

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
R. SIMMS, dba,) OTA NO. 240215322
RON SIMMS BAY AREA CUSTOM CYCLES,)
)
)
APPELLANT.)
)
)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, July 16, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

Transcript of Electronic Proceedings,

taken in the State of California, commencing at 1:00 p.m. and concluding at 2:25 p.m. on Wednesday, July 16, 2025, reported by Ernalyn M. Alonzo, Hearing Reporter, in and for the State of California.

1 APPEARANCES:

2
3 Panel Lead: ALJ JOSH ALDRICH

4 Panel Members: ALJ MICHAEL F. GEARY
5 ALJ NATASHA RALSTON

6 For the Appellant: STEPHEN MAYER

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

10 NALAN SAMARAWICKREMA
11 CHRISTOPHER BROOKS
12 JASON PARKER

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1 California; Wednesday, July 16, 2025

2 1:00 p.m.

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4 JUDGE ALDRICH: We're opening the record in the
5 Appeal of R. Simms, doing business as Ron Simms Bay Area
6 Custom Cycles, before the Office of Tax Appeals, OTA Case
7 No. 240215322. Today's date is Tuesday [sic],
8 July 16th, 2025, and it's approximately 1:00 p.m. in the
9 afternoon. By agreement of the parties, this hearing is
10 being conducted electronically. The hearing is also being
11 live streamed on OTA's YouTube channel.

22 As a reminder, the Office of Tax Appeals is not a
23 court. It is an independent appeals body. The panel does
24 not engage in ex parte communication with either party,
25 and our opinion will be based on the parties' arguments,

1 the admitted evidence, and the relevant law. We've read
2 the parties' submissions, and we look forward to hearing
3 the arguments today.

4 Who is present for Appellant?

5 MR. MAYER: I guess that would be us. Steve
6 Mayer.

7 JUDGE ALDRICH: Thank you. And I believe there
8 is somebody else joining us as well.

9 MR. MAYER: Tina Knox. She's the accountant at
10 the company.

11 JUDGE ALDRICH: Thank you.

12 And who is present for the Respondent or the
13 California Department of Tax and Fee Administration, which
14 I may refer to as CDTFA.

15 MR. SAMARAWICKREMA: This is Nalan
16 Samarawickrema, hearing representative for the CDTFA.

17 JUDGE ALDRICH: Thank you.

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

20 JUDGE ALDRICH: Thank you.

21 MR. BROOKS: Good afternoon. This is Christopher
22 Brooks, attorney for CDTFA.

23 JUDGE ALDRICH: Thank you.

24 And welcome, everyone.

25 First, we're going to discuss the issues. As

1 stated in the distributed Minutes and Orders, there are
2 four issues: Whether adjustments are warranted to the
3 measure of unreported taxable sales; whether the
4 negligence penalty was properly imposed; three, whether
5 the finality penalty was properly imposed; and four,
6 whether the collection cost recovery fee was properly
7 imposed.

8 Mr. Mayer, do these issues statements correctly
9 summarize the issues before us as you understand them?

10 MR. MAYER: Yes. Yes, they do.

13 MR. SAMARAWICKREMA: Yes, Judge.

14 JUDGE ALDRICH: Thank you.

15 Next we're going to talk a little bit about
16 exhibits. For the Respondent or CDTFA, CDTFA's exhibits
17 are identified alphabetically as Exhibits A through L.
18 During the prehearing conference, Appellant confirmed
19 receipt of Exhibits A through I. And then on
20 June 24th, 2025, CDTFA timely submitted exhibits
21 identified as J, K, and L.

24 MR. MAYER: Yes.

25 JUDGE ALDRICH: Thank you. And do you have any

1 objections admitting Exhibits A through L?

2 MR. MAYER: No.

3 JUDGE ALDRICH: Okay. For Appellant, during the
4 prehearing conference, Appellant clarified and submitted
5 Exhibits A through D, which were relabeled as Exhibits 1
6 through 4. On June 30th, 2025, Appellant timely
7 resubmitted revised versions of Exhibits 1 and 2,
8 previously referred to as Exhibits A and B.

9 CDTFA, did you receive the revised versions of
10 Exhibits 1 and 2?

11 MR. SAMARAWICKREMA: Yes, Judge.

12 JUDGE ALDRICH: Okay. And do you have any
13 objections to admitting Appellant's Exhibits 1 through 4?

14 MR. SAMARAWICKREMA: No, Judge.

15 JUDGE ALDRICH: Okay. Mr. Mayer, do you plan to
16 request to submit any untimely exhibits today?

17 MR. MAYER: No. I have a PowerPoint that I think
18 I got in on time that just kind of organizes things. It's
19 no addition -- everything in the PowerPoint has already
20 been submitted.

21 JUDGE ALDRICH: Excellent. And I will have
22 questions for you on the PowerPoint later on, but I
23 acknowledge that it's there, and we received it.

24 All right. So we discussed a little bit during
25 the prehearing conference on how this hearing was going to

1 proceed. First, we'll have Appellant's opening
2 presentation, which may include witness testimony. We'll
3 address that in a second. We allocated 30 minutes for
4 Appellant's opening presentation. Next CDTFA or
5 Respondent will present a combined opening and closing for
6 approximately 30 minutes. I've also allotted 5 to
7 10 minutes for the panel. And finally, Appellant will
8 have 5 to 10 minutes for closing remarks or rebuttal. As
9 I mentioned previously in our prehearing conference, these
10 are estimates made for calendaring purposes. If you need
11 additional time, please make the request. If you don't
12 need the time, you can waive it or save it for your
13 closing.

14 So, Mr. Mayer, is Ms. Knox going to be providing
15 testimony, or is she going to be providing argument in the
16 nature of a representative?

17 MR. MAYER: She's going to be providing
18 testimony.

19 JUDGE ALDRICH: Okay.

20 MR. MAYER: I thought that was the most efficient
21 way of handling all of this.

22 JUDGE ALDRICH: So at this time --

23 MR. MAYER: Let me close the door.

24 JUDGE ALDRICH: Okay.

25 MR. MAYER: Okay. I'm back.

1 JUDGE ALDRICH: Okay. So Ms. Knox, if I could
2 ask you to raise your right hand and unmute your
3 microphone.

T. KNOX,

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

9

10 JUDGE ALDRICH: Thank you. You'll remain under
11 oath until the conclusion of the hearing.

12

13 Mr. Mayer, you can ask questions in the form of call and
14 question or have a more narrative approach. Either one is
15 fine. With respect to the PowerPoint, do you plan to
16 utilize that prior to the witness testimony, after the
17 witness testimony, just to get an idea. During --

18

MR. MAYER: During, I guess.

19

20 questions, I think we are ready to move on to your
21 presentation. If you'd like to initiate the PowerPoint
22 and share your screen?

23

24 that page there?

25

JUDGE ALDRICH: I can

1 MR. MAYER: You can. Okay. Great. And I'm
2 trying to -- I've got two screens going, so I'm trying to
3 figure out which one is the camera. So -- but I think I'm
4 okay. The -- so should I begin?

5 JUDGE ALDRICH: Please proceed.

6

7 PRESENTATION

8 MR. MAYER: Okay. So I want -- I want to start
9 out first thanking everybody for being a part of this.
10 I've been practicing for 45 years, and I've had a number
11 of hearings like this between property taxes and Franchise
12 Tax and the IRS and sales tax. And I have to tell you, of
13 all of them, this is the most organized one I've ever
14 seen. So I -- I -- I say that just out of respect for the
15 process and the effort everybody is making. So thank you
16 for that.

17 On this first PowerPoint, I just kind of wanted
18 to give some quick history to just outline what I think is
19 the kind of fundamental issues and problem here with a
20 little background of the company. So the company has been
21 in business since 1972. So that's over 50 years. Tina
22 has worked there for about 32 years, and -- and she's
23 going to talk about what she does. But, essentially, you
24 know, all of the accounting is done by her.

25 I, personally, our firm made an acquisition of

1 another accounting firm, and the other accounting firm had
2 done the work for the customer here, Ron Simms Bay Area
3 Cycles, for a number of years. And I was asked if I could
4 help with the sales tax audit, and so I jumped in. So
5 that was my first introduction to the company. I had
6 never done their taxes. I had never done any work for
7 them, and the first exposure was the -- when we acquired
8 the existing accounting firm, and they asked me to jump
9 in.

10 The audit period was -- you know, these audit
11 periods never are exactly the company's fiscal year. So
12 this was from April of 2018 to March of 2021, which was
13 three -- three or four years, but they went over a couple
14 of different years. The problem -- and this, you know,
15 almost instantaneous, when I got the audit results and I
16 looked at them, I phoned Tina and said, you know, my God
17 Tina, you know, the -- your inventory can't possibly be
18 correct. And she indicated that, you know, they had not
19 done a physical inventory.

20 So we -- we decided that we would do a physical
21 inventory as quickly as we could, and so we did it as of
22 December 31st, '21. And then we did another one in '23
23 because I knew this hearing, you know, it might go on, and
24 I wanted to have at least two audit periods or two
25 inventory counts. And then what we found is that the

1 inventory number on the books was about \$60,000. It was
2 \$59,000 something, and the actual count was about
3 \$240,000. So there's a difference of about \$180,000.

4 And the reason that that is relevant -- and
5 you'll see this on the next page of the PowerPoint, but
6 I'm going to have Tina kind of explain things a little bit
7 before that. But the reason it's relevant is that if you
8 take your sales, and if your sales are \$100, and your
9 inventory is \$50, and your -- that means that you kind of
10 sell your inventory twice a year in -- in the sales
11 number. And if you have the wrong inventory number when
12 you do analytical procedures and you figure out some
13 ratios and inventory terms and cost of sales percentages,
14 the numbers just don't add up because you have to have --
15 you have to have a beginning inventory, and then you have
16 to add the purchases, and then you have to take out the
17 sales of your inventory at cost, and then you get ending
18 inventory.

19 And if one of those numbers is wrong, then you're
20 just not going to get the right numbers on your financial
21 statements. All -- all four of those numbers have to be
22 correct. And, in this case, when the auditor did some of
23 their work, they based some of their ratios on inventory
24 of \$60,000, not \$240,000. So that's kind of the -- the
25 main issue.

1 So I want to change gears for a minute, and I
2 would like to ask Tina a number of questions and have her
3 explain to the panel who she is, and what she does, and
4 things like that. And what I did is I actually just wrote
5 down the questions because I thought it would be easier
6 than kind of rambling around.

7

8 DIRECT EXAMINATION

9 BY MR. MAYER:

10 Q So, Tina, can you please state, for the panel,
11 your full name?

12 A Tina Knox. My legal -- actual legal name is Tina
13 Wells Knox.

14 Q Thank you. And do you have any formal accounting
15 training?

16 A I do not have any college or -- or -- it's all
17 self-taught and taught through employers from the past.

18 Q And how long have you been doing accounting work?

19 A I've been doing accounting work for probably
20 48 years.

21 Q 48 years. Okay. Yeah. You must have started
22 very young?

23 A I did. I started -- I -- I did start -- I can't
24 remember. Well, I'm 65. So --

25 Q Seventeen?

1 A Yeah.

2 Q And when you do accounting work, you know, a lot
3 of times when we look at accounting work, there's kind of
4 people who do payroll; people who do accounts payable;
5 people who do accounts receivable; people who close the
6 books; you know, these different type of tasks. And do
7 you happen to do all of these for the company?

8 A I do. I do, yeah, all of those that you just
9 mentioned. And then what I do is that at the end of the
10 year I prepare everything for the CPA for the tax returns.
11 But I do -- I record all the sales, pay all the bills, any
12 kind of admin duties that he needs done, I do; reconciling
13 and closing out at the end of the year.

14 Q Okay. And thank you. And have you been through
15 sales tax audits before?

16 A Yes.

17 Q And how do they kind of go?

18 A Well, the sales tax audits I've had through
19 Simms. When I was first hired, we had a sales tax audit,
20 and everything was a mess. He owed a lot of money. He
21 paid it all. We got it all straightened out. I took
22 over. And then we had another -- I'm -- I'm -- I'm not
23 sure if we had one or two audits after that, but I know
24 that there was no -- no finding of anything different.
25 Everything looked good for the -- I believe it was two

1 audits after that.

2 Q Okay. And when we first talked, and I became
3 involved and met you -- I think now it's been four or five
4 years, I guess?

5 A Yeah.

6 Q And I -- do -- do you recall me looking at your
7 books and saying, you know, my god, the inventory can't be
8 \$60,000. It -- it's got to be more than that?

9 A Yes, I do. And that's when I realized that --
10 that -- I looked at it, and I -- I -- it's one of the
11 things I actually can say I never really looked at it
12 because I was never questioned it from -- for it before
13 from CPAs. So yes, you told me, and I looked at, and I
14 agreed. There's no way it was -- the shop is huge.
15 There's no way there can only 53 or \$60,000 inventory.

16 Q Okay. So when you say the shop is huge, can you
17 just sort of -- if I walked in the door and pretend like
18 it's a square for a minute, is it -- is it a big building?
19 About how big is it? And is it -- do customers walk
20 through and look at the inventory? Or do you go up to a
21 counter and say, hey, I want this, and then you go pull it
22 off the shelf? How -- how do -- what's the customer
23 expense?

24 A It's -- well, the -- the shop used to be a
25 furniture store, so that's how big it. It's got to two

1 stories -- actually, three stories. And you walk -- they
2 can walk in. They can look at all the parts and shop just
3 like a regular retail store. And then also, he's got
4 parts, like pipes and tires and everything, upstairs. So
5 if they want something like a pipe or a tire, then he'll
6 go up -- or tank or whatever. He'll go up there and get
7 it for them. And -- but it's a -- it's a retail walk-in
8 store.

9 Q Okay. Thank you. And, oh, by the way, did the
10 auditor ever come to the location?

11 A Yes.

12 Q Did --

13 A I think all -- all three times except for this
14 last time.

15 Q Okay. So, in the past when an auditor did a
16 sales tax audit, they came to the location?

17 A Yes.

18 Q And, in this particular audit, it was not --
19 nobody came to the location?

20 A Correct.

21 Q Okay. Okay. Thank you. And -- and some of that
22 probably had to do with COVID. We --

23 A It had to do -- sorry. Excuse me. It had to do
24 with COVID, and also, I'm not -- I'm -- I'm working
25 remotely now too. So -- but I -- I believe it was --

1 because I would have went in if they wanted to be there.
2 I would have made a trip to be there.

3 Q Okay. So the, you know, the main -- the main
4 issue in the audit is that the State is claiming that we
5 owe additional sales tax because we did not record --
6 mathematically looking at our purchases and our inventory,
7 we did not record all of our sales on the books. And --
8 and the -- so I think the number was \$30,000-something.
9 That would indicate that we didn't, you know, record, you
10 know, \$300,000, \$400,000 of sales?

11 A Yeah.

12 Q How do you respond to that because I'm -- I'm
13 kind of curious? In your accounting system, is everything
14 run through the accounting system, and what accounting
15 system do you use?

16 A Okay. I use QuickBooks, and it's a little
17 anti -- it's antiquated the way that he works things
18 because everything is manual receipts. He gives me all
19 the receipts. I then take the receipts on a monthly basis
20 and record all the sales and keep those receipts. And
21 then I -- I get my sales for the sales tax returns from
22 there. So I don't know how we could possibly have not
23 reported \$300,000 in sales.

24 Q Okay. And then are purchases all run through the
25 books?

1 A Yes.

2 Q So is -- so like if you bought something from
3 me -- let's say you bought 50 tires, and the tires were
4 100 bucks a piece. That's \$5,000. So you would -- that
5 would theoretically -- you would write a -- you would make
6 a payment for \$5,000, and that would be recorded as a
7 purchase; is that correct?

8 A That would be recorded as a purchase, and it
9 wouldn't necessarily mean that -- because you wanted 10
10 tires, you -- probably the 10 tires that you want would be
11 taken out of inventory. And then he turns around, and he
12 replaces things that he orders. So we never really did
13 it -- I mean, there are people that walk in and say I need
14 this special part, and we order it for him. But most of
15 it is taken out of inventory, and then he replaces it.

16 Q Okay. So you, obviously, if you're going to --
17 on this next slide -- can you see the PowerPoint by any
18 chance?

19 A Yes, I can.

20 Q Okay. So what I did here -- and for the panel
21 and for the State, I just did a recap, and I started in
22 2016 through 2023. And the reason I stopped at '23 is
23 that's when we did the second audit -- or excuse me -- the
24 second count of inventory.

25 A Okay.

1 Q And -- and so in the first column I have the
2 revenue, and, you know, you could see it's -- you know, it
3 goes from about 150 to 160, 170, you know, it's growing.
4 And then in -- in 2021, it -- it grew a lot, and then it
5 kind of shrank a little bit. In the second column, this
6 the in -- when I first met you, this is the number that
7 you had on the books for inventory \$59,697. And, again,
8 when I first looked it, I phone you up and said, that
9 can't be right because -- first of all, there's no --
10 there's no way it's the same number every year.

11 A Correct.

12 Q And second, you cannot -- it's impossible to have
13 that amount of inventory. As you described, a three-story
14 building where you got stuff every which way, and there's
15 no way it's \$59,000?

16 A No.

17 Q And then when we did the first count, we found
18 out that it was \$239,000.

19 A Yes.

20 Q And I'm -- and I'm not sure if you remember
21 exactly, but what we did is we counted the inventory in
22 2021, and we got \$239,000. But I had to roll it back to
23 these other years. And so I did mathematical calculation
24 of taking the purchases and the sales and kind of rolling
25 it back, which kind of showed me this gradual increase in

1 inventory from -- in 2018 of \$129,000 to \$137,000 to
2 \$200 -- to \$239,000. And can you kind of share, you
3 know -- you know, why that kind of makes sense to you, and
4 why Mr. Simms was increasing the inventory?

5 A Okay. So the question on why he was increasing
6 the inventory was because he's at a retirement age. He
7 still wants to retire. But he was ready to hand the
8 business over to his two sons, and he wants -- he's the
9 kind of guy that likes to have all the inventory in there.
10 So he wanted to have it fully loaded for them to takeover
11 so that would be a little stress on them to have to worry
12 about purchasing inventory.

13 And then he got some COVID money, and he used
14 that for inventory and -- for the same reasoning that I --
15 that I just stated. And then he -- I think he sold a
16 house or two and used a lot of that money for inventory.
17 So that's why the large amount of inventory -- that's why
18 the inventory increased.

19 And what was your first question, Steve?

20 Q Well, why -- why did the inventory increase and,
21 essentially, the -- you know, if you look at the increase
22 in inventory -- at least in some of the last years --
23 people when they have more inventory on stock, and you
24 mentioned that typically somebody would buy something out
25 of stock, not a special order --

1 A Right.

2 Q -- so if you have more inventory, you usually
3 have more sales.

4 A Right.

5 Q So you can see the sales, you know, gradually
6 went up over a number of years. And then, you know, now
7 they're going down again --

8 A Right.

9 Q -- the business must be tough.

10 A Yeah.

11 Q You know, as I kind of look at this as an
12 accountant, it -- it kind of all makes sense to me, and --
13 and I see a couple of things. One, is I see the inventory
14 increasing, and the sales increasing. I also see the
15 \$59,697, which I know is not the right inventory, which is
16 the reason we did the count?

17 A Yeah.

18 Q And then I -- then I did some ratios on the side
19 and kind of got average numbers there and indicated that
20 if I took an average for four years, which covered the
21 audit period, you know, in my opinion those numbers kind
22 of make sense.

23 A Yeah.

24 Q Okay. So is there any -- so when the auditor --
25 do you remember how many items they picked for testing

1 when they did their gross margin testing?

2 A Oh, gosh. I don't remember, but I -- I think it
3 was quite a few.

4 Q Okay.

5 A I don't remember how many because we went back
6 and forth, and -- and they asked for different thing --
7 more things, and I just -- I always got them what they
8 needed.

9 Q Okay. Well, thank you. Well, I think that
10 that's -- I might have another question or two that comes
11 up, but I think that's a pretty good background. So, you
12 know, what -- what I was hoping that Tina would be able to
13 talk about is she's been there a long time. She does all
14 the accounting. To her knowledge and belief, there are no
15 missing sales. Everything is in the books. Every time
16 they buy something, it's in the books and the -- the --
17 it's a fairly large location which, you know, indicates
18 that the -- the \$59,000 that they had for years and years
19 and years was wrong.

20 MR. MAYER: So thank you, Tina.

21 MS. KNOX: Okay.

22 MR. MAYER: So the next thing that we did -- the
23 accountants did is we went back, and we filed --
24 notwithstanding, the sales tax audit, once I realized that
25 the inventory was wrong, it led me to conclude that his

1 prior tax filings were also wrong. In other words, he had
2 not recorded enough profit on his tax return. And so when
3 you go to a customer or a client and you say, hey, we want
4 to increase your net income a whole bunch in prior years,
5 which is going to require you to pay more in taxes, you
6 know, they're usually not too happy about that. But I
7 thought it was more important to get the numbers right.
8 And because my firm was now associated with this customer,
9 I -- I just didn't want to have stuff that wasn't right.

10 So what we ended up doing is we filed amended
11 returns for three years, I believe, and restated the
12 inventory. And when you restate the inventory, the profit
13 goes up by the same number that you restated it. And he
14 paid, you know, on his tax returns whatever tax was paid
15 was paid. And if there was any penalties associated,
16 he -- he took care of those.

17 So one of our arguments with the State was if we
18 used the numbers the State had, we would be filing
19 incorrect tax returns, and we didn't want to do that. We
20 wanted in our -- to the best of our knowledge and belief,
21 our sales were all reported on the sales tax returns, and
22 we adjusted the tax returns to put the right numbers on
23 those for inventory. And so that's kind of what we did.

24 And I think I'm at the end of what I'm trying to
25 present.

1 JUDGE ALDRICH: Thank you, Mr. Mayer. If you
2 could turn off the screen sharing?

3 MR. MAYER: Sure, I could do that. Okay.

4 JUDGE ALDRICH: Thank you.

5 So at this time I'm going to ask CDTFA if they
6 would like any questions on cross.

7 MR. SAMARAWICKREMA: This is Nalan
8 Samarawickrema. No, Judge, we don't have any questions.

9 JUDGE ALDRICH: Thank you.

10 I do have a couple of questions for Ms. Knox.

11 MS. KNOX: Okay.

12 JUDGE ALDRICH: So there's a reference made to a
13 COVID-19 Economic Injury Loan. Is that --

14 MS. KNOX: Yes.

15 JUDGE ALDRICH: And you indicated that Appellant
16 received a loan?

17 MS. KNOX: It was the E -- E -- EIDL, yes. The
18 EIDL, yes. He received some money from there. I can't
19 remember how much it was. I want to say \$30,000 or
20 something like that.

21 JUDGE ALDRICH: Okay. And do you know about when
22 that would have happened?

23 MS. KNOX: It would have happened in -- I would
24 think COVID was in '21. So I would think either at the
25 end of '21, or somewhere in the beginning of '22.

1 JUDGE ALDRICH: Okay. And earlier in your
2 testimony you discussed a little bit about what the shop
3 layout was. And is it accurate to assume that there's
4 both a retail and, kind of, garage or mechanic space in
5 the shop?

6 MS. KNOX: Yes.

7 JUDGE ALDRICH: Okay. And what percentage of the
8 shop would you say is the mechanic garage kind of space?

9 MS. KNOX: Oh, gosh. I would say the mechanic
10 space is probably only 20 percent at most.

11 JUDGE ALDRICH: Okay. And this is a little bit
12 more about the business model. But say I'm a customer at
13 Appellant's, and I want to customize my motorcycle, right.
14 Is the only option to get an off-the-shelf handlebar, or
15 is there --

16 MS. KNOX: No.

17 JUDGE ALDRICH: -- fabrication or like painting
18 or welding that can happen to that?

19 MS. KNOX: There are -- there are all of the
20 above. So if -- painting, especially, because that --
21 it's usually if you're going to do a custom bike custom,
22 then you're going to get a custom paint job. So that
23 would go out as a -- as a -- we have a painter that does
24 that. Chrome -- the chrome it will be sent out to get
25 chromed. If they want a special pipe or whatever on it

1 and we don't have it, then, yes, we would order it.

2 JUDGE ALDRICH: Okay. And then with respect to
3 the retail space, did it close during parts of the
4 pandemic or COVID-19?

5 MS. KNOX: It closed maybe for -- maybe -- maybe
6 a month. But, basically, the owner would go in there
7 everyday and wear his mask and allow people to still come
8 in and -- and make purchases.

9 JUDGE ALDRICH: Okay. I think those are all the
10 questions that I have for you at this time. I'm going to
11 refer to my panel members to see if they have any
12 questions for you.

13 Judge Ralston, do you have any questions?

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

15 JUDGE ALDRICH: And Judge Geary?

16 JUDGE GEARY: Yes, I do.

17 Ms. Knox, were you aware when you -- let me go
18 back and ask you, do you remember what year it was that
19 you came on as the accountant, bookkeeper at the business?

20 MS. KNOX: It had to be '19. My son was born in
21 1992, so I think it was like 1993.

22 JUDGE GEARY: When you came on, when did you
23 first become aware of what the business had recorded as
24 its inventory?

25 MS. KNOX: I really never paid attention to the

1 inventory until Steve brought it to my attention.

2 JUDGE GEARY: So do you have any idea where the
3 \$59,000-plus-change number came from?

4 MS. KNOX: I don't. It was -- I think it was the
5 prior CPA. It's what we had come up with, or what he had
6 come up with. He's now deceased. But I think that -- and
7 that's why it stayed on there for years because I -- in my
8 error, of course, never really paid attention to changing
9 it or taking the physical inventory, until I took over
10 that and went in myself and physically took inventory of
11 that whole shop, which was quite a job.

12 JUDGE GEARY: You testified earlier that when a
13 sale -- when sales were made, the owner would eventually
14 simply replace the items that he sold, which would lead me
15 to conclude that he basically wanted to maintain about the
16 same amount of inventory on an annual basis. Is that
17 fair?

18 MS. KNOX: That is fair. He prided himself -- he
19 prides himself in people being able to walk in and find a
20 part that they can't find anywhere else. So he likes to
21 keep the inventory high.

22 JUDGE GEARY: Do you have any idea what the
23 inventory was when you first came aboard in the 90s?

24 MS. KNOX: I don't, because we were in another
25 shop. We were in a much smaller shop. We were in a shop

1 that's probably 25 percent of the size that we're in now.
2 So that's -- I'm thinking that that's where that \$53,000
3 came from, that small shop.

4 JUDGE GEARY: Tell me about when it was that you
5 moved to the current location, the larger three-story
6 facility.

7 MS. KNOX: Oh, gosh. I don't remember when we
8 moved. 2000 -- I really don't -- I -- I have no -- I
9 cannot even remember. I'd have to look at some paperwork
10 or something, but it -- it's been a while. So we -- we
11 carried the wrong inventory for a lot of years.

12 JUDGE GEARY: And you said a moment ago that you
13 actually did the inventory counts at the representative's
14 request; is that correct?

15 MS. KNOX: Yes.

16 JUDGE GEARY: And you did them both, the one in
17 2021 and the one in 2023?

18 MS. KNOX: Yes.

19 JUDGE GEARY: About how long did it take you on
20 each occasion to conduct the inventory count?

21 MS. KNOX: Well, I had a couple of the guys. I
22 had the owner's son help me, and then I had two other
23 people come in and help me. So it took us probably two
24 days.

25 JUDGE GEARY: Each time? Okay. Thank you.

1 Those are the questions that I have.

2 MS. KNOX: Yes, I mean. Because I know I said
3 uh-huh.

4 JUDGE ALDRICH: I just have a couple of follow-up
5 questions real quick.

6 MS. KNOX: Okay.

7 JUDGE ALDRICH: So the audit period or the claim
8 period -- excuse me -- is April 1st, 2018, through
9 March 31st, 2021. I know you couldn't remember, or it
10 seemed like you couldn't recall the exact time frame in
11 which the business moved from a smaller shop to the larger
12 shop. But do you know if it was prior to the claim
13 period?

14 MS. KNOX: Yes.

15 JUDGE ALDRICH: Okay. And then --

16 MS. KNOX: Many years prior.

17 JUDGE ALDRICH: One of the reasons that you
18 testified to for the increase in inventory was that the
19 owner was contemplating transferring the business to his
20 sons?

21 MS. KNOX: Yes.

22 JUDGE ALDRICH: When did you become aware of that
23 intent to transfer it or the idea that he was
24 contemplating the transfer?

25 MS. KNOX: Oh, I knew the minute he -- he got it

1 into his head. So, yeah, he --

2 JUDGE ALDRICH: And about what year was that?

3 MS. KNOX: I'm going to say he started talking
4 about the boys taking over in probably 2018 but never
5 really did anything serious about it. And then as he --
6 in 2020 he brought it back up again and was serious about
7 because he wanted to move to Hawaii.

8 JUDGE ALDRICH: Okay. Thank you.

9 So, at this time, I think we're going to
10 transition to CDTFA's combined opening and closing.

11 But just to make sure, Mr. Mayer, you didn't have
12 anything further to add before we end your opening
13 presentation?

14 You're muted. So --

15 MR. MAYER: If I recall what you said at the
16 beginning, after their presentation, I have an opportunity
17 to ask some questions and make a rebuttal of some sort; is
18 that correct?

19 JUDGE ALDRICH: You'll have an opportunity to
20 provide a rebuttal or closing statement, yes.

21 MR. MAYER: Okay. Great. No. I'm -- I'm good.
22 So thank you very much.

23 JUDGE ALDRICH: All right. Mr. Samarawickrema,
24 are you ready to proceed?

25 MR. SAMARAWICKREMA: Yes, Judge.

PRESENTATION

2 MR. SAMARAWICKREMA: Appellant operates a
3 motorcycle repair shop in Hayward, California. Appellant
4 made retail sale of motorcycle parts, accessories, and
5 apparel. Appellant also performed nontaxable installation
6 and repair labor service. Appellant holds two vehicle
7 dealer licenses with the California Department of Motor
8 Vehicles to sell custom motorcycles, but these dealer
9 licenses were closed or no longer valid as of
10 October 18th, 2018. Appellant was previously audited for
11 the period January 2000 to March 2003, and the audit
12 working papers for the prior audit are shown on Exhibit K.

1 During the audit, Appellant explained that he
2 used his QuickBooks sales reports to prepare his sales and
3 use tax returns. Appellant, however, failed to provide
4 complete sales records, such as sales invoices, credit
5 card sales receipts, or payment information from his
6 customers, which would support his reported total taxable
7 and nontaxable sales for the audit period. In addition,
8 Appellant failed to provide complete purchase invoices,
9 but Appellant provided his purchase journals for the audit
10 period. Due to Appellant's negative reported book markups
11 and lack of reliable records, the Department did not
12 accept Appellant's reported total and taxable sales.

13 The Department also determined that Appellant's
14 books were such, that taxable sales could not be verified
15 by a direct audit approach. Therefore, the Department
16 used an indirect audit approach to determine Appellant's
17 taxable sales. The Department completed two verification
18 methods to verify the accuracy of Appellant's reported
19 total and taxable sales. First, the Department compared
20 reported taxable sales of around \$389,000 to purchases of
21 around \$511,000 reflected on Appellant's purchase journals
22 and calculated an overall negative reported book markup of
23 around 24 percent. This calculation is shown on
24 Exhibit A, page 73.

25 If the Department were to accept this reported

1 negative book markup, that could mean Appellant was losing
2 money every time he made a parts sale. Accordingly, the
3 Department did not accept Appellant's reported taxable
4 sales for the audit period. In fact, based on the
5 analysis of available sales and purchase invoices for July
6 and August 2021, the audited overall taxable markup was
7 around 43 percent; and this calculation is shown on
8 Exhibit A, pages 71 and 72.

9 Second, Appellant did not provide his federal
10 income tax returns for years 2020 and 2021. In
11 preparation for this hearing, the Department requested
12 Appellant's federal income tax returns from the Franchise
13 Tax Board and received Appellant's original and amended
14 federal income tax returns for years 2018 through 2021;
15 and these are shown on Exhibit G and Exhibit H. Appellant
16 filed his 2020 federal income tax return on
17 October 6, 2022, and 2021 federal income tax return on
18 October 15th, 2022. Then around November 26, 2022, almost
19 year after the Department completed it's audit field work,
20 Appellant amended his 2018 and 2019 federal income tax
21 returns, changing his purchase amounts and his beginning
22 and ending inventory amounts.

23 Appellant recorded around \$1.1 million in gross
24 receipts on Appellant's federal income tax returns, but
25 only reported around \$923,000 as total sales on its sales

1 and use tax returns; and this is shown on Exhibit A,
2 page 121. Thus, Appellant failed to report almost
3 14 percent on the sales revenue recorded on his federal
4 income tax return for these periods; and the information
5 required to calculate this percentage is shown on
6 Exhibit A, page 121. Pursuant to the panel's request, the
7 Department compared Appellant's reported taxable sales
8 with the cost of goods sold reflected on Appellant's
9 amended federal income tax returns, and calculated amended
10 reported book markups of 19 percent and zero percent for
11 years 2018 and 2019, respectively.

12 For years 2020 and 2021, Appellant's reported
13 book markups were around 2 percent and zero percent,
14 respectively. This resulted in an overall book markup of
15 around 3 percent for the combined four-year period. And
16 the information required to calculate these markups can be
17 found on Exhibit A, pages 122 and 123. These markups were
18 inconsistent with the audited markup of around 43 percent
19 and, therefore, the Department did not accept the
20 beginning and ending inventory amounts reflected on
21 Appellant's federal income tax returns.

22 Appellant was unable to explain the reason for
23 federal income tax return sales differences and
24 inconsistent reported book markups. Therefore, the
25 Department conducted further investigation. The

1 Department used the cost plus markup method as an indirect
2 audit approach to determine Appellant's taxable sale for
3 the audit period. Appellant's purchase journals indicate
4 that the purchases of around \$511,000 during the audit
5 period; and this is shown on Exhibit A, page 73. The
6 Department used these purchase amounts without inventory
7 adjustments because Appellant does not operate under a
8 perpetual inventory system. The Department's
9 determination that a perpetual inventory system was not
10 utilized is consistent with the nature of Appellant's
11 business.

12 Consequently, the Department concluded that the
13 beginning and ending inventory values did not materially
14 differ, rendering inventory adjustments unnecessary for
15 this business. Therefore, the Department determined that
16 around \$511,000 in purchases as inventories available for
17 sales without making any beginning and ending inventory
18 adjustments. To understand Appellant's pricing policies,
19 the Department performed shelf tests using available sales
20 and purchase invoices of July and August 2021 to calculate
21 overall audited markup of around 43 percent; and these
22 calculations are shown on Exhibit A, page 71 and 72.

23 Appellant did not provide reliable documents to
24 demonstrate that his overall markup was lower than
25 43 percent. Therefore, this was the best available

1 information to determine Appellant's overall audited
2 markup. Then the Department using inventories available
3 for sale of around \$511,000 and applied the audited markup
4 factor to determine audited taxable sales of around
5 \$729,000 for the audit period; and this is shown on
6 Exhibit A, page 70. Audited taxable sales were compared
7 with the reported taxable sales and claimed interstate and
8 foreign commerce sales to determine unreported taxable
9 sales of around \$339,000 for the audit period; and these
10 calculations are shown on Exhibit A, page 70. Unreported
11 taxable sales were compared with the reported taxable
12 sales of around \$389,000 to calculate the error rate of
13 around 87 percent for the audit period.

14 In preparation for this oral hearing, the
15 Department discovered that Appellant sold six motorcycles
16 during the audit period; and this is shown on Exhibit L.
17 The Department concluded that including this motorcycle
18 sale would increase the unreported taxable sales by around
19 \$16,000 from \$339,000 to \$355,000 for the audit period.
20 However, the Department is not asserting an increase based
21 on this newly discovered DMV information for the audit
22 period. Therefore, the Department determined that the
23 estimated amount assessed in this audit is not only
24 reasonable but also benefits the Appellant.

25 When the Department is not satisfied with the

1 accuracy or the sales and use tax return filed, it may
2 rely upon any facts containing the return, or upon any
3 information that comes into the Department's possession to
4 determine if any tax liability exists. A taxpayer shall
5 maintain and make available for examination, upon request
6 by the Department, all records necessary to determine the
7 correct tax liability under the sales and use tax laws and
8 all records necessary for the proper completion of the
9 sales and use tax returns.

10 When a taxpayer challenge an audit of
11 determination, the Department has the burden to explain
12 the basis for their deficiency. When the Department's
13 explanation appears reasonable, the burden of proof shift
14 to the taxpayer to explain why the Department's asserted
15 deficiency is not valid. Since Appellant failed to
16 provide necessary records, the Department used the best
17 available information to determine the unreported taxable
18 sales for the audit period. The audit calculation of
19 unreported taxable sales, based on the best available
20 information, was reasonable; and this is shown on
21 Exhibit A, pages 70 and 123.

22 Appellant argues the assessment is inaccurate
23 because the cost of goods sold reported on the federal
24 income tax returns and the merchandise purchases recorded
25 on the purchase journals were comprised of incorrect

1 amounts due to Appellant's poor inventory tracking
2 practices. Appellant asserts the inventory increased
3 throughout the audit period due to decreasing sales, and
4 because Appellant intentionally expanded inventory to
5 protect the business from supply chain issues. And so
6 that the business could eventually be transferred to his
7 children with sufficient inventory to operate the
8 business.

9 Appellant asserts the increase inventory was
10 funded by a COVID-19 Economic Injury Disaster Loan, not by
11 sales. Appellant contends that because a physical
12 inventory count was not conducted until after the audit
13 period, the Department's markup analysis was based on an
14 incorrect cost of goods amounts, leading to an inaccurate
15 calculation of taxable sales. He asserts that the
16 post-audit inventory data for December 31st, 2021, and
17 December 31st, 2022, was rolled back to amend the cost of
18 goods sold for years 2018 and 2019. Appellant argues that
19 employing the merchandise purchases and ending inventory
20 amounts from his physical inventory counts in a markup
21 analysis would produce sales figures consistent with those
22 reported on the sales and use tax returns, thereby,
23 reducing the tax liability to zero.

24 In support of his argument for reduction to the
25 audited merchandise purchases, Appellant submitted four

1 items: An inventory listing for December 31st, 2021; an
2 inventory listing summary for December 31st, 2023; the
3 amended federal income tax return for year 2018; and the
4 amended federal income tax return for year 2019. After
5 reviewing and analyzing the Appellant's inventory listing
6 summaries, the Department determined these records were
7 unacceptable. The Department's examination revealed the
8 summaries contained estimated inventory counts from past
9 periods, along with details like part numbers,
10 descriptions, quantities, and cost.

11 However, Appellant failed to provide crucial
12 information, such as the method of inventory count and
13 evaluation and supporting documents needed to verify the
14 accuracy of the listed quantities and values.
15 Consequently, due to the absence of verifiable documentary
16 support, the Department will not accept Appellant's
17 inventory list and summaries. Nevertheless, the
18 Department analyzed Appellant's inventory listing records,
19 which reveal that the average inventory holding period was
20 excessively low, ranging from over a year in some figures
21 and to nearly a year in 2021. This finding, particularly
22 in light of the Appellant's motorcycle customization and
23 repair business where inventory typically turns over more
24 quickly, lead the Department to conclude that the
25 inventory listings were incomplete and unacceptable.

1 Specifically, the average inventory holding
2 periods were determined to be 506 days for second quarter
3 2018 through fourth quarter 2018, 406 days for year 2019,
4 403 days for year 2020, and 340 days for year 2021.
5 Therefore, the Department rejected the Appellant's
6 inventory listings for December 31st, 2021, and
7 December 31st, 2023, as evidence, due to lack of
8 verifiable support for the inventory values, and due to
9 the unacceptable inventory holding periods.

10 The Department imposed a negligence penalty,
11 based upon its determination that Appellant's books and
12 records were incomplete and inadequate for sales and use
13 tax purposes, and because Appellant failed to accurately
14 report his taxable sales. Specifically, the Department
15 noted that Appellant failed to provide complete records
16 for the audit period, and Appellant failed to provide
17 documents of original entry to support his reported
18 taxable sales. Appellant's failure to provide complete
19 books and records for the audit period is evidence of
20 negligence.

21 In addition, the audit examination disclosed
22 unreported taxable sales of around \$339,000, which when
23 compared with the reported taxable sales of around
24 \$389,000 for the audit period, results in an error rate of
25 around 87 percent. This high error rate is additional

1 evidence of negligence.

Finally, the Department imposed a collection cost recovery fee of \$570 because Appellant failed to respond to the Department's Demand Notice for Payments. Again, the Department determined the unreported taxable sales based upon the best available information. While the Appellant did not provide his complete books and records necessary for a second reaudit method to verify the reasonableness of the audit finding, the available evidence demonstrate that the audit results are reasonable. Therefore, the Department request the appeal

1 be denied.

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

4 Thank you.

5 JUDGE ALDRICH: Thank you, Mr. Samarawickrema.

6 At this time I'm going to open questions to the
7 panel.

8 Judge Ralston, did you have any questions for
9 either party?

10 JUDGE RALSTON: No questions. Thank you.

11 JUDGE ALDRICH: Thank you.

12 And, Judge Geary, did you have any questions for
13 either party?

14 JUDGE GEARY: No. Thank you.

15 JUDGE ALDRICH: I had a quick question for
16 Mr. Mayer.

17 So the Department presented an argument that the
18 inventory -- the length of time that inventory stayed or
19 parts stayed in inventory was 506 days and then decreased
20 to 340 days. Is that consistent with the stated approach
21 that Appellant was intentionally trying to increase his
22 inventory for supply chain reasons and for passing it onto
23 his sons?

24 MR. MAYER: Well, I'm not sure that his
25 calculations are right. I was trying to flip through.

1 You know, he was -- he was saying things, and I was trying
2 to flip through all the pages. And maybe we should step
3 back a minute and look at those calculations. But I'm
4 looking at my calculations on the number of days in
5 inventory, and I think they're less than that.

6 You know, part of it is the guy has been in
7 business for 40 years, and he -- you know, some guys run
8 their business with low inventory, and everything is just
9 in time. Other guys have all kinds of stuff there, and
10 they have a -- you know, they have a part that they bought
11 10 years ago that they haven't sold; and then somebody
12 comes in, and it's there. That's the kind of nature of
13 his business, and Tina can talk to that a little bit. I
14 think it is a -- you know, I -- I -- I think it's
15 unacceptable to do a bunch of math and say that our guy is
16 not recording sales because the person who does the
17 accounting has just testified under oath that every dollar
18 of sales is on the books, and there's no -- there's
19 nothing missing.

20 And I know I'm getting track off here but the --
21 you know, every business is different. You know, we're
22 not a grocery store, so we're not selling a gallon of milk
23 every three days. A lot of hardware stores, a lot of
24 heavy --

25 JUDGE ALDRICH: I understand the point that

1 you're making. And feel free to give us your figures as
2 far as the number of days that items are in inventory.

3 But --

4 MR. MAYER: Sure.

5 JUDGE ALDRICH: -- at this time, I think we'll
6 transition over to the closing statement and the rebuttal
7 or closing or rebuttal. Are you prepared for that at this
8 time?

9 MR. MAYER: Yeah. I'm trying to -- yes. I
10 suspect I am. I'm just looking at a schedule here myself
11 that I had attached, and maybe I should share my screen
12 again if that's okay. This is an exhibit to what I
13 already submitted. Is that --

14 JUDGE ALDRICH: You don't need to share your
15 screen. The panel has access to those documents.

16

17 CLOSING STATEMENT

18 MR. MAYER: Okay. Sure. The -- okay. Well --
19 well, let me step back.

20 I've been a CPA for 45 years, and I'm not in the
21 habit of preparing false, misleading, and fraudulent tax
22 returns for my clients. That's not what I do for a
23 living. And so, the issue that the tax returns that we
24 prepared were incorrect. I take personal insult to that
25 because that's not the way that we operate. I'm a

1 high-integrity high-ethic person, and I've never prepared
2 a tax return in my life knowing that it was incorrect, you
3 know. So I take objection. I think that the amended tax
4 returns that we did were accurate.

5 The State indicated that we didn't have any
6 records, you know. The -- if they would have come to the
7 shop, there was lots of records there to look at and do a
8 physical sighting of walking around and trying to figure
9 out sort of the way the business operated. I think every
10 record that they asked for, we gave them. Now, clients --
11 I -- again, I've been doing this a long time. Some people
12 are more organized than other people when it comes to
13 their business. And I think, in this case, they didn't
14 have everything perfect. But the way that they did their
15 books is Tina summarized everything on a monthly basis and
16 posted to the financial statements.

17 And so she would have to be involved in sort of
18 the under reporting knowingly on purpose, and I don't
19 think that's what she wants to do. I mean, I think they
20 ran an honest business. And the -- if we would have had
21 the right inventory numbers at the right time, then I
22 don't think we would all be sitting here right now. The
23 indirect method that they ended up using to calculate this
24 is that they -- they did ratio analyses on our sales, on
25 our purchases, on our inventory, and he mentioned a couple

1 of times a gross margin of about 45 percent. And I'm
2 looking at the Exhibit A to my document, and I have the
3 years 1920 [sic], '21, '22, and '23, and they average
4 45.48 percent.

5 And so I think that our gross margin where he was
6 saying that our gross margin was zero or negative or stuff
7 like that, I don't -- I -- that's all -- you can't count
8 any of that because it's just not true. That was all
9 based on the incorrect inventory numbers. Once you drop
10 the right inventory numbers in, you get a reasonable gross
11 margin. If I take the gross margin, and I look at the
12 schedule that I did here on the number of inventories,
13 I -- I have a -- you know, for example, in 2020, the cost
14 of sales was 157 and the inventory in 2020 was 209. So if
15 you divide 157 into 209, you know, it's about 400 days or
16 something.

17 Now, that may seem like a long time. But if you
18 have a business where you have to have every part
19 available for your customers, because a customer walks in
20 the door and wants a particular part, if you don't have
21 that, and then they come back again, you know, three weeks
22 later, and you don't have it, they're not going to be your
23 customer. So the way that he ran his business is he had
24 much more inventory than you would sort of mathematically
25 think. And he's not selling unique -- excuse me -- he's

1 not selling products like, you know, where you sell a
2 whole bunch of them. These are individual things.

3 If you look at the inventory listing that was in
4 our -- or testimony, there's not large quantities.

5 There's -- there's a lot of things that are, you know,
6 five and six of these items that have been around a long
7 time. And when you are selling custom motorcycle
8 inventory things, you have to have an inventory that is a
9 lot more than you would normally mathematically need. And
10 I think that when he get -- and -- and the fact that, you
11 know, he used COVID money to buy inventory, you know,
12 there's nothing wrong with that. He borrowed the money,
13 and he is paying it back, and he used it to buy inventory.

14 There's nothing in the COVID money that he got.

15 So, you know, that comment is another kind of dig on his
16 business like the -- like he did something wrong. What he
17 did wrong is he had sloppy accounting. And when my firm
18 got involved, we fixed the accounting, and we filed what
19 we thought were reasonable returns. And if you use those
20 returns, there's no understatement of tax -- or of sales,
21 ultimately, the tax.

22 And so, you know, I -- I guess I'm starting to
23 talk in circles or something. But the -- you know,
24 unfortunately, the auditor, during the audit period,
25 didn't have all the information that they needed. And

1 then regarding the time period of, you know, we were late
2 doing this, and we were late doing that, I'm -- I'm not
3 positive on all of that, but all I know is I went through
4 a process. And there were times where -- I think we were
5 on, you know, the final deadline, and then we ended up
6 talking to the State, and they gave us permission to
7 submit whatever we submitted. So I can't believe that we
8 missed a bunch of deadlines, and that we're here today.
9 So somehow, we must have made up whatever, you know, the
10 deadlines were.

11 So in summary, let me say four or five things.
12 Thing number one is that the presentation gave no credence
13 to the way the guy runs his business. He has a business.
14 It's a specialty business, and so he has lots and lots and
15 lots of parts that he might not sell for 10 years, and
16 then he sells it. And it's a crazy business. He doesn't
17 make very much money at it, but that's his business. And
18 he understands his business, and that's what he did.

19 Number two, there's no doubt that his accounting
20 records could be improved. But I think that when you use
21 the analysis that I did, you can clearly see that his
22 gross margin and his inventory quantities made reasonable
23 sense to the sales, to the purchases, and to the beginning
24 and ending inventory.

25 Number three, we -- we filed tax returns. And so

1 if you sort of buy the State's argument, that means that
2 we filed amended tax returns that are incorrect. And I
3 would not have done that. We did our analysis, and we
4 calculated the correct numbers, and that's what we put on
5 the tax returns.

6 And then I think the last point is that, you
7 know, all of this is kind of a learning process. I think
8 that if they came in to do a sales tax audit tomorrow,
9 they would pass with flying colors because they have
10 improved their accounting. And you should not be
11 penalized just because your accounting was sloppy, or they
12 couldn't figure it out, or didn't spend enough time on it,
13 or did their math using the incorrect numbers.

14 So I think that's the points I would like to
15 make, and I thank you for your time.

16 JUDGE ALDRICH: Thank you, Mr. Mayer.

17 I think I want to thank everyone for your time,
18 and I think we're ready to conclude the hearing.

19 The record is now closed.

20 The panel will meet and decide the appeal based
21 on the admitted evidence and the arguments. We will send
22 both parties our written decision no later than 100 days
23 from today.

24 (Proceedings concluded at 2:25 p.m.)

25

HEARING REPORTER'S CERTIFICATE

3 I, Ernaly M. Alonzo, Hearing Reporter in and for
4 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 28th day
15 of July, 2025.

ERNALYN M. ALONZO
HEARING REPORTER