

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,        )  
                                              )  
A. FLORES,                                ) OTA NO. 231214889  
                                              )  
                                              ) APPELLANT.        )  
                                              )  
                                              )  
                                              )  
\_\_\_\_\_

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Tuesday, September 9, 2025

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER

1 BEFORE THE OFFICE OF TAX APPEALS

2 STATE OF CALIFORNIA

3

4

5 IN THE MATTER OF THE APPEAL OF, )  
6 )  
7 A. FLORES, ) OTA NO. 231214889  
8 )  
9 APPELLANT. )  
10 )  
11 )  
12 )  
13 )  
14 )  
15 )  
16 )  
17 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )

---

14 Transcript of Proceedings, taken  
15 at 12900 Park Plaza Drive, Suite 300,  
16 Cerritos, California, 90703, commencing  
17 at 9:27 a.m. and concluding at 10:17 a.m.  
18 on Tuesday, September 9, 2025, reported  
19 by Ernalyn M. Alonzo, Hearing Reporter,  
20 in and for the State of California.

1 APPEARANCES:

2  
3 Panel Lead: ALJ STEVEN KIM

4  
5 Panel Members: ALJ JOSH LAMBERT  
ALJ ANDREW WONG

6 For the Appellant: RAUL CARREGA

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

10 RAVINDER SHARMA  
11 CHAD BACCHUS  
12 JASON PARKER

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

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

## OPENING STATEMENT

PAGE

By Mr. Carrega 7

By Mr. Sharma 15

## CLOSING STATEMENT

PAGE

By Mr. Carrega 25

1 Cerritos, California; Tuesday, September 9, 2025

9:27 a.m.

4 JUDGE KIM: We are now going on the record.

5                   This is the Appeal of A. Flores dba Rolling Tires  
6 and Wheels #1, OTA Case No. 231214889. The date is  
7 Tuesday, September 9, 2025, and the time is 9:27 a.m.  
8 This hearing is being held in person in Cerritos,  
9 California.

10 I am Judge Steven Kim. I will be the lead ALJ  
11 for the purpose of conducting this hearing. My  
12 co-panelists, Judge Josh Lambert and Judge Andrew Wong,  
13 and I are equal participants in deliberating and  
14 determining the outcome of this appeal.

15 So, parties, let's begin with an introduction.  
16 Could you please state your name and who you represent  
17 your title, beginning with Appellant.

18 MR. CARREGA: My name is Raul Carrega. I  
19 represent Rolling Tires 1.

20 JUDGE KIM: Thank you.

21 And for Respondent CDTFA.

22 MR. SHARMA: Ravinder Sharma, hearing  
23 representative for CDTFA. Thank you.

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

1 MR. BACCHUS: Chad Bacchus, attorney for CDTFA.

2 JUDGE KIM: Thank you.

3 And as stated in my Minutes and Orders, the  
4 issues to be decided in this appeal are: One, whether  
5 CDTFA timely issued the Notice of Determination; two,  
6 whether any adjustment is warranted to the measure of  
7 unreported taxable sales; three, whether the negligence  
8 penalty was properly imposed; and four, whether the  
9 failure to file penalty was properly imposed.

10 Mr. Carrega, do you agree THAT these are the  
11 issues on appeal?

12 MR. CARREGA: One of the issues is statute of  
13 limitations.

14 JUDGE KIM: That's whether the notice was timely  
15 issued.

16 MR. CARREGA: Okay. Yeah. Thank you.

17 JUDGE KIM: So, yes.

18 Respondent, do you agree that these are the  
19 issues?

20 MR. SHARMA: Yes, the Department agrees. Thank  
21 you.

22 JUDGE KIM: Thank you.

23 We discussed exhibits during the prehearing  
24 conference. CDTFA submitted Exhibits A through G.  
25 Appellant did not object to the admissibility of these

1 exhibits so, therefore, Exhibits A through G are admitted  
2 into evidence.

3 (Department's Exhibits A-G were received into  
4 evidence by the Administrative Law Judge.)

5 JUDGE KIM: Appellant did not submit any  
6 exhibits.

7 As for witnesses, neither party intends to call  
8 any witnesses today. Okay. Let's begin with Appellant's  
9 presentation then.

10 Mr. Carrega, you will have 20 minutes for your  
11 presentation, and you may begin when you're ready.

12 MR. CARREGA: Okay. Thank you.

13

14 PRESENTATION

15 MR. CARREGA: I'd like to start off with talking  
16 about my client, the business he's in. He's been in  
17 business for many years, and he operates a tire -- that  
18 fixes tires, flats, and also sells tires. One of the  
19 biggest, I want to say, where they do a lot of income is  
20 fixing flats and just doing regular, you know, maintenance  
21 of tires. Tires, there's very, very low margin on tires.  
22 There's so much competition in the area. So there's  
23 numerous stores that sell tires. So you can't just charge  
24 whatever you want or perhaps, even use an estimate that's  
25 national or an estimate that's proprietary that no one

1 knows, you know, how they come up with their shelf test.

2 We are accusing this audit team, along with the  
3 appeals conference auditor, of superseding my client's  
4 rights with the statute of limitation and avoiding --  
5 providing false reports that we don't know how they came  
6 up with avoiding the true tax liability by bypassing the  
7 books and, sort of, using a side door to get to Mr. Parker  
8 and his team so that they can insert a famous case, which  
9 allows them to do pretty much anything they want. I think  
10 we all know that -- that case. It's been brought up  
11 before, Maginis (sic) and Quinn 1950, an 80 year-old case.  
12 And I think everyone in here knows exactly what it says.

13 And what it says is basically, that the State  
14 doesn't have to use the books of the clients. They can  
15 use an estimate and whatever estimate. You know, the  
16 courts have found that this is appropriate, and it comes  
17 down to the shelf test. My argument is not to overturn  
18 this case. My argument is how it gets there. What's --  
19 what the auditors on the field are doing to avoid the  
20 books, to actually go and do a field audit and -- and  
21 audit the books. We're seeing things -- and especially  
22 here -- of circumventing the auditing of sales by excuses.  
23 We cannot go out there. You must sign this or else we're  
24 going to do this. You must sign this statute of  
25 limitations. They threaten you.

1                   This is what's going on. And they're bypassing  
2 auditing the books. You get a -- the client gets a letter  
3 that says, okay, they want to see this, this, this. And  
4 they don't want to come out there and do the audit. They  
5 want to, you know, do their thing remotely. And so they  
6 say, you know, this paper says, okay, we want you -- we  
7 want to see a laundry list of things to do. But one of  
8 the things -- you know, we comply. But one of the things  
9 that we're saying is, hey, we can't do -- we're not going  
10 to -- we have, like, three boxes of sales -- of sales tax  
11 here -- of sales orders. They want us to scan all these.  
12 And we say we're not going to scan all these.

13                   You come out to the field look and you can look  
14 at them, or you can make copies, or do whatever you want.  
15 That doesn't happen. They just say, well, fine. We're  
16 not going to do that. We're going to just issue a report.  
17 The report gets issued. We object to the report because  
18 they never audit. They just say they audit. They say  
19 we -- yeah, looked at this. We looked at this website.  
20 We have proprietary information here that shows that the  
21 shelf test, which is it should be this amount.

22                   And -- and we, you know, we disagree. Well,  
23 that's nice. You can go to any site you want, especially,  
24 when you provide the data. You can come up with any  
25 number you want. Use -- and also, in this case, they use

1 some proprietary information that no one has a clue how  
2 they came up with the shelf test.

3 So we object. We go through the appeals  
4 conference auditor, Cindy Feng, and she goes through and  
5 listens to the arguments. And our argument is hey, there  
6 was never an audit here, you know. And what does she do?  
7 She says we're -- reaudit. A reaudit ruling. Why don't  
8 we get the ruling of proper ruling that says no audit was  
9 done and for the plaintiff. When we do a little  
10 discovery, we find many things that do not make sense.  
11 Some of the things, independence. We find that this  
12 auditor is not independent. She worked for the Department  
13 for many years prior to her new position.

14 We looked at a website of some of her rulings.  
15 And I think it's a well-kept secret of this website,  
16 disclosure.office@cdtfa.ca.gov. A well-kept secret. But  
17 when we look at those, our discovery, we find there's  
18 never a ruling for Appellant. It's either for the State  
19 or reaudit. We find this reaudit, as we mentioned in our  
20 letter, there's no audit. It's a way to use a side door  
21 here to circumvent the statute of limitations. My client,  
22 who is being -- I want to be frank here -- is being  
23 cheated because they're not looking at the books.

24 They're using a side door, a ruling, so that  
25 Mr. Parker and his audit team can insert the famous case.

1       Use the shelf test, and we all know the shelf test, very  
2       proper 80 years. It's been 80 years, and I want to say  
3       they've been -- they've been applying this way too much  
4       and taking too many liberties. Liberties that they've  
5       taken is -- is just -- I want to say bad business because  
6       the liabilities they come up with can be anything they  
7       want.

8                   A ruling of reaudit is a side door. It's a  
9       cowardly reaudit that breaks the statute of limitations  
10      law. Opens the doors so that Mr. Parker and his audit  
11      team can remind you of that 80-year-old case, and that's  
12      why we are here. And we all know with that 80-year-old  
13      case they can do all sorts of things. And in this case,  
14      they use it for some proprietary shelf test that we don't  
15      know. And also when this -- they -- they do things that  
16      don't follow GAP, simple things. With sampling, they  
17      don't even follow gap and don't disclose many things that  
18      they -- that this -- they audit.

19                   So we're here, not to overturn that case, but to  
20      announce how things are going out in the field, and this  
21      is just one way. I've seen other gimmicks and other  
22      things that field auditors have done to avoid auditing the  
23      books. We feel this is a no change audit because you can  
24      create a shelf test, anything you want, and the statute of  
25      limitations have been violated. They've used a side door

1 to bring it here and to use that famous case. So we say  
2 we are here to object to the shelf test amount, and no tax  
3 is owed by my client.

4 Thank you.

5 JUDGE KIM: Thank you. Do you have any arguments  
6 specifically regarding the negligence penalty or the  
7 failure to file penalty?

8 MR. CARREGA: My -- my negligence is that there  
9 was no audit done, so there's -- there's no, you know,  
10 findings, and there's no penalty since there's no tax  
11 owed. You can create anything. So, yes.

12 JUDGE KIM: Okay. So your arguments are not  
13 specific to the penalties but that there shouldn't have  
14 been any additional tax?

15 MR. CARREGA: There should be no tax.

16 JUDGE KIM: There should be no tax.

17 MR. CARREGA: And the penalty is from the tax.  
18 So zero tax, zero penalty.

19 JUDGE KIM: So you're not separately arguing that  
20 there was no negligence or reasonable cause to abate the  
21 file penalty. You're saying because there's no tax, the  
22 penalty should drop off as well?

23 MR. CARREGA: Yes. That's what I'm saying.

24 JUDGE KIM: Okay.

25 MR. CARREGA: I'm ignoring -- if there is, you

1 know, I'm saying no tax, there's no penalty.

2 JUDGE KIM: Okay. Thank you. Judge Lambert or  
3 Judge Wong, do you have any questions for Mr. Carrega?

4 JUDGE WONG: I have no questions at the time.

5 JUDGE KIM: Judge Lambert?

6 JUDGE LAMBERT: I have one question, I think.

7 Mr. Carrega, were you saying that your client has  
8 invoices, but they weren't provided because they didn't  
9 want to scan them?

10 MR. CARREGA: No. I'll give you more detail.

11 This is what happened. Reasonably, there was -- they were  
12 going to come out and look at the invoices, and then the  
13 field auditor said her supervisor wouldn't let her. So,  
14 you know, they never came out. So she actually did the --  
15 did that test, and then we object, and they came back and  
16 asked us for a sample. We gave them a sample of 10. They  
17 didn't like what they saw, and then that's -- you know, we  
18 feel it was just a setup.

19 They never cared to look at the sales tax. We  
20 gave them a sample. They didn't like the gross profit  
21 that -- what the gross profit was and what it was. And  
22 then they just did the little thing, and I asked how'd you  
23 came up with that? And she says propriety. So then  
24 that's why we are here. And then as we examined more as  
25 to what took place, all this, this is why we're here

1 saying that they -- it was purposely ignored.

2 JUDGE LAMBERT: Okay. Thank you for clarifying.

3 MR. CARREGA: Okay.

4 JUDGE KIM: Also, Mr. Carrega, can you clarify  
5 your argument a bit more about statute of limitations  
6 having expired.

7 MR. CARREGA: Yes. The statute of limitations is  
8 three years. So the auditor issues a report and let's say  
9 it's two weeks before, you know, it would expire when you  
10 take the first quarterly report. So I think they were  
11 looking at six or seven reports, but they were looking at  
12 a total period. So when that first period comes in, it's  
13 three years -- statute of limitations three years, and  
14 saying you're going to audit, I'm saying it -- it doesn't  
15 say that count.

16 It's -- it's if -- an audit is when you actually  
17 start the audit, and they started it after the statute of  
18 limitations, asking for the, you know -- and then with  
19 this reaudit, it confirms that no audit was done.

20 JUDGE KIM: Okay. Thank you.

21 Okay. Let's move on to CDTFA's presentation.

22 You will have 25 minutes for CDTFA's  
23 presentation, and you may begin when you're ready.

24 MR. SHARMA: Sure. Good morning, Judges.

25 And before I start, I just want to apologize. I

1 have a little itchy throat, so I may stop a little bit and  
2 take a little sip of water. I hope it's okay with you.

3 JUDGE KIM: No problem.

4 MR. SHARMA: Thank you so much.

5

6 PRESENTATION

7 MR. SHARMA: Good morning. Appellant operated a  
8 retail tire shop in Harbor City, California, since  
9 May 2015. The Department performed audit examination for  
10 the period April 1, 2018, through December 31, 2020.  
11 Appellant reported total sales of around \$2 million,  
12 claimed deductions of around \$1.5 million, resulting in  
13 reported taxable sales of little more \$500,000 for the  
14 audit period; Exhibit B, page 24. Appellant provided  
15 limited books and records, such as federal income tax  
16 returns and bank statements for 2018 and 2019; and 20  
17 sales invoices claimed to be for February 2020 and  
18 April 2020.

19 However, Appellant did not provide purchase  
20 invoices, sales invoices, sales summary reports, or any  
21 other documents of original entry for the audit period.  
22 Due to lack of complete sales records, the Department  
23 could not verify the accuracy of reported amounts. The  
24 Department's analysis of cost of goods sold, per federal  
25 income tax return, and reported taxable sales for sales

1 and use tax returns, revealed a negative markup of  
2 69 percent for 2018 and 2019; Exhibit D, page 28.

3 Negative markup means cost of goods sold were  
4 more than the reported taxable sales. The Department's  
5 analysis of gross receipts for federal income tax returns  
6 and reported total sales of sales and use tax return  
7 revealed significant unexplained differences; Exhibit B,  
8 page 34. Based on the Department's analysis, it was  
9 determined that Appellant's books and records were  
10 incomplete, unreliable, and inadequate for sales and use  
11 tax purposes.

12 In the absence of reliable and adequate books and  
13 records, the Department used an indirect audit method to  
14 verify the accuracy of reported amounts. The Department  
15 used a markup method to determine unreported taxable sales  
16 for the audit period. Due to lack of sales and purchase  
17 records, the Department estimated a markup of 40 percent,  
18 which it applied to Appellant's cost of goods sold of  
19 around \$1.5 million for 2018 and 2019 to determine audited  
20 taxable sales of around \$2 million for 2018 and 2019.

21 Appellant reported taxable sales of around  
22 \$450,000, resulting in unreported taxable sales of  
23 \$1.6 million and an average error rate of 348 percent;  
24 Exhibit D, page 27. The Department applied the average  
25 error rate to the reported taxable sales of \$500,000 to

1 determine unreported taxable sales of a little more than  
2 \$1.76 million for second quarter 2018 to second quarter  
3 2020. Appellant did not file sales and use tax returns  
4 for third quarter 2020 and fourth quarter 2020.

5 The Department calculated Appellant's average  
6 quarterly taxable sales of \$252,000 for the period second  
7 quarter 2018 to second quarter 2020, and applied that  
8 amount to third quarter 2020 and fourth quarter 2020 to  
9 determine unreported taxable sales for those quarters;  
10 Exhibit D, page 26. Excuse me. Based on the stated audit  
11 procedures, the Department determined total unreported  
12 taxable sales of around \$2.6 million for the audit period;  
13 Exhibit D, page 26.

14 When the Department is not satisfied with the  
15 amount of tax reported by the taxpayer, the Department may  
16 determine the amount required to be paid, based on any  
17 information which is in its possession or may come into  
18 its possession. In the case of an appeal, the Department  
19 has a minimal initial burden of showing that its  
20 determination was reasonable and rational. Once the  
21 Department has met its initial burden, the burden of proof  
22 shifts to the taxpayer to establish that a result  
23 different from the Department's determination is  
24 warranted. Unsupported assertion is not sufficient to  
25 satisfy a taxpayer's burden of proof.

To verify the reasonableness of the audit findings, the Department performed an analysis of audit findings based on estimated markup available on the tire industry website CSI Market.com. The Department also obtained federal income tax return data for 2020 from its own sources. This analysis, based on the estimated markup from tire industry website and recorded cost of goods sold per federal income tax returns for 2018 to 2020, revealed unreported taxable sales of \$2.28 million for the audit period, which is higher than the audit findings of \$2.26 million; Exhibit D, pages 102 to 104. Department contends that this analysis supports the original audit findings as being reasonable and benefits Appellant.

25 Appellant also contends that the Notice of

1 Determination was not issued timely. Revenue & Taxation  
2 Code section 6487 states that the Department must issue a  
3 Notice of Determination within three years of the last  
4 date of the calendar month following the quarter period  
5 for which the return was due. Here, the quarterly return  
6 for second quarter 2018 was due July 31st, 2021. The  
7 Department issued the Notice of Determination on  
8 July 2, 2021, which is within the applicable three-year  
9 statute of limitations.

10 In response to the Office of Tax Appeals  
11 questions regarding the estimated 40 percent markup, the  
12 Department determined the estimated markup of 40 percent,  
13 based on an internal memorandum from which compliance and  
14 outreach program specific to Appellant's business;  
15 Exhibit D, pages 60 to 69. Excuse me. In an audit  
16 examination where a taxpayer fails to provide adequate  
17 books and records, as was the case in Appellant's audit,  
18 the Department can use any information to determine the  
19 liability. Here, in the internal memorandum, the  
20 Department's compliance and outreach program provided  
21 primary figures from Appellant's business using a markup  
22 of 40 percent, and stated that a more thorough audit was  
23 needed.

24 Because Appellant did not provide adequate books  
25 and records, the Department was unable to calculate a more

1 accurate markup. Therefore, the Department used the  
2 estimated 40 percent markup. As previously stated, in  
3 preparation for the hearing, the Department was able to  
4 obtain -- excuse me -- Appellant's federal income tax  
5 return for 2020. And when using information from that  
6 federal income tax return, the Department calculated an  
7 overall markup of 23 percent for the audit period, which  
8 appears to be more accurately reflect Appellant's  
9 business, and appears to be in line with the estimated  
10 markup on tire industry website.

11 Based on the foregoing, the Department has fully  
12 explained the basis for the deficiency and proven that the  
13 determination was fully reasonable based on the available  
14 books and records. Further, the Department has used  
15 approved audit methods to determine the deficiency and  
16 issue timely Notice of Determination. The Department  
17 assessed 10 percent negligence penalty for second quarter  
18 2018 to second quarter 2020.

19 The penalty is based on the fact that Appellant's  
20 unreported taxable measure is 348 percent of the reported  
21 taxable sales, which is due to negligence in maintaining  
22 providing necessary books and records as required and  
23 mandated by Revenue & Taxation Code sections 7053 and 7054  
24 and Regulation 1698. Significant high percentage of  
25 understatement clearly demonstrates that Appellant was

1       negligent in reporting the correct amount of sales tax to  
2       the Department.

3                   In addition, Appellant failed to file third  
4       quarterly sales and use tax returns for third quarter 2020  
5       and fourth quarter 2020. The Department assessed  
6       10 percent failure to file penalty. The understatement  
7       cannot be attributed to a bona fide and reasonable belief  
8       that the bookkeeping and reporting practices were  
9       sufficiently complied with the requirements of sales and  
10      use tax law. Therefore, Appellant was negligent in  
11      reporting correct taxes and filing sales and use tax  
12      returns, and penalties should be upheld. Therefore, based  
13      on the evidence presented, the Department request that  
14      Appellant's appeal be denied.

15                  This concludes my presentation, and I'm available  
16      to answer any question you may have. Thank you.

17                  JUDGE KIM: Thank you Mr. Sharma.

18                  Judge Lambert, did you have any questions for  
19      CDTFA?

20                  JUDGE LAMBERT: I have no questions.

21                  JUDGE KIM: Judge Wong, did you have any  
22      questions?

23                  JUDGE WONG: Yeah, I did have a question.  
24       Appellant's representative had -- this is talking about  
25       the books and records that were produced or were not

1 produced, and he had indicated that he had asked the  
2 auditor to come in person. But he claimed that the  
3 auditor said the supervisor couldn't do that. Can you  
4 address that? Like, there seems to be -- I was looking at  
5 the log of the audit activity, and there's a lot of back  
6 and forth between CDTFA and auditor's representative about  
7 records, producing records, refusing to produce records,  
8 or sign waivers or not sign waivers. Can you address  
9 that, please.

10 MR. SHARMA: Yes. The Department has requested  
11 the Appellant to provide the books and records on various  
12 occasions in person, over the phone calls, and everything;  
13 including the 20 sales invoices which the Appellant  
14 provided to claim the markup of 9 percent. But as of now,  
15 Appellant has not provided any of those records, either to  
16 the Department or to the Office of Tax Appeals to claim  
17 that 9 percent markup.

18 I hope that answers the question or anything  
19 else.

20 MR. PARKER: Judge Wong, can I just add  
21 something?

22 JUDGE WONG: Sure.

23 MR. PARKER: Like Mr. Sharma said, we made many  
24 requests. We did the information document request process  
25 on multiple levels. We asked for the taxpayer to come to

1 the field office to provide the records. They refused to  
2 do so, and they also refused to sign a waiver. And the  
3 audit was coming up on statute, so we used the best  
4 available information we had at that time, and we had to  
5 send the Notice of Determination at that time.

6 So this was during the height of COVID. So there  
7 was a lot of extra precautions in place trying to limit  
8 exposure to COVID. But there were methods that auditors  
9 were able to use, including, you know, scanned copies of  
10 invoices, other things like that, or even dropping off  
11 records at our office.

12 I hope that helps to clarify.

13 JUDGE WONG: Thank you. No further questions at  
14 this time.

15 JUDGE KIM: I had question regarding the 20  
16 invoices that Appellant later submitted. Why did CDTFA  
17 determine that those invoices were not reliable?

18 MR. SHARMA: For the Department to calculate  
19 shelf test or markup, we need to know the purchase price.  
20 So if we don't know, they have only sales invoice. It  
21 shows the sales invoice. We need to know when those items  
22 are purchased and what kind of documentary evidence they  
23 have.

24 So as Mr. Parker stated, despite of ideas and  
25 many requests, as of now, Appellant has not provided any

1 supporting documents or evidence to show where they did  
2 come up with those purchase cost or the purchase price.

3 MR. PARKER: Mr. Kim, I would like also to add  
4 that when you look at the sales invoices, they are  
5 undated. There are gaps in the sales invoices that they  
6 used. So we are unsure of, like, whether those truly were  
7 the sales price. If you look at -- I'm looking at the  
8 Yelp reviews where they actually have some invoices  
9 printed out, and they have different numbers for the  
10 invoices -- I'm trying to find one here. This is 717 of  
11 2018, and it looks like the invoice number appears to be  
12 something like 20275, where the invoices that don't have  
13 dates appear to be very similar handwriting; those all are  
14 allegedly from February of 2020, I believe.

15 So the -- without the corresponding purchase  
16 invoices, the audit staff could not verify that these were  
17 actually true and accurate. The other sales invoices have  
18 credit card receipts stapled to it; other things like that  
19 that would show how we've traced those invoices into their  
20 actual books and records, which was not provided.

21 JUDGE KIM: Thank you. Okay. Thank you.

22 Before we go on, we will take a short break. So  
23 if anyone needs to use the restroom, you can do so. Thank  
24 you. Let's be back in, like, 5 minutes or 5 and  
25 10 minutes, say 10:10 a.m. Thank you.

1                   We'll go off the record until everyone is back.

2                   (There is a pause in the proceedings.)

3                   JUDGE KIM:  We are going to go back on the record  
4 now.

5                   Thank you for the presentation, CDTFA.

6                   Mr. Carrega, you had indicated that you would  
7 like to make a closing statement or a rebuttal to CDTFA's  
8 presentation.

9                   MR. CARREGA:  Yes.

10                  JUDGE KIM:  You have 10 minutes, and you may  
11 proceed when you are ready.

12

13                  CLOSING STATEMENT

14                  MR. CARREGA:  Okay.  One of the things he  
15 mentioned were are all these numbers, and he had this  
16 number, that number, and this number.  And he claims, oh,  
17 that the records are incomplete.  That's why they had to  
18 do this.  That's why they had to do that.  Incomplete.  
19 And I explain to you as to why it's incomplete.  They  
20 chose to make it incomplete by not auditing and not coming  
21 out to the field and -- and by doing their due diligence  
22 and actually auditing the books.

23                  You can create any number you want.  You can go  
24 to any website you want and get any type of, you know,  
25 gross profit or shelf test amount.  They claim 40 percent.

1       We come up with 9 percent. And we gave them the paper,  
2       the work. We scanned these, you know, invoices they  
3       wanted, and we sent it to them. But this is all, as we  
4       feel, just a setup. So they go to their site -- CDC site,  
5       which is a national site. I've looked at it before. It  
6       doesn't really reflect any local small business. And the  
7       information -- a lot of the information is fed by their  
8       own information -- by State's own information. So there's  
9       a lot of ambiguity as to their -- how they came up with  
10      their numbers.

11           My thing is, this is what's happening. They're  
12       avoiding to do sales tax audits, and they're just coming  
13       up and want to just do their audits sitting at their desk  
14       and expecting my client to scan numerous invoices so that  
15       they can justify. And then when we, you know, give them  
16       their -- what they want, they can justify their numbers as  
17       to why they had to use their, we call, their method they  
18       used.

19           Their method 40 percent is false, and that's all  
20       there is. I mean, it's false 40 percent, and they  
21       haven't -- all they have is estimates. Their estimates.  
22       No independents.

23           That's it. Thank you.

24           JUDGE KIM: Thank you. Just a quick question,  
25       Mr. Carrega. CDTFA had visited the place of business

1 prior to issuing the Notice of Determination on  
2 March 11, 2021. Did Appellant provide any records? The  
3 records that you assert that you have, did Appellant  
4 provide those to CDTFA at that time?

5 MR. CARREGA: He said they visited the premises.  
6 I wasn't there.

7 JUDGE KIM: Okay. Well -- okay. Thank you. And  
8 if you were unable to scan the documents, did you deliver  
9 the documents to any field office?

10 MR. CARREGA: They didn't ask for delivery or  
11 anything like that.

12 JUDGE KIM: Okay. Thank you.

13 I'm going to see if my panel have any final  
14 questions.

15 Judge Lambert, do you have any final questions?

16 JUDGE LAMBERT: No questions.

17 JUDGE KIM: And, Judge Wong, do you have any  
18 questions?

19 JUDGE WONG: Yeah. Actually, I have about three  
20 questions for Mr. Carrega.

21 So just to kind of follow up my question CDTFA  
22 about the back and forth about the records -- providing  
23 records. According to the audit activity notes, it looks  
24 like at one point the auditor was willing to set up an  
25 appointment for you to take the sales invoices to the

1           CDTFA district office, but that didn't take place. Could  
2           you comment on that, or why that didn't take place?

3           MR. CARREGA: They were supposed to come my  
4           office, and later we had an appointment scheduled and  
5           everything to go. And then she says no. My supervisor  
6           doesn't want me to, or I don't know; just something like  
7           that.

8           JUDGE WONG: So there's an entry here. It talks  
9           about -- I'll just quote it. It's from May 19th, 2021.  
10           It's on page 39 of Exhibit D. It says, "Mr. Carrega told  
11           auditor that he wants to bring other documents to the  
12           office, auditor gave available dates and time for the  
13           appointment and is awaiting Mr. Carrega's response."

14           So it looks like something was in the works for  
15           you to bring documents to their office?

16           MR. CARREGA: That -- that is --

17           JUDGE WONG: You did not do that.

18           MR. CARREGA: Yeah. That's new to me. They were  
19           supposed to come down for the records. Because as I --  
20           when I talked about how -- you know, we can't scan all  
21           these things.

22           JUDGE WONG: Okay. Because it seems like the  
23           auditor was willing have you or someone bring the records  
24           to the office. It looks like the Glendale office. And  
25           then they'll do the scanning there.

1                   MR. CARREGA: That was never -- I don't remember  
2                   that ever mentioning to bring it to the Glendale office.  
3                   No. No.

4                   JUDGE WONG: Okay. And according to this audit  
5                   activity sheet, it mentioned that -- does your office have  
6                   a policy of not signing waivers?

7                   MR. CARREGA: Yes.

8                   JUDGE WONG: Okay. Oh, all right. And then my  
9                   last question goes to the markup method that was used.  
10                  For the cost of goods sold, CDTFA used what was reported  
11                  in Appellant's federal income tax returns. Do you have  
12                  any problems with those numbers that your client reported  
13                  on the federal income tax return?

14                  MR. CARREGA: I did not audit that tax return.

15                  JUDGE WONG: Okay. But does your client have a  
16                  position on what they reported to the Internal Revenue  
17                  Service?

18                  MR. CARREGA: I don't know what position they  
19                  have.

20                  JUDGE WONG: Okay. So as you --

21                  MR. CARREGA: I mean, there could be adjustments.  
22                  I don't know.

23                  JUDGE WONG: But they -- your client has not  
24                  revised --

25                  MR. CARREGA: No.

1                   JUDGE WONG: -- their federal income tax filings.

2                   MR. CARREGA: No.

3                   JUDGE WONG: Okay. No further questions. Thank  
4 you.

5                   JUDGE KIM: All right. Thank you.

6                   This case is now submitted on September 9, 2025,  
7 and the record is now closed.

8                   Thank you, everyone, for participating today.

9                   The judges will meet to deliberate this appeal,  
10 and we will issue a written opinion within 100 days.

11                  Today's hearing in the Appeal of A. Flores dba  
12 Rolling Tires and Wheels #1 is now concluded.

13                  (Proceedings concluded at 10:17 a.m.)

14

15

16

17

18

19

20

21

22

23

24

25

HEARING REPORTER'S CERTIFICATE

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

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

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

14 I have hereunto subscribed my name this 22nd day  
15 of September, 2025.

ERNALYN M. ALONZO  
HEARING REPORTER