

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
SKEWERS LEBANESE FOOD,) OTA NO. 240917430
)
)
 APPELLANT.)
)
)
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TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Tuesday, January 13, 2026

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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APPEARANCES:

Panel Lead: HEARING OFFICER KIM WILSON

Panel Members: ALJ SUZANNE B. BROWN
ALJ STEVEN KIM

For the Appellant: JEFF ALMAZ
ANTHONY ALMAZ

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

SUNNY PALEY
CHAD BACCHUS
JASON PARKER

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-10 were received into evidence at page 7.)

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

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California; Tuesday, January 13, 2026

2:34 p.m.

HEARING OFFICER WILSON: We are going on the record. This is the Appeal of Skewers Lebanese Food, OTA Case No. 240917430. The date is January 13, 2026, and the time is 2:34 p.m. This hearing is being held electronically with the agreement of the parties.

I am Hearing Officer Kim Wilson. My co-panelists Administrative Law Judges Suzanne Brown and Steven Kim. I will be the lead for the purpose of conducting this hearing. However, my co-panelists and I are equal participants in deliberating and determining the outcome of this appeal.

First, will the parties identify themselves and who they represent, starting with Respondent CDTFA.

MS. PALEY: Sunny Paley for CDTFA, attorney.

MR. BACCHUS: Chad Bacchus, attorney with CDTFA.

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

HEARING OFFICER WILSON: Thank you.

And now Appellant.

MR. A. ALMAZ: This is Anthony Almaz, attorney for Appellant Skewers Lebanese Food.

MR. J. ALMAZ: Jeff Almaz, the owner and CEO.

1 HEARING OFFICER WILSON: Thank you.

2 Second, we will go over the issues to be decided
3 in this appeal. As stated in the Minutes and Orders, the
4 issues are: Whether Appellant is liable as a successor
5 for the unpaid sales tax liability of for Terranea Foods;
6 and two, whether CDTFA properly adjusted the amount of the
7 Notice of Successor Liability.

8 Ms. Paley, do you agree that these are the
9 issues?

10 MS. PALEY: Yes. Thank you.

11 HEARING OFFICER WILSON: And, Mr. Almaz, do you
12 agree that these are the issues?

13 MR. A. ALMAZ: Yes. Thank you.

14 HEARING OFFICER WILSON: Third, we will go over
15 and admit the exhibits. CDTFA submitted an exhibit binder
16 identifying Exhibits A through I.

17 Ms. Paley, is the hearing binder correct?

18 MS. PALEY: Yes. Thank you.

19 HEARING OFFICER WILSON: Mr. Almaz, do you have
20 any objections to these exhibits?

21 MR. A. ALMAZ: No. Thank you.

22 HEARING OFFICER WILSON: Okay. Appellant
23 submitted an exhibit index indicating Exhibits 1
24 through 10.

25 Mr. Almaz, is the hearing binder correct?

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MR. A. ALMAZ: It is.

HEARING OFFICER WILSON: Thank you.

And, Ms. Paley, does CDTFA have any objections?

MS. PALEY: No. Thank you.

HEARING OFFICER WILSON: CDTFA's Exhibits A through I, and Appellant's Exhibits 1 through 10 are admitted into evidence.

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

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

HEARING OFFICER WILSON: Fourth, CDTFA indicated that they do not intend to call any witnesses. Appellant indicated that Mr. Jeff Almaz would be called as a witness to testify under oath or affirmation. CDTFA did not object to the identified witness. After I go over the order of the hearing and before Appellant's presentation, I will swear in this the witness.

Fifth, we will go over the order of the hearing. Appellant will start with his opening presentation and witness testimony. CDTFA and the panel will have an opportunity to ask questions of the witness at the conclusion of Appellant's time. CDTFA will then make their presentation. Since CDTFA is not providing witness testimony, the Appellant will not have an opportunity to

1 question CDTFA. The panel may have questions for CDTFA.
2 Once questions are concluded, Appellant will have
3 five minutes for rebuttal or a closing argument.

4 Before we begin with Appellant's presentation,
5 Mr. Almaz, I need to place you under oath so that we can
6 consider your statements as testimony. You will remain
7 under oath until the close of this hearing.

8 Mr. Almaz, would you please raise your right
9 hand.

10 MR. A. ALMAZ: Can you clarify which Mr. Almaz?

11 HEARING OFFICER WILSON: Sorry. Mr. Jeff Almaz.

12 MR. A. ALMAZ: Thank you.

13

14

J. ALMAZ,

15 produced as a witness, and having been first duly sworn by
16 the Administrative Law Judge, was examined, and testified
17 as follows:

18

19

HEARING OFFICER WILSON: Thank you.

20

You may have the witness testify in a narrative
21 or ask specific questions. You requested 45 minutes.
22 Please proceed when you are ready.

23

MR. A. ALMAZ: Thank you.

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1 liquor stores, or manufactures where there is a clear
2 transfer of tangible inventory or stock of goods.
3 However, restaurants are fundamentally different. A
4 restaurant is one of the few business models where raw
5 materials are purchased, transformed, and sold under one
6 roof. By the nature of its operations, a restaurant does
7 not maintain a stock of goods in any meaningful or
8 transferable sense. The ingredients are perishable,
9 constantly turning over, and not held for resale in a
10 matter contemplated by 6812.

11 At the core of a restaurant business are
12 intangible assets: Goodwill, branding, menu, customer
13 relations, and a location. They are not a type of assets
14 Section 6812 was originally designed to regulate, and they
15 did not automatically trigger successor liability. For
16 this reason, the courts require a fact intensive inquiry
17 to determine whether successor liability truly exists. In
18 the case of restaurants, there are some certain examples
19 that -- that make it obvious where successor liability
20 could exists.

21 For example, we could take headline news, such as
22 Blackstone's acquisition of Jersey Mike's where they
23 purchased the entire restaurant chain. Jersey Mike's
24 still exist. They're interested in the intangibles, plus
25 the locations that were there. This would be the same,

1 for example, in Jack in the Box's sale of Del Taco, or
2 Roark Capital's purchase of Subway. In those
3 transactions, the buyer is acquiring the entire operating
4 business: The brand, menu, systems, location, and
5 goodwill. This purpose is to continue the same business.

6 In this case, this is not what happened here.
7 This transaction was fundamentally different. Had the
8 CDTFA conducted a proper factual inquiry, it would have
9 determined that the taxpayer never sought to acquire
10 Terranea's business as a going concern. Instead, the
11 taxpayer sought to relocate and reestablish its own
12 existing restaurant concept called the La Crêperie Cafe.
13 The goal was not to buy a family business. The goal was
14 to secure a location to move an existing brand. So the
15 facts supporting this conclusion -- well, we'll first
16 start with Mr. Jeff Almaz's testimony.

17 So at this time we would like to call Mr. Almaz
18 to testify, and he's sworn in. So is --

19 HEARING OFFICER WILSON: Please proceed.

20 MR. A. ALMAZ: Thank you very much.

21

22 DIRECT EXAMINATION

23 BY MR. A. ALMAZ:

24 Q Mr. Almaz?

25 A Yes.

1 Q I'll have to lift this up so I can see you.

2 Thank you. Can you please state your name for
3 the record?

4 A I'm Jeff Almaz.

5 Q Thank you. And how long have you been involved
6 in restaurant operations?

7 A About 20 years.

8 Q And can you briefly describe your background in
9 the restaurant industry?

10 A I owned and operated several restaurants in my
11 end, that period of 20 years. And that's what it is. I
12 mean, now I mostly administer the -- the operation, but I
13 didn't get involved in the detail of cooking and anything
14 else.

15 Q No problem. Thank you very much. And is one of
16 those restaurant concepts the La Crêperie Cafe?

17 A Yes.

18 Q And -- and when did you -- did you or did you own
19 or operate La Crêperie Cafe? And when did you begin your
20 operations as an owner of La Crêperie Cafe?

21 A I was involved with La Crêperie since 2005, and I
22 fully owned it in 2008.

23 Q And -- and which location are we're talking
24 about? Is this one location or multiple locations?

25 A 4911 In 2nd Avenue -- s2nd Street in Long Beach,

1 California.

2 Q Was that your only location?

3 A Pardon?

4 Q Was that your only location?

5 A For -- no. I opened a few other locations, but
6 that was the main one. The first one. The main one, yes.

7 Q Understood. How many locations at its peak did
8 you own? How many La Crêperie locations did you own at
9 its peak -- in your peak operations?

10 A I had one in Chino, which I closed, and I -- I
11 sold. And I had one in La Verne, California, which also I
12 transformed to different concept. And as far as I
13 remember, yes, that was it.

14 Q So to be --

15 A Oh, there's one in -- sorry -- in Long Beach also
16 on Pine Street in the -- back in 2010, I guess. That one
17 didn't last for long too. I sold it.

18 Q So -- so just to be clear for the record, you
19 had -- is that one or two in Long Beach?

20 A I had two but I -- none -- none of them -- the
21 other one did not last for long, just for a couple of
22 years. And I -- I sold it. I sold it for different
23 concept, yes.

24 Q And -- and what was the concept of La Crêperie?

25 A It's a French -- French food with a -- with a lot

1 of desserts concept.

2 Q And was it a -- a successful restaurant in Long
3 Beach?

4 A Very successful restaurant, yes.

5 Q Understood. And the first location was the --
6 was the 4911 East 2nd Street location?

7 A Yes.

8 Q Understood. And so during 2022, do you recall
9 how many locations you had at this time, and which
10 locations they were?

11 A 2022 I -- I was operating in Long Beach still.
12 And then I -- my lease was coming to an end at the time.
13 And I operated also in La Verne as a crêperie too.

14 Q Understood.

15 A La Verne, California, yeah.

16 Q Thank you. And -- and you said the Long Beach
17 location in 2022 the lease was expiring. Do you know
18 roughly when in 2022 it was expiring?

19 A December 31st, 2022.

20 Q And did you have any plans for that location or
21 what the -- what your hopes were when the lease was
22 expiring? Did you, for example, expect to renew the
23 lease?

24 A The landlord will not renew my lease. He wants
25 me to be out of that location, and he wants it for himself

1 or for another reason. I don't know. But definitely he
2 wants me out.

3 Q Understood. And what were your plans if the
4 landlord was gonna kick you out? Were you preparing
5 towards the end of the lease?

6 A I did. That's one of the reasons I moved to
7 Huntington to open a smaller place, 1200-square foot. And
8 then I leased that location so I could plan to -- to move
9 my concept to that location.

10 Q And -- and why was Huntington Beach attracted to
11 you at the time for -- for the new location?

12 A Huntington Beach was only about 15 minutes from
13 my original location in Long Beach. So -- and the -- the
14 customers or the client are about the same. So I'm
15 well-known in that area, in the Long Beach area and --
16 yes. So, basically, I wanted to transfer my customer list
17 to that location.

18 Q And -- and that location was currently occupied
19 by Terranea Foods at the time, the location in Huntington
20 Beach?

21 A Correct.

22 Q And so was the purpose -- so when you found that
23 location, how did you -- what was the plan, since it was
24 being occupied by Terranea Foods at the time?

25 A My plan was to -- my plan was to take it over,

1 start renovating until my lease will be over so I can
2 transfer all my -- my crêperie employees to that
3 location --

4 Q Understood?

5 A -- little by little to transfer them all so they
6 can start taking off starting in 2023.

7 Q And was your intent to -- when you saw Terranea
8 Foods, were -- were you looking to purchase the business
9 as a concept as a going concern, their menu, their --
10 their atmosphere, their type of business? Was that your
11 intention when you saw Terranea Foods?

12 A I didn't want. I want to transform it into La
13 Crêperie. Yeah. I didn't want anything to do with the
14 Mediterranean or the way it was operating. It was --
15 anyway, that business was failed. It -- it was failing,
16 and I have no part of it. I didn't want any part of that
17 business. I knew it was losing money, and the crêperie is
18 a very nice concept, and that's one -- and it needs -- it
19 has a lot of demands. So I wanted to transfer La -- and
20 even I advertise it on my website once I shut down the
21 La Crêperie. In 2022, I advertised it that we're moving
22 to the Huntington location, basically. I advertised it
23 for my customers.

24 Q And -- and how did you end up acquiring the
25 lease? Did you acquire the lease from Terranea Foods?

1 Did they assign the lease to you?

2 A No. I got the lease directly from the landlord.

3 Q And why directly from the landlord and not an
4 assignment from Terranea Foods?

5 A The landlord was fed up with the -- with the --
6 the current client, and then I decided to take it over.

7 Q Was -- was the current client -- I'm assuming --
8 Terranea Foods?

9 A Yeah, the current -- the -- the client that was
10 there, you know. So --

11 Q Thank you. And so -- and so in terms of the
12 location, you worked directly with the landlord, and you
13 did not deal with the Terranea Foods to acquire the lease
14 of the location?

15 A I had to deal with them. I told -- I asked them
16 to -- I -- I -- I got a few things from them just to exit
17 in dignity and not to do any damage to the location, to
18 the structure, to the bathrooms, to the counters, to
19 the -- to the walls, to the -- you know. So that's why.
20 And my incentive was to keep it in good shape so the
21 construction won't -- the construction wouldn't -- has to
22 be extreme.

23 Q And -- and to be sure, you dealt -- in terms of a
24 lease, it was -- you doing -- it wasn't an assignment of
25 the lease from Terranea Foods. You went directly to the

1 landlord to execute the lease? Is that -- is that my
2 understanding? Is that your understanding?

3 A No. I got four -- four years lease, plus four
4 optional directly from the landlord.

5 Q Okay. And then you entered into an agreement
6 with Terranea Foods. It's specified as an asset purchase
7 agreement. Can you tell me the nature of that agreement?

8 A I -- I had to do certain purchase with him. So
9 just like I said, I want to exit with dignity and
10 peaceful. I didn't want any -- any headache. So that's
11 the only reason.

12 Q So is it fair to say that the asset purchase
13 agreement was structured in a way that you would give him
14 money to exit the lease and exit the location?

15 A Correct.

16 MR. A. ALMAZ: Okay. Thank you.

17 And that will be all for Mr. Almaz.

18 MR. A. ALMAZ: So this testimony of Mr. Almaz --
19 and thank you. You can mute your -- your microphone,
20 Mr. Almaz.

21 So this testimony confirms what the documents
22 already show, that this was not an on -- a going concern
23 acquisition. It was a relocation of an existing business.
24 And -- and we can -- if he we take a look at the
25 documentary evidence, it would not only corroborate

1 Mr. Almaz's testimony, but it will show a -- a story of
2 whereby which Mr. Almaz was seeking a new location for an
3 already successful business, rather than the acquisition
4 of a restaurant concept in business of Terranea Foods.

5 I would like to present, for example, let's start
6 with the Exhibit 1. This would be Appellant's Exhibit 1.

7 Would you like me to share the screen, or is this
8 in the record for you guys to look? How would you guys
9 like to see it?

10 HEARING OFFICER WILSON: Sorry. No. We all have
11 the hearing binders. So you can --

12 MR. A. ALMAZ: Okay.

13 HEARING OFFICER WILSON: -- just refer to it.
14 Thank you.

15 MR. A. ALMAZ: Thank you.

16 So Exhibit 1, if you would like to move to the
17 page 2 of Exhibit 1. And -- and I wanted to make a first
18 note that Mr. Almaz testified that he entered into this
19 lease directly with the landlord. And most importantly is
20 to look at the paragraph 1, which is the use, which was
21 agreed to with the landlord, which they, contrary to what
22 I -- contrary to what I believe Terranea Foods lease was,
23 this was modified to include French and Mediterranean food
24 to align with Mr. Almaz's French concept through
25 La Crêperie. Most importantly, and this is for reference

1 for a later trans -- document that the lease was -- the
2 lease date was May 25th of 2022. And I' will refer to
3 this date at a later time, but I want to keep this in mind
4 for the panel to -- to take it into consideration.

5 The next exhibit I would direct the panel, if
6 they will, to Exhibit No. 10, which is an article that was
7 posted online by Long Beach -- Longbeachize. I hope I'm
8 pronouncing that correctly. It's an online blogger --
9 food blogger. And when we have it up, I can show you
10 what's important about this article. If we look closely
11 at the -- this -- this article deals with multiple
12 restaurants, but most importantly is this first bullet
13 dated January 22nd, 2023, just for your record. And which
14 it says that, "The Belmont Shore staple," which is the 2nd
15 Street location, "La Crêperie, which opened in 2000 and
16 moved to its current location on 2nd Street in 2004, has
17 officially closed its door. While owners have not
18 directly returned comment yet, a sign on the door read,
19 'We are grateful for the support and the loyalty of our
20 customers over the years, and we will always look back on
21 this journey with fond memories. They will be opening an
22 express version of La Crêperie in Huntington Beach later
23 this year while keeping the La Verne location open as
24 well. This space was hugely popular in the 2000s, opening
25 in downtown Long Beach location 2009, as well as a Vegas

1 location; both of which permanently shuttered not too long
2 after their opening.'" "

3 MR. A. ALMAZ: La Verne location as well. This
4 space highly popular 2009, as well as Vegas. Both
5 permanently.

6 HEARING OFFICER WILSON: Excuse me, Mr. Almaz.

7 MR. A. ALMAZ: Yes.

8 HEARING OFFICER WILSON: Could you just -- when
9 you're reading, just remember to slow down for our court
10 reporter. Thank you.

11 MR. A. ALMAZ: Would you like me to reread the
12 paragraph?

13 HEARING OFFICER WILSON: No. Just remember --

14 MR. A. ALMAZ: Thank you.

15 HEARING OFFICER WILSON: -- to keep it a little
16 bit slower. Thank you.

17 MR. A. ALMAZ: I will do that.

18 So this Exhibit 10 is helpful in regards to, not
19 only corroborating Mr. Almaz's testimony, but showing that
20 there was always been a desire to bring La Crêperie from
21 Long Beach to Huntington Beach. Dated January 22nd, 2023,
22 this was done shortly after entering into that lease
23 agreement with the landlord where Terranea Foods was
24 located.

25 Finally, I would like to turn to Exhibit 4 of the

1 Department's exhibits -- or excuse me -- Exhibit E of the
2 Department's exhibits, which is the report of discussion.
3 And in that exhibit, in that -- in Exhibit E, if we can
4 turn to page -- or excuse me. This would be page --
5 July 25th, 2023. This would be on page 1. The date time
6 would be July 25th, 2023. This would be a conversation
7 between Mr. Almaz and the Department regarding his
8 business at that location; the location being where the
9 prior Terranea Foods was located. He stated that he moved
10 to this location in 9 -- it's 16552 Bolsa Chica Street,
11 Huntington Beach, California, because he had another
12 location in Long Beach the he -- that the lease was up.
13 So he decided to move to this location because it was only
14 15 minutes away from his Long Beach location, and he did
15 not want to lose his customers.

16 He said that this location in Huntington Beach
17 was a Mediterranean restaurant that he wanted to turn into
18 a French restaurant. He moved in fast because he did not
19 want the owner to damage the place before eviction. He
20 stated that he moved his employees and his assets to the
21 business location, and so on and so forth. This dialog
22 between Mr. Almaz and the CDTFA also corroborates his
23 testimony that the whole purpose of this deal was to be
24 able to transform Terranea Foods to a French restaurant,
25 La Crêperie.

1 So then we can also turn to the Appellant's
2 Exhibit 4, and it's a simple -- it's an image taken from
3 the Orange County clerk recorder, indicating that the
4 trade name "Skewers Lebanese Street Food," which was a DBA
5 at the time, it's still owned by Terranea Foods; which we
6 present as evidence of Mr. Almaz's or Skewers Lebanese
7 Food, the taxpayer's desire not caring about the ownership
8 of that DBA because it was always supposed to be
9 La Crêperie in Huntington Beach. So -- so most
10 importantly, the CDTFAs primarily relies on the asset
11 purchase agreement, the lease, and the defendant's
12 occupation of the store.

13 So we -- I would like to turn our attention to
14 Exhibit No. 2 of the taxpayer's -- or the Appellant's
15 exhibit list. And I would like to turn our attention now
16 to the date of execution, which would be the second page,
17 page 2 of the Exhibit 2, indicating that the date of
18 execution being June 24th, 2022. And this date is
19 important because of the fact that the lease was executed
20 prior to -- the lease was executed prior to the execution
21 of the asset purchase agreement; indicating that the
22 desire for the lease was a priority for Mr. Almaz in
23 making this deal. Because the lease and its location was
24 the most important asset in this deal, not necessarily
25 Terranea Foods' goodwill and assets.

1 Then we also move to Exhibit 3, after discovering
2 the -- the problems with the CDTFA, the successor
3 liability, the emphasis by the CDTFA of the asset purchase
4 agreement on its own, the parties move forward with a
5 termination agreement of hopes of -- of demonstrating that
6 the -- that the taxpayer or the Appellant never cared
7 about the asset purchase agreement more than as a means to
8 get Terranea Foods out of the location so the Appellant
9 could import La Crêperie at -- into the new location.

10 Finally, I'd like to turn to Exhibit No. 5, which
11 is a declaration of Bruno Schade. Bruno Schade was the
12 CEO of Terranea Foods at the time. After -- after
13 Appellant was informed of the issues with successor
14 liability, it -- it sought to collect and -- the
15 Appellant's sought to reach out to Bruno Schade in order
16 to collect the funds, return assets, figure out a way to
17 ensure that -- that the successor liability would not fall
18 on it because it did not seek to purchase his business.
19 And Bruno Schade agreed to provide this declaration
20 showing the true nature of the agreement and the true
21 nature of the arrangement between the Appellant and
22 Terranea Foods.

23 And so when we consider the true intent of the
24 agreement between the Appellant and Terranea Foods, we can
25 see that the purpose of this deal was nothing more than to

1 obtain a location in order to import a previously existing
2 concept, La Crêperie, to a new location. Mr. Almaz was
3 losing his lease in Long Beach, understood a concept, a
4 concept he's expanded multiple times before, found a
5 location in Huntington, and sought to bring in this
6 location to that new location. Terranea Foods, a
7 defaulting tenant was losing its business. The landlord
8 sought to bring in a new tenant, Mr. Almaz, agreed to give
9 him the lease granting him the right to operate a French
10 restaurant at that location. And the rest is -- is a way
11 for Mr. Almaz to peacefully transfer Bruno Schade out of
12 that location so that he could move forward to try operate
13 and bring to life this concept that he was about to lose
14 in Long Beach.

15 We understand the CDTFA's desire to find
16 successor liability, but this is not -- I think there's a
17 fundamental misunderstanding of what restaurant businesses
18 are, unlike machinery or widget sellers. Restaurant
19 businesses are nothing but goodwill and nothing but
20 location. And so from the standard of a successor
21 liability, if you really look at what happened, you will
22 find that successor liability, based on the facts, does
23 not exist here because the Appellant never desired to
24 purchase the goodwill or the business as its going concern
25 of Terranea Foods. Rather, it sought to establish its own

1 business, which is La Crêperie.

2 And so -- and so I believe that the taxpayer is
3 not like Blackrock buying Jersey Mike's, right. In -- in
4 those deals, the buyers are purchasing valuable operating
5 businesses, established brands, functioning locations,
6 proven menus, and transferable goodwill. Those are the
7 true going concern acquisitions. Here, by contrast,
8 Terranea's lease was in default and had no marketable
9 value. There was no viable business to acquire, no brand
10 to preserve, and no real goodwill to transfer. And,
11 ultimately, the Appellant did not desire Terranea as an
12 ongoing concern, but it desired to obtain -- at least
13 peaceably -- peacefully so that it can be replaced in its
14 own preexisting concept.

15 And so with that said, we move over to the second
16 issue, which is the CDTFA improperly increasing the Notice
17 of Successor Liability after it filed a determination.
18 Excuse me. So to reiterate, in June 23, 2020 -- or excuse
19 me, not June 23. It was, I believe -- well, let's put it
20 this way. The taxpayer requested penalty relief on the
21 advice of the CDTFA to have the penalties relieved from
22 Terranea's successor liability. To have the penalties
23 remove from its Notice of Successor Liability. On
24 August 11th, 2024, the CDTFA Appeals Bureau issued a
25 decision against taxpayer where the deadline to appeal to

1 the Appeals Bureau itself expired on September 11th, 2024.
2 On September 10, 2024, taxpayer submitted its application
3 for appeal to the OTA. Then after that was submitted and
4 accepted by OTA, on November 12, 2024, the CDTFA approved
5 the penalty relief.

6 However, on November 13th of that same year, the
7 next day, the CDTFA negated the relief by increasing the
8 tax portion of amount of successor liability to the amount
9 of the penalty relieved so that no matter what, the CDTFA
10 would collect \$40,000. The CDTFA was wrong to do so, and
11 the law here is straightforward. Revenue & Tax Code
12 section 6563(a) clearly limits the CDTFA's authority to
13 change a determination, except in limited cases. That is,
14 the Department may increase or decrease the amount only
15 before the determination becomes final. And even then, an
16 increase is permitted only if asserted at or before a
17 hearing. Once a determination becomes final, the CDTFA
18 can no longer -- no longer has authority to change it.
19 Under the regulation, a determination becomes final 30
20 days after the Department issues its decision on a
21 petition for redetermination.

22 In this case, that occurred on or about
23 September 11, 2024. The CDTFA now argues that no final
24 determination exists because the taxpayer appealed. That
25 argument does not make any sense. If the CDTFA's position

1 were correct, then no determination would ever be truly be
2 final while the OTA appeal is pending; which means that
3 the Office of Tax Appeals would lack jurisdiction to hear
4 a case at all. Even the OTA's own guidance confirms
5 our -- our application.

6 Let's turn to Exhibit 7 of the taxpayer's
7 Exhibit 7, and we'll move over to page 2. This is a nice
8 brochure provided by the Office of Tax Appeals. If we
9 move down to page 2 under the header "Process for an
10 Appeal," in the event a dispute persists after either the
11 CDTFA or FTB make a final determination, the taxpayer may
12 appeal to the OTA a final determination. Now, there's
13 very little case law on the issue of what is a final
14 determination. But I believe the OTA, in common sense,
15 comes to the same conclusion. Appeals only have --
16 appeals can only happen after a final determination by the
17 CDTFA is made. If not, there's nothing to appeal. If the
18 CDTFA's decisions were not final, as between the CDTFA and
19 the taxpayer, this appeal would not even be right. That
20 is, the OTA would not have any jurisdiction, and this is
21 clearly not how an appeals system works. Or, at least,
22 the OTA doesn't even seem to think so.

23 For instance, per the -- OTA's own regulations,
24 if a taxpayer appeals to both the Appeals Bureau and the
25 OTA, the OTA will deny jurisdiction until a final decision

1 is issued by the Appeals Bureau. The same principle
2 applies here. Therefore, the CDTFA's determination was
3 final 30 days after it issued its decision regardless of
4 this appeal. Because of that, the CDTFA had no authority
5 to increase the amount after it became final between it
6 and the taxpayer. Its attempts to do so violates
7 Revenue & Tax Code section 6563(a).

8 And that concludes our matter.

9 HEARING OFFICER WILSON: Thank you. You still
10 have a little bit of time remaining. So on your closing,
11 you can have an additional 10 or so minutes.

12 MR. A. ALMAZ: Thank you very much.

13 HEARING OFFICER WILSON: Let's go to CDTFA.
14 Do you have any questions for the witness?

15 MS. PALEY: No. Thank you.

16 HEARING OFFICER WILSON: Okay. And now the
17 panel.

18 Judge Brown, do you have any questions for
19 Appellant?

20 JUDGE BROWN: Yes. Thank you. I may have a
21 question for the witness, Mr. Almaz.

22 You had already secured the lease with the
23 landlord at the time that you entered into the termination
24 agreement with -- with Skewers; correct?

25 MR. J. ALMAZ: We -- we didn't have any

1 termination agreement with Skewers. When --

2 JUDGE BROWN: Oh, sorry. The asset purchase
3 agreement. My question is, wasn't -- you said that you
4 entered into the agreement with Skewers so that they would
5 peaceably remove themselves. So my question is, wasn't
6 that the landlord's problem, not your problem to get
7 Skewers to leave peaceably?

8 MR. J. ALMAZ: I secured the lease with the
9 landlord. That was my first step. Second, yes, the
10 landlord could get him out but by force; basically, by
11 unlawful detainers and the other stuff. But we never know
12 what the client will do in damages. Like, what the guy
13 that is leaving very sad and very ugly eviction, it might
14 bring to that location. It might have do damages in the
15 walls, in the bathrooms, and the structure of the place.
16 So I didn't want that to happen, so I want a peaceful
17 transition.

18 JUDGE BROWN: Did you have any reason to believe
19 that that was going to happen, that the peace -- that the
20 Skewers wasn't going to vacate the premises peaceably?

21 MR. J. ALMAZ: Experience, my experience in --
22 I -- I have few evictions, and the experience -- my
23 experience was things happen when things don't -- don't
24 do -- when they're not peaceful, yes, things happen. I
25 mean, out of my experience, I have lot of this kind of

1 cases in -- in my experiences.

2 JUDGE BROWN: Okay. Those are all my questions
3 for Appellant right now. Thank you.

4 HEARING OFFICER WILSON: And Judge Kim, do you
5 have any questions for Appellant or the witness?

6 JUDGE KIM: Yes, I have some questions.

7 So Mr. Almaz, Jeff Almaz, in your experience,
8 when a previous tenant leaves -- or if you know about
9 this, if a previous tenant leaves, do they typically take
10 their fixtures and equipment with them, or do they just
11 abandon them on the premises?

12 MR. J. ALMAZ: You're asking me out of my
13 experience?

14 JUDGE KIM: Yeah, if you know.

15 MR. J. ALMAZ: Okay. They do take all the good
16 equipment, and they leave all the malfunctioned equipment,
17 rusty, greasy, and dirty in that case. In most cases,
18 yes, they leave everything in a very bad shape, and they
19 do damages to the property.

20 JUDGE KIM: So when Terranea vacated the
21 property, so did you have an expectation that they would
22 actually leave their equipment there in good operating
23 order?

24 MR. J. ALMAZ: I expect them, like I said, for
25 them to leave and -- and take the good equipment and leave

1 me the rusty equipment or whatever greasy and dirty. And
2 they might break through the walls while they're moving
3 stuff, so -- or damage or, like, damage refrigeration,
4 like walk-in cooler. They could do the damages to the
5 refrigeration compressors and stuff like this. So I
6 didn't want it. I wanted peaceful transition. I want
7 everything to be functioned in the place, especially, the
8 fixture and the hood and the stuff like this.

9 JUDGE KIM: Okay. And so Skewers Lebanese Food,
10 Appellant's business, when did Appellant form the business
11 and incorporate and register with California Secretary of
12 State? Either Mr. Almaz could answer, I guess.

13 MR. A. ALMAZ: Well, I'll tell you right now.

14 MR. J. ALMAZ: Are you asking me, sir?

15 JUDGE KIM: Either you or your representative.

16 MR. A. ALMAZ: Yeah. It looks like -- excuse me
17 Judge Kim. It looks like the -- the filing occurred on
18 May 11th, 2022.

19 JUDGE KIM: Okay. So shortly before entering
20 into the lease agreement and the asset purchase agreement?

21 MR. A. ALMAZ: That's correct.

22 JUDGE KIM: So you formed -- Appellant formed
23 this business, and then shortly after it entered into an
24 asset purchase agreement for a business called Skewers
25 Lebanese Street Foods. Terranea was operating DBA Skewers

1 Lebanese Street food. But Appellant did not intend to
2 operate the same business with a similar name?

3 MR. J. ALMAZ: Is it for me, the question?

4 JUDGE KIM: You can answer, yes.

5 MR. J. ALMAZ: Okay. My lease in -- in the
6 original location at La Crêperie was ending in December
7 2022. I had all my employees located there, and the
8 operation was still going on. So meanwhile, I kept to
9 whatever the concept until -- until that date will come so
10 we can transform the place, and then we can open it as
11 La Crêperie. We advertised it. After the closing in
12 2020 -- in December '22, our team was going to move to
13 Huntington Beach. So that's the reason we kept the -- the
14 operation the way it is. And that's reason I kept
15 Mediterranean in the lease.

16 I kept it just in case, because I couldn't
17 operate two -- two crêperie at the same time because the
18 staff, my have -- my -- my chefs and my experienced staff,
19 that they know how to deal with the French concept, and
20 they were not available until January of '23.

21 JUDGE KIM: Okay. And just to confirm, Appellant
22 did pay Terranea Foods Inc., the \$40,000?

23 MR. J. ALMAZ: Yes, I did.

24 JUDGE KIM: And Terranea has not returned those
25 funds to you?

1 MR. J. ALMAZ: We canceled the agreement, and we
2 were promised to get it back, but we never got anything
3 from that person. We never got anything, you know,
4 like --

5 JUDGE KIM: Okay.

6 MR. J. ALMAZ: No. We didn't.

7 JUDGE KIM: Okay. Thank you. I don't have
8 anymore questions at this time. Thank you.

9 HEARING OFFICER WILSON: Okay. I did have one
10 question in regards to the asset purchase agreement. How
11 did you determine the breakdown for the \$40,000, the
12 inventory of \$1,500, the tangible assets of \$8,000, and
13 then the intangible goodwill of \$30,500?

14 MR. J. ALMAZ: Are you asking me the question?

15 HEARING OFFICER WILSON: Yes.

16 MR. J. ALMAZ: Okay. I don't have it in front of
17 me. I don't. Sorry. Okay. What was the question?

18 HEARING OFFICER WILSON: How did you determine
19 the breakdown for the -- of the purchase price of \$40,000,
20 \$1,5000 for inventory, the other tangible assets of
21 \$8,000, and then goodwill intangible assets of \$30,500?

22 MR. J. ALMAZ: Based on the whatever the -- the
23 aging of the equipment and the -- they -- they left
24 some -- some like -- some of the inventory. So we just
25 divided it into the -- the \$40,000. I wanted to give him

1 the \$40,000. So that's what happened.

2 HEARING OFFICER WILSON: So you were able to
3 inspect the equipment and then determine the valuation?

4 MR. J. ALMAZ: Actually, no. I know it's all old
5 equipment. I don't use those equipment at all in my -- my
6 own business. So they weren't valuable to me at all. You
7 know, like, I just wanted to bring my own equipment in the
8 future, but, you know.

9 HEARING OFFICER WILSON: Okay. So -- and then
10 how did you determine the \$8,000 for assets if you didn't
11 believe the equipment was valuable?

12 MR. J. ALMAZ: He determined it. He said, you
13 know, we -- we agreed on a price. We checked. He said
14 the equipment is worth so much, and I'm going to inventory
15 so much. And that's how we determined it based on that.
16 Like I said, in the bottom line, I didn't need any of the
17 equipment. I didn't need. I'm -- I was bringing my own
18 equipment, even though I start installing some of my
19 equipment after I took it, by the time I get my people
20 into the location. Like the salamander and the crepe
21 machines and the voltage, the 220 voltage that the crepe
22 machines will work with. So basically, I start little by
23 little bringing my -- the equipment that I'm going to be
24 using in -- for the crêperie.

25 HEARING OFFICER WILSON: Okay. Thank you.

1 amount has been paid; or two, the Department issues a
2 certificate stating that no amount is due.

3 The purchaser or successor is liable for up to
4 the purchase amount paid; in this case, \$40,000. With use
5 of an escrow company, when clearances are sought timely
6 and issued prior to closing a transaction or sale of a
7 business, buyers are protected from incurring the seller's
8 liabilities. According to Regulation 1702, the liability
9 of the successor extends to amounts incurred in relation
10 to the operation of the business by the predecessor,
11 including the sales thereof, even though not yet
12 determined against the predecessor; and it includes taxes
13 and applicable interest up to the date of payment of the
14 taxes. The purchaser of the business will be released
15 from the obligation to withhold as required, if they
16 obtain a tax certificate clearance from the Department
17 stating that no taxes, interest, or penalties, are due
18 from the predecessor; Regulation 1702 subdivision(c).

19 The purchaser will also be released if the
20 purchaser makes a written request to the Department for a
21 tax certificate clearance, and the Department does not
22 issue a clearance within 60 days; Regulation 1702
23 subdivision (c) and Revenue & Taxation Code section 6812
24 subdivisions (b)(c). In this case, in June 2022, Terranea
25 sold its Huntington Beach, California restaurant to

1 Appellant. The asset purchase agreement, located at
2 Exhibit A-1, shows Terranea sold the business to Appellant
3 for \$40,000, inventory of \$1,500, tangible assets of
4 fixtures, equipment, and furniture of \$8,000, and
5 intangible assets of the business, including the name,
6 lists, website, and reputation and goodwill of \$30,500.
7 Terranea was delinquent in filing their returns and was
8 undergoing an audit when Skewers and Terranea executed
9 their asset purchase agreement.

10 As shown in the Assessor Liability Memorandum,
11 Exhibit C, Appellant did not go through an escrow company
12 for the sale, did not request a clearance certificate, and
13 did not withhold from the purchase price an amount
14 sufficient to cover any outstanding sales and use tax
15 liabilities. Under such circumstances, Revenue & Taxation
16 Code section 6812 subdivision (a) renders Appellant liable
17 for the amount that was required to be withheld to satisfy
18 Terranea's unpaid sales tax liabilities up to the extent
19 of Appellant's purchase price. On June 23rd, 2023, the
20 Department issued a Notice of Successor Liability,
21 Exhibit B, for the unpaid sales and use tax liabilities of
22 the predecessor for the liability period April 9, 2019,
23 through June 30th, 2022, based on Terranea's Notices of
24 Determination, which are at Exhibit F, and the underlying
25 work papers, Exhibit G.

1 The liability was limited to the purchase price
2 of \$40,000. As addressed in Exhibit D, The Report of
3 Discussion Compliance Investigation Findings, Appellant
4 has contended that they were unaware of the outstanding
5 liability, but neither section 6811 nor 6812 requires that
6 a purchaser be aware of the seller's outstanding tax
7 liability or expressly assume the seller's debts for
8 successor liability to attach. Regulation 1702 places an
9 affirmative duty on a purchaser.

10 Appellant has also claimed that they did not
11 purchase a business because Terranea had defaulted on its
12 lease. But the lease is not the lynchpin of the sale, nor
13 was the lease even mentioned in the asset purchase
14 agreement. Appellant also later asserted that the
15 agreement was terminated as of February 13th, 2023;
16 Exhibit A-1. But there was no evidence that the sale
17 actually rescinded. Appellant retained the business, and
18 there is no evidence that any of the purchase amount paid
19 was returned. Even if there was evidence of a valid
20 recission of the asset purchase agreement, longstanding
21 precedent holds that successor liability still applies.
22 For if a recission was true and valid, it still does not
23 change the fact that the predecessor sold the business or
24 stock of goods to Appellant in 2022 -- June of 2022.

25 In the course of this appeal, as addressed in the

1 original and additional briefs, the Department
2 appropriately canceled penalties assessed in the original
3 Notice of Successor Liability, Exhibit I-1, since there is
4 no relationship between the predecessor and successor and
5 adjusted the tax due accordingly. This resulted in no
6 change to the total amount due; again, limited to the
7 purchase price of \$40,000. In conclusion, based on the
8 law and evidence, Appellant is liable as a successor, and
9 there is no basis for relief in this form.

10 Thank you.

11 HEARING OFFICER WILSON: Thank you.

12 Let's have the panel.

13 Judge Brown, do you have any questions for CDTF?A?

14 JUDGE BROWN: I don't think I have any questions
15 at this time. Thank you.

16 HEARING OFFICER WILSON: Okay. And, Judge Kim,
17 do you have any questions for CDTF?A?

18 JUDGE KIM: No, I don't have any questions at
19 this time. Thank you.

20 HEARING OFFICER WILSON: Okay. I did have a
21 couple of questions. I noticed that in the complaint's
22 notes, which is Exhibit E on page 90 of the hearing
23 binder, that on 5/9/24 there was an escrow request for the
24 sale of the business from Appellant to another party. It
25 appears that the other party also received a Notice of

1 Successor Liability. Can you confirm that?

2 MS. PALEY: Can you say the dates again? I
3 apologize.

4 HEARING OFFICER WILSON: It is May 9, 2024.

5 MS. PALEY: I would need to defer to Mr. Parker,
6 specifically, but, yes, it indicates that there was --
7 that the business was sold subsequently to -- and I may
8 mispronounce the name. I apologize. -- Kawashti
9 Mediterranean Food. And then there was a sale for
10 \$105,000. But I would need to defer to Mr. Parker
11 regarding that specific clearance.

12 MR. PARKER: Hi. This is Jason Parker. Yes, we
13 send a notice to Kawashti Mediterranean Food for successor
14 liability information as part of the sale of Skewers to
15 Kawashti.

16 HEARING OFFICER WILSON: Okay. My next question
17 is, there's also notes on June 12th of '24, the same
18 exhibit page, that escrow is holding \$7,000 and a note on
19 10/7/24 to escrow to withhold \$39,995.87 from the sale.
20 Were any of these amounts received from the sale?

21 MR. PARKER: This is Jason Parker. Not that I
22 see in our system.

23 HEARING OFFICER WILSON: Okay. Thank you. That
24 was my question for the Department.

25 Before we conclude, Mr. Almaz, you have time for

1 your rebuttal. Like I mentioned, you have 5 minutes plus
2 you have an additional 10 from your earlier presentation
3 to make any final statement or rebuttal to CDTFA's
4 presentation; and you can proceed when you are ready.

5 MR. A. ALMAZ: Excuse me. Can you hear me?

6 HEARING OFFICER WILSON: Yes.

7 MR. A. ALMAZ: Thank you.

8

9

CLOSING STATEMENT

10 MR. A. ALMAZ: Other than -- other than to
11 reemphasize the CDTFA's position hinges significantly on
12 the asset purchase agreement, which I understand. But if
13 we look at the asset purchase agreement, it's a one-page
14 document, maybe two. I can't recall off of the top of my
15 head. It -- it -- if we look at the -- the substance of
16 the agreement and the -- and the circumstances surrounding
17 it, I think we can find what the truth is in this case.
18 And, in this case, it's just a transaction by which
19 Mr. Almaz, through the Appellant, was seeking to -- to
20 import La Crêperie to that location. Although things
21 didn't work out the way, you know, he envisioned it, and
22 no small part to potential successor liability issue,
23 this -- it doesn't defeat the fact that he was seeking to
24 save a concept that he was losing in Long Beach.

25

Other than that, I will then just request that

1 the OTA on the second issue, which would be the penalty
2 abatement, even for my own purposes, hopefully, an opinion
3 that would help us understand when is a final
4 determination made, and so we can figure out when the best
5 time to seek abatement penalty is in the next case similar
6 to this. Because failure to have some finality with the
7 CDTFA Appeals Bureau would throw the OTA's appeals process
8 in flux the way I'm looking at it.

9 And other than those last few statements, I will
10 recede the rest of my time.

11 Thank you.

12 HEARING OFFICER WILSON: Thank you.

13 One final time with the panel.

14 Judge Brown, any questions for either party?

15 JUDGE BROWN: I don't have anything further.

16 Thank you.

17 HEARING OFFICER WILSON: Thank you.

18 And, Judge Kim, do you have any questions for
19 either party?

20 JUDGE KIM: No further questions. Thank you.

21 HEARING OFFICER WILSON: Okay. And I don't have
22 any further questions.

23 Therefore, this case is submitted on January 13,
24 2026. The record is now closed.

25 I want to thank everyone for their presentations

1 today. The panel will meet to deliberate and decide your
2 case. We will issue a written opinion within 100 days.
3 Today's hearing in the Appeal of Skewers Lebanese Foods is
4 now concluded.

5 (Proceedings concluded at 3:33 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 9th day of February, 2026.

ERNALYN M. ALONZO
HEARING REPORTER