

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
D. SCHRYER,) OTA NO. 19125635
)
 APPELLANT.)
)
)

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, December 10, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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D. SCHRYER,) OTA NO. 19125635
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Transcript of Proceedings,
taken at 12900 Park Plaza Drive, Suite 300,
Cerritos, California, 90703, commencing at
10:41 a.m. and concluding at 11:16 a.m. on
Wednesday, December 10, 2025, reported by
Ernalyn M. Alonzo, Hearing Reporter, in and
for the State of California.

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APPEARANCES:

Panel Lead: ALJ NATASHA RALSTON

Panel Members: ALJ KEITH T. LONG
ALJ TERESA A. STANLEY

For the Appellant: ROBERT FEDOR

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD
JEFFREY GATES
NATHAN HALL

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-19 were received into evidence at page 6.)

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

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1 Cerritos, California; Wednesday, December 10, 2025

2 10:41 a.m.

3

4 JUDGE RALSTON: Good morning.

5 We are now on the record in the Case of
6 D. Schryer, OTA Case No. 19125635. The date is
7 December 10th, 2025, and the time is approximately
8 10:41 a.m.

9 As I stated earlier, I am Judge Ralston, and I
10 will be the lead ALJ for the purposes of conducting
11 this hearing. Also, with me on this panel are
12 Judge Stanley and Judge Long.

13 I'm going to ask the parties to introduce
14 themselves and who they represent, starting with the
15 Appellant, Mr. Fedor.

16 MR. FEDOR: Good morning. Robert Fedor appearing
17 on behalf of the Appellant, Daniel Schryer.

18 JUDGE RALSTON: Thank you.

19 And FTB.

20 MR. GATES: Good morning. I'm Jeffrey Gates here
21 on behalf of the Respondent, FTB.

22 JUDGE RALSTON: Thank you.

23 MR. HALL: And I'm Nathan Hall on behalf of
24 Respondent Franchise Tax Board.

25 JUDGE RALSTON: Thank you.

1 We held a prehearing conference in this matter on
2 November 3rd, 2025. And as discussed at that conference,
3 there's one issue in this appeal, and that is whether OTA
4 has jurisdiction to hear this appeal.

5 Mr. Fedor, do you agree this is the issue?

6 MR. FEDOR: I do.

7 JUDGE RALSTON: Thank you.

8 And, Mr. Gate, do you agree?

9 MR. GATES: Yes, we agree.

10 JUDGE RALSTON: Thank you.

11 Regarding the exhibits, Appellant has submitted
12 Exhibits 1 through 19.

13 Is this correct, Mr. Fedor?

14 MR. FEDOR: Yes. That is correct.

15 JUDGE RALSTON: Thank you.

16 And, Mr. Gates, at the prehearing conference, FTB
17 had no objection to Appellant's Exhibits 1 through 19. Is
18 that still the case?

19 MR. GATES: It is.

20 JUDGE RALSTON: Thank you.

21 So Appellant's Exhibits 1 through 19 are admitted
22 without objection.

23 (Appellant's Exhibits 1-19 were received into
24 evidence by the Administrative Law Judge.)

25 JUDGE RALSTON: And Respondent FTB has submitted

1 Exhibits A through W.

2 Mr. Gates, is that correct?

3 MR. GATES: That's correct.

4 JUDGE RALSTON: Thank you.

5 And, Mr. Fedor, at the prehearing conference you
6 did not have any objections to FTB's exhibits. Is that
7 still the case?

8 MR. FEDOR: It is. Thank you.

9 JUDGE RALSTON: Thank you.

10 Okay. Respondents Exhibits A through W are
11 admitted without objection.

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

14 JUDGE RALSTON: Neither party intends to call any
15 witnesses.

16 Mr. Fedor, you have asked for 30 minutes for your
17 opening presentation.

18 Mr. Gates will go in next, and you've asked for
19 15 minutes for your presentation.

20 And after Mr. Gates' presentation, Mr. Fedor will
21 have 10 minutes for a rebuttal.

22 Is that what everyone recalls?

23 MR. FEDOR: It is.

24 JUDGE RALSTON: Thank you.

25 MR. GATES: Yes.

1 JUDGE RALSTON: Thank you.

2 As I mentioned at the prehearing conference, the
3 panel members may have questions for either party after
4 your presentations. And it looks like we are ready to
5 begin.

6 So, Mr. Fedor, you have 30 minutes, and you may
7 begin when you are ready.

8 MR. FEDOR: Thank you very much. Do you have
9 the -- do the Judges have access to the exhibits?

10 JUDGE RALSTON: Yes, we do.

11 MR. FEDOR: You do. So I'm going to refer to the
12 exhibits as we walk through here.

13 Thank you very much, and thank you, Judges, and
14 good morning.

15 I came from Cleveland, Ohio, yesterday, and it
16 was 20 degrees and a lot of snow on the ground. So this
17 is really nice. So thank you for coming today and
18 spending your time.

19

20 PRESENTATION

21 MR. FEDOR: As Judge Ralston correctly stated, we
22 have one issue, which there's two issues in the case. And
23 the first issue is jurisdiction, which, obviously, if
24 there's no jurisdiction, we don't get to a second issue,
25 which is residency in this case.

1 So the issue is whether the OTA has jurisdiction
2 over Appellant's appeal for the '07 through '09 tax years.
3 The parties agree to sever bifurcate the issues as
4 discussed. And the parties are in agreement in the
5 majority of the facts in this case, we really are, but the
6 most important one; that's the service of the NOAs. And
7 this has been very thoroughly briefed over the last
8 several years. So I'm going to try to hit some high
9 points, reference some of the exhibits. And, you know,
10 between the exhibits and the briefing that's already taken
11 place, I think the Judges will have a good opportunity to
12 make the correct decision.

13 So Exhibit G where the Notices of Action for the
14 tax years 2007 through 2009, they were issued on
15 October 14th, 2019. Parties are in agreement on that.
16 The parties are also in agreement that the Appellant's
17 address at the time of the issuance of the NOAs is
18 correct; and that is Mr. Schryer, care of 177 Townsend
19 Street. And the key to this is the suite number 11 --
20 1131 San Francisco, 94107. And that's where the dispute
21 arises of whether -- of whether or not the apartment
22 itself was served, or if Mr. Schryer was served at his
23 suite number. And we maintain that he was not because no
24 one had received the NOAs for 8 to 10 months thereafter.

25 The parties are also in agreement that

1 Mr. Schryer's 2017 Form 540 filed timely on October 15th
2 of '18 used the same address as well. And then the
3 following years' tax returns, the year following year's
4 540 was also timely filed with extension on October 15th,
5 of '19. But in that interim period, Mr. Schryer had moved
6 to Indonesia. He moved to Bali where he has significant
7 business interest, and that's important. And the reason I
8 point it out -- it's Exhibit H -- is that is the day after
9 an NOA was issued. And that's not really the pertinent
10 issue because the return, which was on file as of the date
11 of the NOA issuance was correct and acknowledged. It is
12 important to note that a day later the following return
13 was from a Bali address.

14 The parties also agree that 2018 Form 540 was, as
15 I said, filed one day after the NOA -- the NOAs were
16 issued. And this is where the factual issue now diverge.
17 We agree with all the filings. We agree with the
18 addresses, basically, but after that is where we run into
19 issues. So the NOAs were issued October 14th of 2019. We
20 discovered in my office that the NOAs were filed on 12/23
21 of '19. So, obviously, out of time from the 30-day
22 appeals period, but that is what we discovered and when we
23 discovered it.

24 We filed an appeal directly from my office, and
25 it's referenced as Exhibit 1. You will see there's a

1 facsimile of December 23rd of 2019. There's also
2 certified mail with the same date. And attached, most
3 importantly to that appeal, are the statements of balances
4 due, not the NOAs, because we did not have them at the
5 time. It's outlined in Exhibit 1. It's fully stated in
6 the facsimile sheet that we took what we had to make sure
7 we could protect the statute once we found about it in my
8 office. So that's obviously very important. But it is --
9 I will acknowledge it's out of time, and it's out of time
10 because we didn't know about.

11 So Exhibit 1 is a reference to the fax cover
12 sheet, which was good service. As I indicated, we also
13 sent to the OTA U.S. certified mail with the copy of the
14 appeal. And it states right in there that all we had was
15 the Notice of Balance Due for the same tax years '07, '08,
16 and '09 obviously as a result of not responding to the
17 30-day Notice of Action which came out. And so that was
18 your assessment on the case. And as tax counsel, we
19 recognize assessments and what happened procedurally on
20 that.

21 I also think it's important to turn to
22 Exhibit 19, which is my affidavit submitted in this case.
23 And certainly, as an officer of the court, you know, as a
24 practicing attorney for 36 years, I outline exactly what
25 happened, how we discovered it, when we discovered it,

1 what we discovered, what we in turn did, and the response
2 we made the same day we found out about it. You know, we
3 can all picture sitting here when you find out about
4 assessment notice, and you never saw the NOA, everybody
5 freaked out. So we turned that around that same day. And
6 as I state plainly in here, neither my client, nor anyone
7 in my office received the NOAs. As soon as we found
8 out -- the day we found out, we filed our appeal by
9 facsimile and certified mail.

10 I also reference Exhibit 12, which is an email
11 from the associate attorney in my office, Michael Arnold,
12 and that email is dated August 19th of 2020. We still had
13 not received the Notices of Action as of August of 2020,
14 eight months later. And I'll just read this for a moment.
15 This is being emailed to Katherine Lewis, who is an
16 appeals analyst for the OTA. "Ms. Lewis" -- this is from
17 Mr. Arnold, an attorney from my office, also and officer
18 of the court. "I'm following up on my voicemail last week
19 regarding above referenced appeal."

20 Am I going too fast? I'm sorry. I will slow
21 down. Too much caffeine.

22 "As noted in that voicemail, we are in receipt of
23 a July 3rd, correspondence requesting an opening brief on
24 the substantive and jurisdictional issues. Please note,
25 and as explained in our fax dated January 28th, we have

1 yet to receive a copy of the October report NOA. As a
2 result, we can discuss jurisdictional issues, but as we
3 have not yet received the report, we cannot discuss any
4 substantive issues." And that's as of August of 2020.

5 It was only after Ms. Lewis of the OTA later that
6 day actually provided copies of the notices, and that's
7 how we received them originally in my office. My client,
8 the taxpayer, never received it. I never received it. No
9 one in my office received it. And we -- we think we know
10 what happened, and I -- I'll explain that further. So on
11 the Appellant's case from the FTB, you'll hear that the
12 NOAs were sent to a full address on file on Townsend on
13 Suite No. 1131. Originally, the OTA attached Postal
14 Service Form 3877 as proof of that as evidence of the NOAs
15 being mailed to a full address.

16 And if you go to Exhibit I, which is the U.S.
17 Postal Service Form 3877, there's an indication on
18 October 14th of 2019 of three mailings to Mr. Schryer.
19 But you will note that there's no suite address on the
20 mailing in the Form 3877 the proof of mailing. So the
21 problem that belies therein is Mr. Schryer, at the time,
22 resided in a 198-unit apartment building. So we believe
23 that it was mailed out. All three of these notices were
24 mailed out, but we didn't get it, and we think it went to
25 the main address and not the suite number. That's, in

1 essence, what this jurisdictional issue is all about.

2 So let's turn to Exhibit 14 for a moment.

3 Exhibit 14 is the suite information. You will notice that
4 it's at 177 Townsend Street San Francisco. The number of
5 units, 198 units. We just provided that for the Judges'
6 assistance. This is an apartment building. It's not a
7 house. So we think that's what happened, and that's why
8 it took us so long to get the NOA.

9 So the next thing that the OTA does, it seems
10 like Form 3877 backfired because the information wasn't in
11 there that they were trying to prove up. And that
12 evidence wasn't established. Just the opposite, in my
13 opinion, was established. But it went to this address but
14 not the suite. So the OTA then next tries -- they take a
15 declaration, which is Exhibit S, from an employee, Angela
16 Brown who is the manager of the audit business support
17 section of the FTB. And what Ms. Brown does, which is --
18 you know, she -- she tried to explain things and explain
19 the process of mailing and NOA through the FTB and how it
20 gets out to the taxpayer. She tries to explain what
21 happens, but I don't give her declaration much probative
22 value, and I don't believe the judges here should either
23 because she was not familiar with any of the facts of this
24 case.

25 She could -- she testified by way of her

1 declaration that, hey, this is the way it's supposed to
2 work. This is where it's supposed to go. This is the
3 mailing process, and she even attached -- which she made
4 up -- was an envelope from the FTB addressed to
5 Mr. Schryer with the right suite number on it with a
6 window. Well I can't answer that. That's not the actual
7 envelope that went to Mr. Schryer. It is her replication
8 of what she believed took place during that time and what
9 she thought was an adequate summary. And I understand
10 that, but I believe this holds little probative value
11 because of that. She wasn't there. She didn't witness
12 it. She's not familiar at all with the case, and had no
13 role in this case whatsoever. It is a processing argument
14 nothing more nothing less.

15 So the OTA has made three arguments, in my
16 opinion, in support of their proper mailing and service at
17 this point. One was that the notice was properly served
18 at the full address. One was the USPS Form 3877, which,
19 in my opinion, backfires because it doesn't list a suite
20 number and it's just a general 19-unit apartment address.
21 And the third one was this declaration submitted by the
22 audit business manager. I believe each and every one of
23 us fail. Now, four years later down the road, the FTB
24 decides to make an additional argument, per say, and we
25 briefed this issue, and it's part of the record in the

1 case; and that is the counsel somehow elected to receive
2 as service and opted in the E -- e-servicing through the
3 FTB and My FTB.

4 You will see in subsequent briefing that that
5 wasn't the case. We, obviously, did not opt in. We did
6 not elect to receive service of any NOAs, and they
7 retracted that argument in subsequent briefing. So
8 that's -- that's four different arguments that I believe
9 fail. And as I indicated; whether it's my affidavit;
10 whether it's my associate attorney's email; whether it's a
11 facsimile -- contemporaneous facsimile to the OTA
12 indicating we did not receive the NOAs, all of those
13 things I believe hold much more probative value than any
14 of these other issues. And, you know, short of that, I
15 wouldn't be here today. So I would submit that the OTA
16 should retain jurisdiction of this matter through
17 contemporaneous evidence, emails, and faxes, et cetera.
18 It's clear that neither Appellant or his counsel received
19 the NOAs.

20 Additionally, Mr. Schryer should be entitled to
21 some due process here. There is no due process. We want
22 Mr. Schryer, and through his counsel, want to argue the
23 residency issues. I would look to get to the second prong
24 of this real case and the substantive issues in the case,
25 which is, is Mr. Schryer -- was Mr. Schryer, from 2007 to

1 2009, a resident of California or not. And we believe
2 that given the lack of due process in this case, given the
3 service issues, given my statements, my client's
4 statements that he should have that opportunity and
5 receive his due process. For all these reasons, this
6 panel should retain jurisdiction and schedule the
7 substantive oral argument on those residency issues.

8 And I thank you very much for all your time.

9 JUDGE RALSTON: Thank you. Does that conclude
10 your presentation?

11 MR. FEDOR: It does.

12 JUDGE RALSTON: Okay. Thank you.

13 So at the time the notices were sent, were you
14 listed, like, the taxpayer's representative with FTB?

15 MR. FEDOR: Yes.

16 JUDGE RALSTON: Okay.

17 MR. FEDOR: Throughout this entire period, yes.

18 JUDGE RALSTON: Okay. Did you receive -- and the
19 notices were only sent to the Appellant, and there's the
20 issue of the suite number. Were they sent to you as well,
21 or just to the Appellant?

22 MR. FEDOR: They were not. And, in fact, how we
23 found out about it was our client in Bali actually
24 forwarded them to us. He received the Notices of Balance
25 Due. Did not receive the NOAs, only Notices of Balance

1 Due, and then that's what put our office in gear to file
2 the appeal is exactly how it went down.

3 JUDGE RALSTON: Okay. Thank you.

4 MR. FEDOR: Thank you.

5 JUDGE RALSTON: So and then you didn't actually
6 receive the NOAs until after the letter by -- or the email
7 sent by your associate; correct?

8 MR. FEDOR: That is correct; August of 2020, you
9 know, eight months later.

10 JUDGE RALSTON: Okay. Thank you. Let me check
11 with my panel to see if they have any questions for you.

12 Judge Stanley, did you have any questions?

13 JUDGE STANLEY: It's just kind of more of a
14 curiosity question. You filed the appeal not having
15 Notices of Action. Were you assuming that there was a
16 deemed denial or --

17 MR. FEDOR: Yeah. I'm -- I'm a tax controversy
18 attorney. So I know when an assessment comes out, it
19 means something wasn't -- you know, it's like a Notice of
20 Deficiency with the IRS. Once it's been assessed, you
21 know the case is over. So we attached those Notices of
22 Balance Due because, obviously, no one contested the
23 30-day period.

24 JUDGE STANLEY: Okay. Thank you.

25 MR. FEDOR: Thank you.

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JUDGE RALSTON: Judge Long?

JUDGE LONG: Yes, just real quickly. You had mentioned that the Appellant had changed his address the day after the Notice of Action, and I believe you referenced Exhibit H; is that correct?

MR. FEDOR: Yes. That is correct.

JUDGE LONG: And then can you tell me where it shows that the address changed the day after? That would be 10/14/2019; right?

MR. FEDOR: That is correct. It's not really relevant because it was the day after they were mailed.

JUDGE LONG: Right. I understand.

MR. FEDOR: But --

JUDGE LONG: I understand.

MR. FEDOR: -- but for verification, yes.

JUDGE RALSTON: Remember not to talk over each other. Thank you.

JUDGE LONG: Sorry.

MR. FEDOR: My apologies too.

It would be Exhibit H, one, two, three pages back, the 18540.

JUDGE LONG: Okay. Thank you.

MR. FEDOR: Thank you.

JUDGE RALSTON: All right.

Mr. Gates, you have 15 minutes for your

1 presentation. Please begin when you're ready.

2 PRESENTATION

3 MR. GATES: Hello. Good morning. As I mentioned
4 earlier, my name is Jeffrey Gates, and with me here today
5 is Nathan Hall; and we are here on behalf of Respondent.

6 Now, Appellant has brought up a number of issues
7 related to the service of the Notices of Action. However,
8 it's not disputed that these notices were sent out, and
9 that they were not returned as undeliverable to Franchise
10 Tax Board. That's what the requirement is under the
11 statute in order for delivery to have occurred. It then
12 creates a burden on the taxpayers to show that they were
13 not actually delivered. However, it -- because they
14 delivered on this date to the address that was the
15 last-known address to the taxpayer, they were, in fact,
16 mailed out. And as the declaration, which is Exhibit S,
17 to -- Exhibit S, as the declaration shows the address that
18 these were mailed to, is going to be the address that is
19 printed on the Notice of Action itself.

20 So while the post office form does provide a
21 confirmation of the mailing, it is not indicative of the
22 actual address that it was sent to. And if these had been
23 sent not to the apartment or to some other aspect of a
24 large apartment building and could not finally be
25 delivered to the correct address as it was written, they

1 would have been returned as undeliverable, which they were
2 not.

3 Another item that I'll bring up is I know the
4 issue of whether or not Appellant has elected to receive
5 notices electronically is not at issue. Exhibit K of --
6 Exhibit K shows that Franchise Tax Board's record that,
7 through My FTB, which is the online portal to be able to
8 receive notifications, that it was accessed on
9 November 1st of 2019, and that the Notices of Action were
10 viewed. It appears that they were viewed by Mr. Fedor who
11 had access to Appellant's My FTB profile. But again,
12 we're not here to talk about whether or not there was a
13 sufficient delivery of them electronically. What we do
14 have is that there was a delivery that occurred and that
15 they were mailed on October 14th, 2019, and that the
16 Appellant had until November 13th of 2019, to file their
17 appeal. They did not. They filed on December 23rd of
18 2019, and, therefore, jurisdiction in this case would
19 not -- does not exist.

20 And with that, if there are any questions by any
21 of the panelists, I would be happy to hear them.

22 JUDGE RALSTON: Thank you does that conclude your
23 presentation.

24 MR. GATES: Yes, it does.

25 JUDGE RALSTON: Thank you. Does that conclude

1 your presentation?

2 MR. GATES: Yes, it does.

3 JUDGE RALSTON: Thank you.

4 I have a question for, I guess, either party, if
5 you know. Did either of you check with the U.S. Postal
6 Service to see how they treat letters that are delivered
7 without a suite number? You know, I'm curious as to
8 whether the postal person, you know, they may be able to
9 tell oh, okay, this person, you know, always receives mail
10 at this address. And we know their suite number, so they
11 may have delivered it to the box, or they may just -- you
12 know, I don't know. They may just say, oh, well, we don't
13 have a suite number, so it gets kind of lost. I was just
14 wondering if either party had looked into that.

15 MR. FEDOR: I can tell you, on Appellant's part,
16 we directed Mr. Schryer to look for that, to speak with
17 the manager of the apartment complex, and we found
18 nothing.

19 JUDGE RALSTON: Okay. Thank you.

20 MR. GATES: We have not spoken with the post
21 office about how that is done. But it's our position that
22 the notices, when they are mailed, do contain the address
23 because they are printed on the notice itself. And that
24 address is what is used to deliver the mail because that's
25 how all the notices are sent out, is through that --

1 through that process, which was set by the Exhibit S in
2 the declaration of how these notices are prepared and how
3 they're sent out to taxpayers. So whether or not there --
4 so whether or not the post office deals with a missing
5 add -- with a missing unit number is sort of irrelevant
6 from -- from our position because the unit number was
7 there on the -- on the mailings.

8 JUDGE RALSTON: Okay. I see. Thank you.

9 Judge Stanley, did you have any questions for
10 either -- sorry -- for Mr. Gates?

11 JUDGE STANLEY: Yes, I have, actually, two very
12 similar questions to your, Judge Ralston.

13 I was wondering if anybody knows how that
14 particular apartment complex handles mail because it could
15 have been delivered by the post office, but then not
16 delivered by the complex. Is that a possibility,
17 Mr. Gates? Nobody knows how they handle it when they
18 don't have unit numbers; whether they give it back to the
19 post office, or they throw it away?

20 MR. GATES: No. We -- we wouldn't know. We
21 haven't spoken to anyone at the apartment complex. We
22 only know from our --our position of when it was mailed
23 and how it was mailed.

24 JUDGE STANLEY: Okay. And you didn't speak to
25 them about -- or your client didn't speak to them about

1 that particular issue with --

2 MR. FEDOR: We tried to find --

3 JUDGE STANLEY: -- the process?

4 MR. FEDOR: I'm sorry. We tried to find it, and
5 we couldn't find it. And I -- I don't know what happened
6 to it. We're in agreement on that. This is all about a
7 suite number.

8 JUDGE STANLEY: Right.

9 MR. FEDOR: It really is.

10 JUDGE STANLEY: Right. And I have a follow-up
11 question about that too. What is FTB's position about why
12 that unit number isn't showing on the Exhibit I mailing
13 logs?

14 MR. GATES: From that particular form, all we
15 know is that sometimes those don't exist on the form
16 itself because it's simply a record that's provided of the
17 delivery and the submission of mailing to and through the
18 post office. What the post office puts in and identifies
19 within those records is within their purview. But again,
20 I always will bring this back to the address. The address
21 and the correct address, as they were mailed, is the
22 address that's contained on the Notice of Action.

23 JUDGE STANLEY: Okay. So if you look at
24 Exhibit S, Ms. Brown's recreation shows the unit number on
25 the same line as address. So it doesn't seem like it

1 should be missing on Exhibit I.

2 MR. GATES: And I -- again, I -- I don't know why
3 that would be the case for Exhibit I. However, I'll also
4 mention that the record, the post office form itself,
5 that's sort of in addition to what the statutory
6 requirements are for Franchise Tax Board to me. And in
7 that regard, it simply be addressed to the Appellant
8 through first class mail, postage prepaid, and not
9 returned as undeliverable. That is -- that is the
10 requirement that Franchise Tax Board has to meet in order
11 for the service to be effective, and Franchise Tax Board
12 did meet that.

13 JUDGE STANLEY: Okay. Thank you.

14 JUDGE RALSTON: Judge Long, did you have any
15 questions for Mr. Gates?

16 JUDGE LONG: Just real quickly to clarify. I
17 understand that your position is that you met the
18 requirement of the statute. But, certainly, one of those
19 requirements would be that it has to be to the correct
20 address regardless of -- if it was shown to the wrong
21 address. It wouldn't matter necessarily if it was
22 returned as undeliverable, would it?

23 MR. GATES: I'm sorry. Can you repeat that?

24 JUDGE LONG: Well, the dispute here appears to be
25 whether the mailing had the suite number on it. And it is

1 clear from your position that Exhibit S shows that the
2 suite number was on it, and that it was not delivered --
3 returned as undeliverable, right. But if the suite number
4 wasn't on it, would it matter if it wasn't returned as
5 undeliverable?

6 MR. GATES: If the suite number was not on it?

7 JUDGE LONG: Because that would be the wrong
8 address.

9 MR. GATES: Well, the suite number, if it wasn't
10 on it, to me was a bit of a -- it's a bit of a
11 hypothetical that I don't know if I'd be able to answer
12 properly because the Exhibit S refers to, really, how the
13 notices themselves are mailed out, and how they're
14 processed. Now, it's the address on the notices that is
15 the delivery address. So because the address and the unit
16 number exist on those notices, that it exist and -- for
17 the delivery. So that is the address that they were
18 mailed to. Our own notices -- the address on our own
19 notices because that's the one that's viewed through the
20 window and how they're delivered. So while Exhibit S
21 details the process of making those mailings, the actual
22 address themselves is established by the Notices of
23 Action.

24 JUDGE LONG: Okay. Thank you.

25 JUDGE RALSTON: Mr. Gates, are the Notices of

1 Action are they sent to the Appellant's representative as
2 well or just to the Appellant?

3 MR. GATES: No. They're sent to just the
4 Appellant because the requirement is that they be sent to
5 the taxpayer's last-known address. The statute itself
6 doesn't allow for that, unless it's through the electronic
7 means that we discussed earlier that isn't -- isn't really
8 relevant to the appeal. But the Franchise Tax Board does
9 also upload those should a taxpayer or their
10 representative want to have access to them. But the --
11 it's -- they're mailed because the statute requires us to
12 mail them to the taxpayer.

13 JUDGE RALSTON: Okay. Thank you. And when they
14 are uploaded to the My FTB, are there any type of
15 notifications like, "Hey, check your My FTB. You have a
16 document?"

17 MR. GATES: That I -- I'm unsure of, but I'd be
18 able to -- to do some additional briefing and find out for
19 certain what that would be. But we can see from FTB's
20 records, through the Exhibit K, that it was accessed on
21 November 1st of 2019 by Appellant's representative.

22 JUDGE RALSTON: Okay. Thank you.

23 I don't have any further questions.

24 So, Mr. Fedor, you have 10 minutes for your
25 rebuttal.

1 MR. FEDOR: Just a moment. Thank you very much
2 again.

3
4 CLOSING STATEMENT

5 MR. FEDOR: I would submit as Judge Long was
6 asking FTB counsel that this was served at the incorrect
7 address because there was no suite number. Looking at due
8 process, looking at the State's statute of there's not
9 adequacy of notice here. And if you -- if you go back and
10 you look at CA18 CCR 30103, the OTA does not have
11 jurisdiction to consider the following: Subparagraph (d),
12 whether the Appellant is entitled to a remedy for an
13 agency's actual or alleged violation of any substantive or
14 procedural right, unless the violation affects the
15 adequacy of notice.

16 We do not have adequate notice here and --
17 because of the suite number issue. We wouldn't be here
18 today. We'd be having oral argument on the residency
19 issue if, in fact, we were timely served because we would
20 have timely appealed. So I hope the Judges take that into
21 consideration.

22 Thank you.

23 JUDGE RALSTON: Thank you.

24 Just give me a minute. I'm going to finish up my
25 notes so I don't forget. Thanks.

1 Okay. Thanks, everyone, for your patience. I
2 just want to make sure we get everything down. Just let's
3 see if either of my panel members, do you have any further
4 questions? Let me know. If not, I think we're ready to
5 conclude.

6 JUDGE LONG: No further questions. Thank you.

7 JUDGE STANLEY: I don't either. Thank you for
8 your presentations.

9 JUDGE RALSTON: Thank you.

10 MR. FEDOR: Thank you, Judges.

11 JUDGE RALSTON: Thank you.

12 So we're ready to conclude this hearing. This
13 case is submitted on December 10th, 2025, and the record
14 is now closed.

15 The Judges will meet to deliberate, and we will
16 issue a written opinion within 100 days.

17 Today's hearing in the Appeal of D. Schryer is
18 now concluded.

19 This hearing is adjourned.

20 (Proceedings concluded at 11:16 a.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
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I further certify that I am in no way interested
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I have hereunto subscribed my name this 5th day
of January, 2026.

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