invoices; and this is shown on Exhibit A, page 180.
2 Therefore, the Department used Appellant's cost profit
3 analysis reports to calculate the merchandise markup of
4 around 83 percent; and this is shown on Exhibit A,
5 page 181. Based on these markups, the Department
6 determined it is required to markup Appellant's
7 merchandise purchases to determine accurate merchandise
8 sales for the audit period. Then the Department used Big
9 Tires purchase available for sales and markup of around
10 83 percent to determine audited sale of around \$993,000
11 for years 2016 and 2017.

12 The Department then compared the audited
13 merchandise sales with recorded sales to determine
14 additional sales based on cost plus markup audit method of
15 around \$338,000 for the same period. The additional
16 merchandise sales, based on cost plus markup method, were
17 compared with recorded sales to calculate respective error
18 rates for years 2016 and 2017; and these calculations are
19 shown on Exhibit A, page 180. The Department then used
20 recorded sales with respective error rates to determine
21 additional merchandise sales of around \$551,000 for the
22 audit period; and these calculations are shown on
23 Exhibit A, page 179.

24 According to Appellant's first quarter 2016 and
25 fourth quarter 2016 sales records, Appellant apparently

1 coded its used tire sales as nontaxable sales. Based on
2 those sales records, the Department calculated the average
3 used tire selling price and the ratio of used tire sales
4 to total tire sales; and these are shown on Exhibit A,
5 pages 252 and 286. The Department also determined that
6 Appellant provided used tires for optional warranty
7 repairs. Since Appellant did not provide records of its
8 used tire purchases for the audit period, the Department
9 obtained Appellant's used tire recycling reports from Cal
10 Recycle for years 2016 and 2017.

11 Based on this information and Appellant's sales
12 record for first quarter 2016 and fourth quarter 2016, the
13 Department determined unreported taxable used tire sale of
14 around \$165,000 and unreported use tax on used tires
15 withdraw from retail inventories for optional warranty
16 repairs of around \$45,000; and these calculations are
17 shown on Exhibit A, pages 211 and 214. Appellant's sales
18 records for first quarter 2016 and fourth quarter 2016
19 also disclose that Appellant collected sales tax at a rate
20 of 8.5 percent on merchandise sales, whereas, the
21 applicable sales tax rate in Sacramento County was
22 8 percent. Therefore, the Department used the reported
23 taxable sales, recorded taxable sales, collected sales tax
24 amounts, and correct sales tax rates and calculated
25 respective error rates for first quarter 2016 and fourth

1 quarter 2016; and these calculations are shown on
2 Exhibit A, page 185.

3 The Department then used the reported merchandise
4 sales and respective error rates to determine excess tax
5 collected measure of around \$67,000 for the audit period;
6 and this is shown on Exhibit A, page 184. Appellant
7 reported \$30,000 as fixtures and equipment sales on its
8 fourth quarter 2017 sales and use tax returns; and this is
9 shown on Exhibit A, page 125. However, Appellant's 2017
10 federal income tax return indicated that the sale value of
11 business property was \$108,000. Therefore, the Department
12 determined the difference of \$78,000 as unreported
13 fixtures and equipment sales for fourth quarter 2017; and
14 this is shown on Exhibit A pages, 290 and 295. In total,
15 the Department determined unreported taxable sale of
16 around \$2.7 million for the audit period; and this
17 calculation is shown on Exhibit A, page 7.

18 The Department then compared the total unreported
19 taxable sales with a reported taxable sale of around
20 \$574,000 to calculate the error rate of around 470 percent
21 for the audit period. In addition, upon review of
22 Appellant's third quarter 2017 sales and use tax returns,
23 the Department found that Appellant's business location
24 was subject to the County of Sacramento district tax rate
25 of half-a-percent, but Appellant did not report any

1 district taxes for this period. Therefore, the Department
2 calculated the amount of unreported district taxes based
3 upon reported taxable sales of around \$34,000 for third
4 quarter 2017; and this is shown on Exhibit A, page 293.

5 The audit calculation of unreported taxable sales
6 for the audit period is based on the best available
7 information was reasonable. When the Department is not
8 satisfied with the accuracy or the sales and use tax
9 return filed, it may rely upon any facts containing the
10 return or upon any information that comes into the
11 Department's possession to determine if any tax liability
12 exists. A taxpayer shall maintain and make available for
13 examination on request by the Department all records
14 necessary to determine the correct tax liability under the
15 sales and use tax laws, and all records necessary for the
16 proper completion of the sales and use tax returns. When
17 a taxpayer challenge an audit of determination, the
18 Department has the burden to explain the basis for that
19 deficiency. When the Department explanation appears
20 reasonable, the burden of proof shift to the taxpayer to
21 explain why the Department asserted deficiency is not
22 valid.

23 Since Appellant failed to provide necessary
24 records, the Department relied upon the best available
25 information to determine the unreported taxable sales for

1 the audit period. The audit calculation of unreported
2 taxable sales, based on the best available information,
3 was reasonable. Appellant disagreed with the audit
4 finding and argue that the audit methods used by the
5 Department to calculate the audited taxable sales
6 overstate Appellant's liability. Appellant believe that
7 the bank deposits analyses should be used instead because
8 the fund from each sales transactions were deposited into
9 his bank accounts. Using bank deposits and taxable part
10 percentage, Appellant calculated unreported taxable
11 vehicle sales amounts and merchandise sales amounts.

12 As support, Appellant provided two spreadsheets
13 to support its nonsales transactions. Upon examination of
14 those sales records, the Department noted that Appellant
15 did not provide any source documents or any of the
16 information to calibrate the figures listed on those
17 spreadsheets. Nevertheless, the Department reviewed and
18 analyzed this information and ultimately rejected them.
19 Upon examination of Appellant's calculations, it is
20 determined that the Appellant allow -- the Department
21 allowed some of the nonsales transaction during the audit,
22 and Appellant failed to provide source documents or other
23 information to calibrate the other disallowed amounts
24 listed on those document. Appellant also failed to
25 provide support how it determined taxable merchandise

1 sales percentage, as the Department determined a taxable
2 merchandise sales percentage of around 53 percent using
3 Appellant's own merchandise sales records for first
4 quarter 2016 and fourth quarter 2016.

5 In conclusion, since Appellant did not provide
6 complete books and records, the Department was unable to
7 verify the accuracy of reported taxable sales using a
8 direct audit method. Therefore, an alternate audit method
9 was used to determine unreported taxable sales.
10 Accordingly, the Department determined the unreported
11 taxable sales based on the best available information,
12 while the Appellant did not provide complete books and
13 records necessary for a secondary audit method to verify
14 the reasonableness of the audit finding. The available
15 evidence demonstrate that the audit results are
16 reasonable. Therefore, the Department request the appeal
17 be denied.

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

20 Thank you.

21 HEARING OFFICER WILSON: Thank you.

22 Judge Geary, you have questions?

23 JUDGE GEARY: Yes, please, for both parties, I
24 believe.

25 For, Respondent, did you happen to notice in

1 reviewing the documents that the deductions listed in -- I
2 think it would be schedule M-1, are not the same as those
3 listed in schedule M? The numbers aren't jiving. Then if
4 you've noticed that, then do you know why?

5 MR. SAMARAWICKREMA: So, Judge Geary, which --
6 are you referring to the use tire calculation?

7 JUDGE GEARY: Some of them.

8 MR. SAMARAWICKREMA: Okay.

9 JUDGE GEARY: There are several, I think. I
10 didn't make a list of them. But did you notice there were
11 some differences?

12 MR. SAMARAWICKREMA: Which schedule number that
13 you are specifically asking? Because we -- the Department
14 used the Appellant's first quarter 2016 and fourth quarter
15 2016 and calculated use tire sales and also, the new tire
16 sales, and used that information with the Cal recycling
17 reports to determine the use tire sales.

18 JUDGE GEARY: Was that the only area that you saw
19 a difference?

20 MR. SAMARAWICKREMA: Yes, Judge.

21 JUDGE GEARY: I have some questions -- thank you,
22 Mr. Samarawickrema.

23 I have some questions for the Appellant.

24 The LLC, that is the party SAII, is that supposed
25 S-A-2, roman numeral 2 or is it --

1 MR. KUMAR: No. It's I-I.

2 JUDGE GEARY: Okay. So SAII Enterprises, LLC,
3 was it doing business formally as these different
4 entities, the Best Motors, the Big Tire and the glass and
5 recycling companies?

6 MR. KUMAR: No, Judge. So it was -- originally,
7 it was Big Tires Company. And I used to do glass, but I
8 was not doing. I stop to doing. It was a separate name I
9 had, dba, Glass to You, but I was not doing much. And in
10 the same LLC, I -- when I started the auto sales, that was
11 Best Motors, starting in 2016. So it was a LLC under two
12 dba's, which was Big Tires and Best Motors. The Glass to
13 You was individually I started, but I was not doing much
14 in the glass at all. I was more doing the repairs and the
15 tires and stuff.

16 But what they are saying for the tires -- used
17 tires record, what they collect, when we were getting a
18 used tires, it was coming in a bulk. And sometimes the
19 tires were just bad. We are not able to use, so we have
20 to straightly do a junk. So if I buy 20 tires and if it's
21 only 2 is good or 10 is good, rest is going to go in junk.

22 JUDGE GEARY: Okay. Let me just interrupt you.
23 I'm just right now at this point trying to make sure that
24 the -- that this case is -- has the correct name. We have
25 it carried as doing business as Best Motors.

1 But, Mr. Samarawickrema, is this really the LLC
2 doing business as Best Motors and Big Tire?

3 MR. SAMARAWICKREMA: Yes, Judge.

4 JUDGE GEARY: Okay. Back to the Petitioner, and
5 this may be something that your representative needs to
6 respond to. But there's actually nine separate audit
7 items that were at issue here. Do you dispute all nine
8 audit items?

9 MS. AULAKH: Yes.

10 JUDGE GEARY: Turn your microphone on first,
11 please.

12 MS. AULAKH: Yes, Judge.

13 JUDGE GEARY: You do?

14 MS. AULAKH: Yeah.

15 JUDGE GEARY: Okay. Bear with me for a second.

16 The petitioner -- don't forget to turn your
17 microphone on back on when I ask my questions. I think
18 this is for you, Ms. Aulakh. The petitioner asserts that
19 when a buyer demands the title, that it is not required to
20 pay the sales tax.

21 MS. AULAKH: Yes.

22 JUDGE GEARY: On what does petitioner base that
23 argument? On what law or regulation does it base that
24 argument?

25 MS. AULAKH: So the demand of title sales,

1 technically, the buyer is suppose -- like, you know,
2 supposed to pay sales tax on that --

3 JUDGE GEARY: Well --

4 MS. AULAKH: -- the demand of titles.

5 JUDGE GEARY: -- your client is the retailer.

6 Petitioner was the retailer in this case, but petitioner
7 contends that because the buyer requested title, that the
8 responsibility of the retailer to pay sales tax transfers
9 to the buyer. Is that its position?

10 MS. AULAKH: So I'll let, you know, like,
11 Mr. Kumar answer that.

12 JUDGE GEARY: That's fine. Go ahead, Mr. Kumar.

13 MR. KUMAR: Judge, so when I was going through
14 the DMV for my licensing and stuff, there was some of the
15 dealers were coming in and were talking about this demand
16 of title sale. So I asked them what is the demand of
17 title sales. So they explain me how this thing work. So
18 it's when a customer comes in, and they would like to grab
19 the whole jacket and took it to the DMV and handle the
20 transfer on their own where we don't do -- we give them a
21 report of sale. We give them all the buying, the title,
22 the bill of sale from one party -- one dealer to second or
23 third or fourth, however many times bill of sales.

24 So we give them all together, and they go to the
25 DMV, and they process it and collect the fees, if there's

1 any back fees or anything or the taxes -- the taxes.
2 Because we give them buyer's orders, which has
3 specifically what the vehicle sell for and everything.
4 And on the sales tax, it specifically shows it's not
5 collected. And the DMV require to have a statement of
6 fact from -- from our dealership and from the customer
7 stating specifically auto number -- report of sale number
8 on there and states what is the reason for doing this.

9 So we specifically state in there as per customer
10 demand of title. The customer is going to be transferring
11 this vehicle at the DMV, and will be responsible for any
12 back fees or current registration fees, and the sales tax
13 will be collected at the time the transition will be
14 completed at DMV. That specifically says on the statement
15 of fact.

16 JUDGE GEARY: And you indicated during your
17 testimony, I think that you checked with some customers
18 and there were some number -- I think you may have said
19 five customers that reported to you that they, in fact,
20 paid the sales taxes, and you somehow confirmed with DMV;
21 is that correct?

22 MR. KUMAR: Yes. The page 1152 to page number
23 1166, it shows a proof of what I gather from some of the
24 customers, their registration card after the registration,
25 which specifically shows the registration is being paid,

1 and the taxes is being paid.

2 MS. AULAKH: Yeah, sales tax is paid on those,
3 you know. It's actually Exhibit 1, page 101 to 116.

4 JUDGE GEARY: And is it petitioner's --
5 Appellant's position that the Department did not recognize
6 that?

7 MR. KUMAR: Yes.

8 HEARING OFFICER WILSON: All right.
9 Mr. Samarawickrema, does the Department agree that if a
10 purchaser of a vehicle demands title and the dealer goes
11 through process as described by Appellant, that the
12 responsibility for paying sales taxes shifts from the
13 retailer to the customer?

14 MR. SAMARAWICKREMA: Judge Geary, based on the
15 2017 cost information, the Department identifies some
16 buyers paid taxes directly to the DMV. Even, they didn't
17 pay the full amount, they paid some. If you check the
18 Exhibit A, page 171 and 74, we -- the customer went and
19 paid tax to the DMV, we make an adjustment, and we --
20 that's why we identified tax paid to the DMV percentages
21 versus tax not paid at the DMV. So we -- if the
22 taxpayer -- if the taxpayer's customers paid tax, then we
23 consider it as -- we consider it as, you know, it's not
24 responsible for this audit, and we make that adjustment;
25 even -- even the customer paid a lower than the actual

1 amount.

2 So we didn't make an adjustment for -- for that
3 difference because in, specifically, schedule 12D-1,
4 page 171 and -- through 174, it says tax paid to the DMV
5 and the actual tax. So most of the time, the customer
6 didn't pay the actual tax, but we didn't assess that
7 difference in this audit. So it benefit the taxpayer.

8 JUDGE GEARY: Okay. That's a little different.
9 That's one of the questions I asked --

10 MR. PARKER: Judge Geary?

11 JUDGE GEARY: Yes.

12 MR. PARKER: Sorry to interrupt. Can I answer?

13 JUDGE GEARY: Sure.

14 MR. PARKER: I think the question you were asking
15 was, does it shift the responsibility from the retailer to
16 the customer if they do the demand title. A licensed
17 vehicle dealer in the State of California is a retailer
18 and required to collect the sales tax or -- or they're
19 liable for the sales tax on any retail sales they make.
20 So they cannot shift the responsibility for the sales tax
21 from the retailer to the consumer in these transactions.

22 However, as Mr. Samarawickrema stated, we did
23 look at the DMV information to see if the customers did
24 pay the tax, and we gave them the credit on those
25 transactions. But the vehicle dealer is still liable for

1 the sales tax on the retail sales.

2 JUDGE GEARY: Thank you, Mr. Parker.

3 Did you say, Mr. Samarawickrema, that you allowed
4 the -- the Department allowed credit for the full amount
5 of tax, even though the customer may not have paid the
6 whole amount?

7 MR. SAMARAWICKREMA: Yes, Judge.

8 JUDGE GEARY: Those are all the questions I have.
9 Thank you.

10 HEARING OFFICER WILSON: Thank you, Judge Geary.
11 Judge Ralston, do you have question?

12 JUDGE RALSTON: No questions. Thank you.

13 HEARING OFFICER WILSON: I did have some
14 questions. One minute. To follow up on Judge Geary's
15 question about the nine audit items, there appears to be a
16 few that pertain to the bank deposits, and then others
17 that do not. So are you contending that the audit items
18 not related to the bank deposit are still in disagreement?

19 MS. AULAKH: Yes.

20 HEARING OFFICER WILSON: So, for example, the
21 sale of assets?

22 MS. AULAKH: Sale of assets. So like -- so we
23 are accepting that. Sorry.

24 HEARING OFFICER WILSON: Okay. So that --

25 MS. AULAKH: That \$30,000, yes.

1 HEARING OFFICER WILSON: Mr. Kumar?

2 MR. KUMAR: Yeah. So the sale asset, that -- the
3 business was sold with goodwill and asset. So what the
4 Department is doing, they're putting everything into the
5 sales of asset. The escrow was showed there was a
6 goodwill, and they collected the taxes on a \$30,000 for
7 asset. But what they're saying the whole thing, business,
8 even the goodwill is taxable. One point.

9 HEARING OFFICER WILSON: Okay.

10 Mr. Samarawickrema, can you address the Appellant's
11 goodwill argument on the assets?

12 MR. SAMARAWICKREMA: Yes, Judge. If you go to
13 Exhibit A, page 295, there is a federal income tax -- the
14 Appellant's federal income tax returns Form 4797. It
15 specifically listed three items: Alignment machines,
16 tire rack, car lift. That is alignment machine
17 is \$25,000, selling price, and tire rack is \$25,000, and
18 car lift, \$58,000. So that is \$108,000. So Appellant
19 only reported \$30,000. The Department took the difference
20 as unreported assets for the audit period.

21 HEARING OFFICER WILSON: Thank you.

22 Mr. Kumar, is --

23 MR. KUMAR: So what they're saying that was
24 original price when it was purchased. When I sell it, was
25 not for that. It was being used. So they're putting that

1 the whole amount as in -- in the business sales. I just
2 sold the business with the goodwill. But what they're
3 referring, it's as a equipment sale.

4 HEARING OFFICER WILSON: I'm sorry. So the IRS
5 Form 4797 listed the sale of the assets?

6 MR. KUMAR: Sorry. What was the page number?

7 MS. AULAKH: So can we get, like, pdf, that page
8 number? It's so hard to look at otherwise. Like, on the
9 side, if you see --

10 MR. SAMARAWICKREMA: 651.

11 MS. AULAKH: 651. Okay.

12 MR. SAMARAWICKREMA: Yeah.

13 MR. KUMAR: Is it page number 651, sir?

14 HEARING OFFICER WILSON: I believe it's 643.

15 MR. KUMAR: 643. We are having hard time seeing
16 here 643.

17 MR. PARKER: The bottom of the page should show
18 Exhibit A, page 295 of 321. The hearing binder that I
19 have shows it's page 651. But that's the specific page,
20 the Exhibit A, page 295.

21 HEARING OFFICER WILSON: Thank you.

22 MS. AULAKH: It's page 668, the pdf page.

23 MR. KUMAR: The 668 page of fixtures and
24 equipment was sold for \$30,000 in the business sale
25 contract.

1 HEARING OFFICER WILSON: Okay. So on your income
2 tax return you reported adjusted basis of \$95,000.

3 MR. KUMAR: We -- we are having a hard time
4 finding that page. What exhibit is it?

5 HEARING OFFICER WILSON: Exhibit A, page 290.

6 MR. SAMARAWICKREMA: Judge Wilson, I have the
7 hard copy. If you want, I can share.

8 HEARING OFFICER WILSON: That's fine.

9 MR. SAMARAWICKREMA: Okay.

10 MR. KUMAR: Thanks. Thank you.

11 HEARING OFFICER WILSON: Ms. Aulakh, Mr. Kumar,
12 do you have a copy of your sales contract that shows that
13 the assets were only \$30,000, as opposed to what you
14 reported on IRS form?

15 If you're going to have a private, you might want
16 to turn off your microphones, so it's not picked up.
17 Thank you.

18 Ms. Aulakh, would you like a brief recess so you
19 can figure this out?

20 MS. AULAKH: Sure.

21 HEARING OFFICER WILSON: Okay. We'll take a
22 five-minute recess.

23 MS. AULAKH: Sure. Thank you. Thanks.

24 (There is a pause in the proceedings.)

25 HEARING OFFICER WILSON: Okay. We're back on the

1 record.

2 MS. AULAKH: So yeah. Yes. So I just emailed
3 the requested document regarding goodwill to, like, the
4 evidence email.

5 HEARING OFFICER WILSON: Okay. Thank you.

6 MS. AULAKH: Yeah.

7 HEARING OFFICER WILSON: Additional questions --
8 just one moment. Looking at all the different audit
9 items, we have 12-L, which is the additional taxable use
10 tire sales based on the Cal Recycle reports. What was
11 your contention in regards to that?

12 MR. KUMAR: So see, regarding the used tires,
13 what they saying, I provided the record for what I be able
14 to gather, quarter first and quarter fourth. And what
15 they're saying, they are using it for the used tire
16 recycle. But earlier like I explain, when we buy a junk
17 tires, the used tires, most of them are junk. Because
18 it's not like we taking off all the good tires and selling
19 them as a used tire.

20 HEARING OFFICER WILSON: Okay. The next item is
21 12-E. The additional taxable tires and parts based on a
22 markup on cost. Do you have an argument for that?

23 MR. KUMAR: Sorry. Say that again?

24 HEARING OFFICER WILSON: It's schedule 12-E,
25 additional taxable tires and part sales per markup on

1 cost.

2 MR. KUMAR: So what they're doing, they're
3 marking up too crazy. It's not even a yearly sale on --
4 they're using the used tire junk report, and they're
5 saying, like, there's a multiply 80 percent markup, which
6 is unreal. Can't do that. So I'm denying that.

7 HEARING OFFICER WILSON: Okay. Do you have
8 anything to dispute that number, the markup number?

9 MR. KUMAR: No, I don't have any additional
10 document.

11 HEARING OFFICER WILSON: Okay. Next, we have
12 12-M, which is the used tires consumed for optional
13 warranty subject to use tax.

14 MR. KUMAR: We don't give no warranty on used
15 tires. So where is this comes up?

16 HEARING OFFICER WILSON: So it's regarding an
17 optional warranty.

18 MR. KUMAR: We don't -- used tires don't come
19 with no warranty. It's all as is.

20 HEARING OFFICER WILSON: You don't sell an
21 optional warranty --

22 MR. KUMAR: No.

23 HEARING OFFICER WILSON: -- on the tires?

24 MR. KUMAR: No.

25 HEARING OFFICER WILSON: Mr. Samarawickrema, can

1 you address the warranty?

2 MR. SAMARAWICKREMA: They have -- the Appellant
3 has warranty sales. So based on their first quarter 2016
4 and the fourth quarter 2016, we -- the Department saw
5 using used tires for warranty repair. So that's the
6 reason the Department identify warranty sale of tires and
7 took the markup out and calculate the cost. So in the --
8 according to the audit notes, Appellant has a website.
9 And in the website also, it indicates they provide
10 optional warranties.

11 MR. KUMAR: So warranty is only for when we buy a
12 new part, when we were doing the repairs. That is the
13 only warranty. Other than even though we were getting a
14 new tires, we don't offer no warranty. We not sell no
15 warranty. Whoever the supplier, did not give us no
16 warranty. So it's -- if anything is going wrong with the
17 tire we sell, it's got to go back to the manufacturer or
18 the supplier who we buy.

19 Even though, like, when I'm buying a used tire as
20 in a bulk, and it's just my luck what tire is going to be
21 good or not. That's it. The rest is junk. So if I'm not
22 getting no warranty, how will I be able sell a warranty?
23 There's no way in -- in my whole time period, I sell a
24 used tire warranty for any price.

25 HEARING OFFICER WILSON: Okay. So it's your

1 argument that there are -- or your testimony that there's
2 no sales invoices that show optional warranty?

3 MR. KUMAR: Not even in my work orders, there's
4 no warranty is being sold for used tires in my whole
5 career. Even though right now we go to any shop, they
6 will not sell no warranty. It will be just as is used
7 tire. You bought it. You going for a day, that's your
8 luck.

9 HEARING OFFICER WILSON: Okay. Next, one of the
10 audit items is in regards to district tax errors. That's
11 on schedule 12-Q. Are you contending that you did not
12 make any errors in reporting district tax?

13 MR. KUMAR: So I was not aware about that. So I
14 was just looking on the sales tax rate, and I was just
15 doing that on my invoice.

16 HEARING OFFICER WILSON: Okay. So are you in
17 agreement with that error?

18 MS. AULAKH: So the client is saying he's not
19 aware of that, you know, like if he collected, like,
20 access or if he made any error on that.

21 MR. KUMAR: But this -- this is included with too
22 far numbers out with their manipulation where I'm making
23 70 percent of the markup. I wish I could do 25 percent or
24 40 percent in today's market. There's no as such
25 70 percent markup any shop is doing. Nobody is doing it.

1 So where the calculations come up, all those numbers are
2 not correct.

3 MS. AULAKH: So client is not accepting that.
4 He's not in agreement with that.

5 HEARING OFFICER WILSON: Thank you.

6 Did we already go over 12-F. Let's see.
7 Unreported taxable tire and part sales based on recorded
8 versus reported differences for first quarter '16 and
9 fourth quarter '16.

10 MR. KUMAR: So that is -- yeah, that is not
11 correct either because I did the business from '16 four
12 quarters and two quarters of '17. The business is being
13 sold. They manipulated the numbers too higher where there
14 was no sale.

15 HEARING OFFICER WILSON: Okay. So the schedule
16 shows what you have recorded versus what you reported.

17 MS. AULAKH: So it's only on the basis of first
18 quarter '16 and fourth quarter '16. So -- but the other
19 quarters are also included. So they're more like, you
20 know, more off the projections. So client do not accept
21 these, you know.

22 HEARING OFFICER WILSON: Okay. And based on --

23 MR. KUMAR: Based off irrelevant [sic]
24 projections. There's no -- like the third quarter, I
25 didn't did no sale. They're saying I did, like, almost

1 \$200,000 in sale. The business is shut down. There's no
2 equipment -- much equipment to do. And the fourth quarter
3 I didn't did nothing. They having 200 -- almost \$150,
4 \$200,000 sale. Where -- where that sale I'll be able to
5 do? I didn't did anything. Didn't purchase anything.
6 Because, at that point when I was selling the business, it
7 was in my mind set that I cannot buy more because I'm not
8 able to sell more.

9 HEARING OFFICER WILSON: Okay. Thank you.

10 Going back to your new exhibits, Exhibit 2. The
11 original exhibit we received showed through October
12 through November of 2017 as sold used equipment as your
13 description, and then today I see it's changed to
14 borrowed. Is there a reason?

15 MS. AULAKH: No. No. There was like, you know,
16 error at my end. So I just discussed with Mr. Kumar in
17 the morning. So -- so then we just fixed the error and
18 just gave to CDTFA the morning to fix that.

19 HEARING OFFICER WILSON: Okay. I also noticed on
20 the exhibits that there were transactions that were
21 accepted by CDTFA. Did you happen to notice those?

22 MS. AULAKH: So on which exhibit? Which page?

23 HEARING OFFICER WILSON: For example, Exhibit 2
24 we have 4/26/16 Wells Fargo, transfer from Wells Fargo
25 \$1,000. That appears on CDTFA's Schedule 12J-2A, line 11.

1 MS. AULAKH: So -- but the, like, total bank
2 deposit, they were, like, per CDTFA, they are like
3 \$2.99 million in the bank. But -- so there were, like,
4 additional, like, 735, which were supposed to be excluded.
5 So they are not accepted by the CDTFA.

6 HEARING OFFICER WILSON: Okay.

7 MS. AULAKH: They are excluded.

8 MR. KUMAR: So the totals -- sorry. The total
9 sale, it will be roughly about \$2.1 to \$2.2 mil. The rest
10 about in -- in the bank, the transfers and -- and -- and
11 the funds in together, it's about \$2.9. But what they are
12 saying, I believe it's \$1.7 mil in addition. Where that
13 fund goes?

14 HEARING OFFICER WILSON: Okay. So my question
15 was, are you aware that they did accept some of these?

16 MR. KUMAR: No. Which one it is?

17 MS. AULAKH: No. Actually --

18 HEARING OFFICER WILSON: I show --

19 MS. AULAKH: -- we are not.

20 HEARING OFFICER WILSON: -- Exhibit 2 there's
21 roughly -- in May of 2016, there's \$4,500, April of '16,
22 there's \$1,000, and then October of '17, there's \$23,000.

23 MR. KUMAR: All this one.

24 MS. AULAKH: But still, they are not, you know,
25 like enough. Because I didn't look at that, what they

1 accepted, but still it's overall we are, like, expecting
2 around -- like, you know, they expecting around \$735,000,
3 not merely \$40, \$45,000.

4 HEARING OFFICER WILSON: Ms. Aulakh, we just
5 received your email printed out of the allocation for the
6 purchase price.

7 MS. AULAKH: Yes.

8 HEARING OFFICER WILSON: The signatures at the
9 bottom, is there more to this, like, a contract, or is
10 this the only page you have?

11 MR. KUMAR: Those are my signatures. No, just
12 this one.

13 HEARING OFFICER WILSON: So do you have more to
14 this contract?

15 MR. KUMAR: No. This was the -- what you call --
16 the contract and a -- and a brief description what was we
17 were selling for.

18 HEARING OFFICER WILSON: Okay. So this describes
19 the sale of your business.

20 MR. KUMAR: Yes, like what I'm selling for a,
21 what was the amount I would be collecting for.

22 MS. AULAKH: Just the, basically, allocation.

23 HEARING OFFICER WILSON: Right. I guess I was
24 looking for the full contract that shows --

25 MS. AULAKH: I think that contract --

1 HEARING OFFICER WILSON: -- the buyer's names
2 that --

3 MS. AULAKH: That contract was part of the --

4 THE STENOGRAPHER: Stop. I need for you to talk
5 one at a time.

6 MS. AULAKH: Sorry.

7 THE STENOGRAPHER: I need you to please wait for
8 her to finish her question before answering.

9 HEARING OFFICER WILSON: Thank you.

10 MS. AULAKH: So I did see that contract in the,
11 you know, documents -- in the Office of Tax Appeals
12 documents. Let me look that up. So I did see that
13 document, the final -- the contract, sales contract.

14 HEARING OFFICER WILSON: Okay.

15 MS. AULAKH: Yes. Let me look at it. It's
16 Exhibit A, page 308.

17 HEARING OFFICER WILSON: I do see the closing
18 statement? Is there any, like, agreement between the
19 parties, other than the closing statement?

20 MR. KUMAR: That is it.

21 HEARING OFFICER WILSON: That's it?

22 MR. KUMAR: That's all. Yeah.

23 HEARING OFFICER WILSON: Thank you. I don't have
24 any other questions at this time.

25 Panel?

1 Judge Geary, any further questions.

2 JUDGE GEARY: No questions. Thank you.

3 HEARING OFFICER WILSON: Judge Ralston?

4 JUDGE RALSTON: No questions. Thank you.

5 HEARING OFFICER WILSON: All right. Ms. Aulakh,
6 if you would like 5 minutes for a closing or a rebuttal,
7 you have 5 minutes.

8

9 CLOSING STATEMENT

10 MS. AULAKH: Okay. All right. So, you know,
11 like I would request Office of Tax Appeals, you know, just
12 go over, like, the bank statements. Because whatever, all
13 the deposit, all the money, it came in the bank. So there
14 are, like, two business, like, auto sales and the, like,
15 tire -- like a repair shop. So everything comes in the
16 bank. And, like, that \$1.5 million that is from the,
17 like, you know, from the DMV data. So that number is
18 matching. So that makes sense after conversation with
19 the, like, client, that \$1.5 million sales for three
20 years. And the claim demand of title transactions for
21 \$308,000, that should be accepted, and that 85 resale,
22 which is already accepted by the CDTFA.

23 So, roughly, around the tax -- additional tax on
24 auto sales, like, \$45,000 and additional tax on part sales
25 like, \$21,000, total \$66,541. If the Department agrees,

1 so my client has agreed to pay that tax.

2 Yeah. That's pretty much -- thank you.

3 HEARING OFFICER WILSON: Thank you, Ms. Aulakh.

4 Mr. Samarawickrema, do you have anything you
5 would like to add?

6 MR. SAMARAWICKREMA: No. We have nothing to add.

7 HEARING OFFICER WILSON: Okay. Great. Thank
8 you. Have you had a chance to look at the allocation that
9 was just handed out?

10 MR. SAMARAWICKREMA: Yes, Judge.

11 HEARING OFFICER WILSON: And do you have any
12 objection to that being admitted?

13 MR. SAMARAWICKREMA: We have no objection, but we
14 use federal income tax -- Appellant's federal income tax
15 return to identify the sales price of fixtures and
16 equipment for that business, and it specifically listed
17 three assets for \$108,000. So we -- we use the federal
18 income tax return, unless there are any information to
19 show that the -- the amounts listed in federal income tax
20 return is incorrect.

21 HEARING OFFICER WILSON: Thank you.

22 Hearing no objection, we will go ahead and admit
23 this allocation as Exhibit 5.

24 (Appellant's Exhibits 5 was received
25 into evidence by the Hearing Officer.)

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 OFFICER WILSON: I don't have anything further.

Do you Judge Geary? No.

Judge Ralston? No.

All right. That concludes the hearing for today. The case is submitted today, July 22nd, 2025.

The record is now closed.

Thank you, everyone, for participating today.

The panel will meet and deliberate and decide your case. We will issue a written opinion within 100 days of today, and this hearing of the Appeal of SAII Enterprises, LLC, is now concluded.

Thank you.

(Proceedings concluded at 11:29 a.m.)

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 29th day of July, 2025.

ERNALYN M. ALONZO
HEARING REPORTER