

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, )  
 )  
LA PERLA DEL MAR, INC., ) OTA NO. 240215378  
 )  
 )  
 APPELLANT. )  
 )  
 )  
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TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Tuesday, June 17, 2025

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER

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Transcript of Proceedings, taken at  
12900 Park Plaza Drive, Suite 300, Cerritos,  
California, 90703, commencing at 1:17 p.m.  
and concluding at 1:45 p.m. on Tuesday,  
June 17, 2025, reported by Ernalyn M. Alonzo,  
Hearing Reporter, in and for the State of  
California.

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APPEARANCES:

Panel Lead: ALJ MICHAEL F. GEARY

Panel Members: ALJ JOSH LAMBERT  
ALJ STEVEN KIM

For the Appellant: RAUL CARREGA

For the Respondent: STATE OF CALIFORNIA  
DEPARTMENT OF TAX AND  
FEE ADMINISTRATION  
  
RANDY SUAZO  
CHRISTOPHER BROOKS  
JASON PARKER

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-17 were received into evidence at page 7)

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

O P E N I N G   S T A T E M E N T

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Cerritos, California; Tuesday, June 17, 2025

1:17 p.m.

JUDGE GEARY: Ms. Alonzo, we can go on the record.

Let's begin by having the parties identify themselves, beginning with the taxpayer.

MR. CARREGA: My name is Raul Carrega, representing La Perla Del Mar.

JUDGE GEARY: Thank you, Mr. Carrega. And the agency, please.

MR. SUAZO: Randy Suazo, Hearing Representative, CDTFA.

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

MR. BROOKS: Christopher Brooks, Legal for CDTFA.

JUDGE GEARY: Thank you, gentleman.

It's my understanding that there will be no witnesses called to testify today.

Is that correct, Appellant?

MR. CARREGA: Yes. That's correct.

JUDGE GEARY: Respondent?

MR. SUAZO: That is correct.

JUDGE GEARY: The parties have identified a single issue for determination, and that is whether

1 Appellant is entitled to an adjustment to the measure of  
2 unreported taxable sales.

3 Is that correct, Mr. Carrega?

4 MR. CARREGA: Yes, it is.

5 JUDGE GEARY: Mr. Suazo?

6 MR. SUAZO: That is correct.

7 JUDGE GEARY: Exhibits have been marked for  
8 identification in this appeal. They consist of  
9 Appellant's exhibits marked 1 through 17 for  
10 identification, and Respondent's Exhibits A through E  
11 marked for identification. The parties provided copies of  
12 the exhibits to each other and to OTA, and OTA  
13 incorporated all the proposed exhibits into an electronic  
14 hearing binder, which should be in the possession of the  
15 parties.

16 Has Appellant confirmed that Appellant's exhibits  
17 incorporated into the binder are complete and as legible  
18 as the ones Appellant submitted?

19 MR. CARREGA: Yes.

20 JUDGE GEARY: And they are?

21 MR. CARREGA: Yes.

22 JUDGE GEARY: Thank you, Mr. Carrega.

23 Has Respondent also done that?

24 MR. SUAZO: Yes.

25 JUDGE GEARY: And they are?

1 MR. SUAZO: Yes.

2 JUDGE GEARY: Thank you, Mr. Suazo.

3 The prehearing conference Minutes and Orders  
4 provide that evidentiary objections that are not filed  
5 with OTA by June 10, 1025, will be deemed waived. OTA  
6 received no such objections. So those exhibits,  
7 Appellant's 1 through 17 and Respondents A through E are  
8 all admitted.

9 (Appellant's Exhibits 1-17 were received into  
10 evidence by the Administrative Law Judge.)

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

13 JUDGE GEARY: Prior to going on the record, we  
14 discussed the fact that Appellant brought with him  
15 today -- Appellant's representative brought with him a  
16 cash register, which is sitting on the floor in front of  
17 the Judges' panel. And I've explained to Mr. Carrega that  
18 he can point at it, refer to it, make reference to it, but  
19 there will be no demonstrations involving that cash  
20 register.

21 Do you agree with that, Mr. Carrega?

22 MR. CARREGA: Yes, I do.

23 JUDGE GEARY: Thank you.

24 As discussed during our prehearing conference, it  
25 was agreed that Appellant would have 20 minutes for its

1 primary argument and 5 minutes for final remarks.

2 Mr. Carrega, do you believe that will still be a  
3 sufficient amount of time?

4 MR. CARREGA: Yes.

5 JUDGE GEARY: And Respondent was to have  
6 20 minutes for its argument -- his sole argument.

7 Mr. Suazo, do you believe that will still be  
8 adequate time?

9 MR. SUAZO: Yes.

10 JUDGE GEARY: Of course we'll allow time for  
11 questions by the panel, and Mr. Carrega also be given  
12 approximately five minutes for closing remarks, if he  
13 chooses to use that.

14 Any questions, Mr. Carrega, before we begin?

15 MR. CARREGA: No.

16 JUDGE GEARY: Respondent?

17 MR. SUAZO: No questions.

18 JUDGE GEARY: All right. Mr. Carrega, you may  
19 begin your argument whenever you're ready.

20 MR. CARREGA: I'm ready.

21

22 PRESENTATION

23 MR. CARREGA: I'd like to talk -- my client has  
24 been in the business -- I'd like to talk about my client  
25 La Perla Del Mar. They've been in the business for many

1 years. They operate two restaurants. One is in South  
2 Gate, and the other one is in Downey. There are many  
3 restaurants in the area, and both in Downey and South  
4 Gate. And you can't charge whatever you want. I mean,  
5 competition sort of sets the price as to what you charge  
6 for whatever you're serving. So the market dictates a lot  
7 of the pricing.

8 I'd like to go forward and talk about an audit  
9 that was done. An audit was done by John Bui, an auditor  
10 from the Department of Tax and Fee Administration. And he  
11 did the audit for the period July 1st, 2015, to  
12 June 30, 2018. Auditor Arturo Carrasco, also from the  
13 Department of Tax and Fee Administration, did an  
14 examination for the year 2021. The audit of John Bui was  
15 performed properly, and we agree. The second audit by  
16 Arturo Carrasco was performed disregarding the true tax  
17 liability. He created a bogus report by not following the  
18 law and intentionally disregarding the true tax liability.

19 We are here because Mr. Ryan Kaye from Appeals  
20 ruled in favor of Mr. Carrasco's report. We question  
21 Mr. Ryan Kaye's independence for what we saw take place at  
22 our meeting, and we challenge his ruling as being false  
23 and not independent. Mr. Ryan cited the case of Maganini  
24 versus Quinn 1950. And this case, law allows them the  
25 right to create a false report and not follow current

1       audit procedures and current law.

2               I'd like to talk a little bit about this case,  
3       and I want to maybe go into the details and, perhaps, as  
4       to what this business was. It was a tavern. It was in  
5       Oakland, and it was the Fairfax -- Fairfax Buffet. And I  
6       want to maybe talk about the time period. Here's the case  
7       that was in 1950, and it was a case that said, you know,  
8       you -- we do not need -- or we are not going to look at  
9       the books -- or we're going to look at the books, but  
10       we're not going to accept the books. We are going to, you  
11       know, issue our report based on an estimate or based on a  
12       different method. And the method they used was the shelf  
13       test. What is the shelf test? I think we all know.  
14       It's, you know, if you sell something for dollar at the --  
15       you know, if you sell it -- I mean, if you sell it for \$2,  
16       it cost you a \$1. Gross up is 100 percent. If it's  
17       \$1.50, 50 percent. So this was the method that was used  
18       back in 1950.

19               But let's take a -- let's talk about the business  
20       a little bit. It was a -- the judgment was done -- issued  
21       on 1950. The business was in operation in the 40s. They  
22       were in the operation in the 40s, and the equipment -- his  
23       cash register or, of you want to call it the equipment.  
24       I'm pointing to that cash register. It was one very  
25       similar to that, in my opinion. It was a cash register

1 that did not have a tape. It might have been maybe,  
2 perhaps, a little outdated because cash registers during  
3 the 40s were starting to use tape, and so it maybe was  
4 different. And it also was a tavern. It probably wasn't  
5 very popular during the 40s to have a tavern and also  
6 being operated by the port there. And that's my opinion.

7 But when you look at the cash register, you can  
8 operate it. Both parties can see what's being recorded.  
9 Also, it has a calendar in there that tells you exactly  
10 what the sales were from the beginning of time as to when  
11 it was manufactured. Also, you can reset it and show  
12 that -- you know, we can start at a different period in  
13 time. And there are also other mechanisms in there. A  
14 key, so an employee cannot open it up. And there was a  
15 key so that the -- the keys are locked. So there -- there  
16 were controls in place. And this cash register was  
17 greatly used among a lot of businesses because the  
18 National Cash Register Company used that -- were  
19 responsible for manufacturing about 90 percent of all the  
20 cash registers during that period.

21 I want to just -- I understand it's -- it's a  
22 long time ago. And this case, Maganini and Quinn, is a  
23 case that has survived so long. And one of the things  
24 that the -- Mr. Kaye said that they are allowed to use  
25 this case or mention this case, that they had a right to

1 use a credit card approach. And when we look back in  
2 1940, there was -- I don't think there was any business  
3 that used a credit card for its transaction. And let  
4 alone, there was probably not even a bank. They probably  
5 didn't operate in bank.

6 The business operated mainly cash, and there was  
7 no -- and some -- many businesses didn't have cash or did  
8 not use credit cards. Well, the main thing of the case  
9 said that they didn't have to use the books. As I  
10 mentioned any -- as I mentioned early that the case was  
11 not -- that the auditor can use a different approach. He  
12 doesn't have to use the books regarding this. But I'd  
13 like to -- to suggest that this case gives the authority  
14 to calculate a credit card estimate, a projection, is  
15 false. The case did the shelf test, and there was no  
16 credit cards or even bank back then to do a different  
17 method. Perhaps there could have been a different method  
18 but no credit cards.

19 I want to -- I want to let's look at what was  
20 issued by these auditors. And I want to first talk about  
21 Exhibit 2, page 9, John Bui, audit schedule 12E. He is --  
22 Mr. Bui shows the audit work paper that La Perla Del Mar  
23 should have a refund of 29 -- of approximately \$29,000.  
24 And if we look at Exhibit 17, California DTFA [sic], it  
25 says if the work -- you know, if the auditor says there's

1 a refund, you're entitled to the refund. And I want to  
2 mention that this report by John Bui from the Department  
3 was done properly.

4 Now, if we look at the report that was -- or some  
5 of the elements of the -- that was done by John Carrasco,  
6 he takes a year of 2021, and he doesn't issue an  
7 engagement letter. It takes two weeks and does some type  
8 of sampling that I've never seen before. Doesn't address  
9 certain issues. Doesn't follow simple guide from audit  
10 sampling. All he did was take two weeks and then drew up  
11 a report and came up with this conclusion; creating his  
12 own statistical sampling standard and not disclosing  
13 anything. To me, it's false. The most important thing  
14 we -- I feel was this audit engagement letter was issued  
15 by John Bui, and the engagement letter was issued on  
16 September 12, 2018, for the audit period July 1st, 2015,  
17 to June 30, 2018. No engagement letter was issued for the  
18 year 2021, the report that Mr. John Carrasco performed and  
19 shown to these auditors. An engagement letter was not  
20 issued.

21 The report prepared by John [sic] Reyes and  
22 Arturo Carrasco -- and also, he's parading this report as  
23 if he's auditing the period 2018 of what John Bui audited.  
24 The report prepared by John Reyes and Arturo Carrasco has  
25 no merit. These two auditors are parading that their

1 credit card estimation properly reflects the tax owed to  
2 the State of California. It does not. It is false. John  
3 Bui, the tax auditor from the California Department of Tax  
4 and Fee Administration report is correct, and he reflects  
5 the tax of La Perla Del Mar. John Bui followed  
6 procedures. He issued an engagement letter. Arturo  
7 Carrasco did not issue an engagement letter for his year  
8 he audited 2021.

9 John Bui followed proper audit procedures by  
10 verifying balances independently, concurring that the  
11 Wells Fargo Bank statements are correct. Arturo Carrasco  
12 rejected the independence of Wells Fargo Bank's source and  
13 created his own flawed estimate. John Bui prepared proper  
14 audit work papers and conclusions to justify his audit  
15 procedures. Arturo Carrasco using the Maganini case is  
16 elevating his flat estimate or the famous shelf test. He  
17 didn't even look at the shelf test. He didn't even do the  
18 shelf test. Yet Appeals says that he can do what he did.  
19 The shelf test is made famous and is -- and is inferior to  
20 his bogus credit card approach. John Bui did proper audit  
21 planning by documenting his assertion and work papers.  
22 Arturo Carrasco did not properly analyze his sample size  
23 of two weeks and document of his estimate of two weeks.

24 His estimate can be off by 95 percent. If we  
25 follow simple procedures, his estimate of two weeks out of

1 the year, 52 years can be off 95 percent. Yes. He  
2 doesn't mention anything about it. Doesn't even talk  
3 about the things he didn't look at samples. John Bui  
4 audit the period July 1st, 2015, June 3, 2018. Arturo  
5 Carrasco did not audit the period July 1st, 2015 to  
6 June 3, 2018. Mr. Arturo Carrasco senior auditor, his  
7 report is fraud. Mr. Arturo Carrasco and his audit team  
8 have failed in upholding the law. He violated the  
9 sampling standards with his two-week estimate only. He  
10 violated case law by ignoring the shelf test, and he  
11 violated his own Departments's law, no engagement letter.  
12 Mr. Carrasco's report is fraud, and the Department of Tax  
13 and Fee Administration owes my client La Perla Del Mar  
14 approximately \$29,000. And you can see in the work paper  
15 that he prepared shows it.

16 Thank you.

17 JUDGE GEARY: Thank you, Mr. Carrega.

18 Let me ask my fellow judges if they have any  
19 questions regarding your presentation.

20 Judge Kim?

21 JUDGE KIM: No questions at this time. Thank  
22 you.

23 JUDGE GEARY: Judge Lambert?

24 JUDGE LAMBERT: I have no questions. Thanks.

25 JUDGE GEARY: Thank you.

1 I have no questions right either right now,  
2 Mr. Carrega.

3 Is CDTFA ready?

4 MR. SUAZO: Yes.

5 JUDGE GEARY: You may begin when you're ready.

6  
7 PRESENTATION

8 MR. SUAZO: Appellant is a corporation operating  
9 two dine-in restaurants with full bars, located in South  
10 Gate and Downey during the audit period. The South Gate  
11 location is open from 7:00 a.m. to 2:00 a.m. seven days a  
12 week. The Downey location is open Monday through Thursday  
13 from 10:00 a.m. to 12:00 a.m., and Friday through Sunday  
14 from 10:00 a.m. to 2:00 a.m. Both sell hot-prepared  
15 Mexican food; Exhibit D, page 186. Appellant reported all  
16 sales as taxable on sales and use tax returns; Exhibit D,  
17 page 198.

18 All sales are considered taxable based on  
19 Appellant's reporting. Records reviewed included; federal  
20 income tax returns for 2015, 2016, and 2017, 2017 profit  
21 and loss statements, sales journal logs, check register,  
22 and bank statements. The Department also obtained  
23 detailed sales receipts for the South Gate location and  
24 daily sales POS system sales summary reports for Downey,  
25 for the period from June 25th, 2021, through July 9, 2021.

1 Comparison of federal income tax returns, the sales and  
2 use tax returns for 2015, 2016, and 2017 disclosed  
3 immaterial differences; Exhibit D, page 24.

4 Comparison of reported sales to federal income  
5 tax returns recorded cost of goods sold, disclosed an  
6 overall markup of 225 percent for both locations combined.  
7 The Department contends the markup is low, considering the  
8 Appellant has a full bar at both locations; Exhibit D,  
9 page 245. An initial credit card -- initial cash to  
10 credit card ration, based on bank deposits for 2017,  
11 disclose a 53.24 percent credit card ratio for the South  
12 Gate location, and an 83.75 --

13 THE STENOGRAPHER: Judge Geary, may I ask to go  
14 off the record?

15 JUDGE GEARY: Let's take a break.

16 (There is a pause in the proceedings.)

17 JUDGE GEARY: All right. Proceed.

18 MR. SUAZO: An initial cash to credit card ratio  
19 on bank deposits for 2017 disclosed a 53.24 percent credit  
20 card ratio for South Gate location and an 83.75 percent  
21 credit card ratio for the Downey location; Exhibit D,  
22 pages 234 and 235. Because Appellant did not provide  
23 detailed sales receipts for daily point of sales reports  
24 to support monthly sales summary logs, the Department  
25 reviewed detailed sales receipts for the period from

1 June 25th, 2021, through July 8th, 2021, for the South  
2 Gate location, and a daily point of sales system reports  
3 for the period from June 25th, 2021, through  
4 July 9th, 2021, Downey location; Exhibit D, pages 206 to  
5 231 for the South Gate location and 232 for the Downey  
6 location.

7 The credit card ratio based on these daily  
8 records shows credit card sales accounted for 39.98  
9 percent for the South Gate location and 58.56 percent for  
10 the Downey location; Exhibit D, pages 200 and 201. It  
11 should be noted that the daily cash register tapes for the  
12 South Gate location did not match what was recorded on the  
13 Appellant's summary sales logs. For the 14-day period,  
14 the cash register tape sales were almost \$4,400 greater  
15 than what was recorded on the summary sales logs;  
16 Exhibit A, page 167, and Exhibit D, page 206.

17 Based on the Department's analysis, reported  
18 sales were impeached. An alternative method, the credit  
19 card ratio method was used to compute taxable sales. The  
20 Department applied the credit card ratio for each  
21 location, based on the review of sales occurring in the  
22 late June through early July 2021 period, to credit card  
23 transaction per the Appellant's 1099 credit card reports.  
24 Total taxable sales of over \$5.6 million were computed.  
25 When compared to reported sales of \$3.7 million, a

1 difference of around \$1.9 million was noted and assessed  
2 as an additional taxable sales; Exhibit D, page 199.

3 The credit card ratio sales ration by Department  
4 is a valid and recognized technique to determine sales. A  
5 secondary method was used to test the reasonableness of  
6 the audit findings. The daily sales data reviewed for the  
7 late June and early July 2021 period was segregated  
8 between weekday and weekend sales, then extrapolated to  
9 determine sales for the audit period. Comparison of sales  
10 based on this extrapolation method to sales per the credit  
11 card ratio method, disclosed a credit card ratio method  
12 was both reasonable and conservative; Exhibit D, pages 203  
13 through 205.

14 Appellant contends a refund is applicable as  
15 reported sales exceeded bank deposit amounts for 2017;  
16 Exhibit D, page 233. Review of deposits revealed that  
17 almost all deposits came from credit cards. Only \$79,000  
18 in cash was deposited for all 2017. Less than \$4,000 of  
19 cash was deposited for the Downey location. The 14 and  
20 15-day reviews of both locations show that nearly \$60,000  
21 was received in the two-week time period alone. The  
22 Downey location received almost \$32,000 in 15 days. No  
23 credit card -- no credit was allowed, as it was determined  
24 not all sales were deposited into the bank accounts.

25 Appellant contends a statistical sampling should

1 have been used as an audit procedure. The Department has  
2 determined that the records were inaccurate and has  
3 impeached reported sales amounts. Therefore, using  
4 statistical sampling is not applicable, as reported sales  
5 were not verifiable, and not all sales were considered to  
6 be included in the universal population of the sales.

7 Appellant's representative has made baseless  
8 accusations of fraud and impropriety against Department  
9 employees working on this case during the audit and the  
10 appeals process. Appellant has made these -- has made  
11 accusations against the auditor, the audit, and the  
12 appeals conference holder. These claims are unsupported  
13 and absolutely false. They provide no basis for  
14 adjustment to the liability.

15 This concludes our presentation, and I'm  
16 available to answer any questions you may have.

17 JUDGE GEARY: Thank you, Mr. Suazo.

18 Judge Kim, do you have any questions for CDTF?A?

19 JUDGE KIM: No questions. Thank you.

20 JUDGE GEARY: Judge Lambert?

21 JUDGE LAMBERT: I have no questions. Thanks.

22 JUDGE GEARY: I have no questions, Mr. Suazo.

23 Thank you.

24 Mr. Carrega, if you would like an opportunity to  
25 make some closing remarks, I can allow you five minutes or

1 to so if you want to do that.

2 MR. CARREGA: Yes.

3 JUDGE GEARY: All right. You may proceed.

4 CLOSING STATEMENT

5 MR. CARREGA: Notice that from the presentation,  
6 he kept saying year 2021. 2021. You're supposed to audit  
7 2018, not 2021. 2021 keeps coming up, coming up, and it's  
8 only a two-week sample. The audit is for what the  
9 engagement letter says there is. And if you take into  
10 account other variables, back in the 40s you can buy, you  
11 know, a steak dinner for, you know, \$3. Today who knows  
12 what that cost. He's using 2022 versus 2018, a four-year  
13 period difference and didn't even exactly what I'm saying.  
14 Didn't even apply proper statistical sampling. Yes, I am  
15 accusing these -- the auditors of not being -- doing  
16 things properly, and that is correct. And I think they've  
17 crossed the line.

18 That's it. Thank you.

19 JUDGE GEARY: Thank you, Mr. Carrega.

20 And thank you, Respondent, for your arguments.

21 This concludes the hearing. The record is now  
22 closed, and this case is deemed submitted.

23 Thank you everyone for participating. In the  
24 coming weeks, the panel will meet to discuss the matter,  
25 and OTA will issue a written opinion within 100 days.

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We are now going to take a break of 15 minutes until the next hearing.

And if you gentlemen will turn off your mics before you leave, I would appreciate it.

Thank you, everyone.

(Proceedings concluded at 1:45 p.m.)

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HEARING REPORTER'S CERTIFICATE

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

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

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

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

\_\_\_\_\_  
ERNALYN M. ALONZO  
HEARING REPORTER