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APPEARANCES :

Panel Lead:	TOMMY LEUNG
Panel Members:	HUY "MIKE" LE JOSH LAMBERT
For the Appellant:	WILLIAM H. GORROD
For the Respondent:	LAWRENCE XIAO ELLEN SWAIN

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1 and 2 were received on page 5)
(Respondent's Exhibits A through G were received on
page 6)

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By Mr. Xiao	26

1 Sacramento, California; Wednesday, February 18, 2026

2 1:35 p.m.

3
4
5 JUDGE LEUNG: This is the Appeal of Fulzele
6 and Satarkar, the docket number is 240716600. Today's
7 date is February 18th. It is approximately 1:35 in the
8 afternoon.

9 Will the parties please introduce themselves
10 starting with the Appellants.

11 MR. GORROD: William Gorrod -- William Gorrod,
12 representative for the Appellants.

13 JUDGE LEUNG: Thank you. For Franchise Tax
14 Board?

15 MR. XIAO: Lawrence Xiao for the Franchise Tax
16 Board.

17 MS. SWAIN: Good afternoon, Judge, Ellen Swain
18 for the Franchise Tax Board.

19 JUDGE LEUNG: Welcome to all. Before we get
20 started, the exhibits were submitted to OTA prior to
21 today's hearing. The Appellants submitted Exhibits 1
22 and 2, without -- without -- without objection from the
23 Franchise Tax Board. They will be admitted into the
24 record.

25 (Appellant's Exhibits 1 and 2 were

1 admitted into evidence.)

2 JUDGE LEUNG: Franchise Tax Board submitted
3 Exhibits A through G, as in George, without objection,
4 and they, too, will be admitted into the record.

5 (Respondent's Exhibits A through G were
6 admitted into evidence.)

7 JUDGE LEUNG: We have a total of about 75
8 minutes for today's hearing. Thirty for the Appellants,
9 and 25 for the Franchise Tax Board. And the Appellants
10 get five minutes at the end for rebuttal, should they
11 choose to decide to use those extra five minutes.

12 Any questions, Mr. Gorrod?

13 MR. GORROD: No questions, Judge.

14 JUDGE LEUNG: Mr. Xiao?

15 MR. XIAO: No questions.

16 JUDGE LEUNG: Okay.

17 Mr. Gorrod, you can start.

18

19 PRESENTATION

20 MR. GORROD: Thank you. So for the 2020 tax
21 year, the taxpayer Satarkar, Fulzele, who's -- who is at
22 issue here and his wife, Ms. Satarkar, appeal the -- the
23 notice of action, which we included as Exhibit 1, which
24 proposed additional tax and interest totaling \$623,093,
25 which included \$541,517 of tax plus additional interest

1 that was computed through May 30th, 2024.

2 To summarize, the taxpayers were California
3 residents through 2018, which is stipulated for 2018 and
4 became California non-residents in 2019. And it
5 stipulated that they were California non-residents for
6 the 2020 tax year, which is at issue here.

7 The notice of action erroneously proposes
8 adjustments attributable to the -- as purported by the
9 FTB installment sale from 2018 when the taxpayers were
10 California residents, which the FTB assert should be
11 South California source income in 2020.

12 This earnout is properly characterized as
13 unvested property subject to a substantial risk of
14 foreclosure, which was vested and properly recognized in
15 2020 when the taxpayers were Texas residents and
16 California non-residents. As such, that income from the
17 earnout payment, which was recognized in 2020, is not
18 California sourced income.

19 And so the -- the primary issue here is -- is
20 fundamentally whether this earnout payment constituted
21 an installment sale as purported by the FTB or was
22 unvested property substantial -- subject to a
23 substantial risk of forfeiture, which -- which vested
24 and -- and the risk of forfeiture lapsed in 2020 when it
25 was recognized by the taxpayers as nonresidence.

1 In -- in the alternative, that is determined
2 to be an installment sale, which we believe it should
3 not. There's a secondary issue of whether that
4 installment sale would've acquired a set situs in Texas
5 rather than California, as such be non California source
6 income.

7 So for -- for a background of the facts from
8 2014 to 2018, the taxpayers for California residents
9 filed joint California resident returns. Mr. Fulzele
10 co-founded and was the CEO of a company called Cloud
11 Lending. It had a prior name MFIFLEX incorporated, but
12 we'll refer to it throughout as Cloud Lending.

13 In -- in October 20 -- October 16th, 2018,
14 which we'll call the merger date, Cloud Lending was
15 acquired by Q2 Software for \$105 million pursuant to a
16 merger agreement. That merger agreement, which we'll
17 refer to as the agreement we submitted as Exhibit 2.

18 The acquirer Q2 was -- was headquartered in
19 Austin, Texas. And as part of the transaction,
20 Mr. Fulzele was required to work at that headquarters in
21 Texas to continue to manage Cloud Lending. He -- he was
22 required to move to Austin and -- and manage Cloud
23 Lending as the general manager through 2020.

24 Under the terms of that transaction Q2 was
25 required to deposit 10% of the purchase price,

1 \$10,500,000 in an escrow fund that was not subject to
2 the claims of any creditors. And that's referenced in
3 the -- I'll refer to that, the merger agreement Exhibit
4 2 as the agreement Section 2.1.

5 Under the terms of that agreement, all of the
6 equity holders sold their shares -- their shares in
7 the -- in the preexisting entity Cloud Lending in
8 exchange for cash, which is not an issue here, and an
9 earnout payment, which is an issue here which was --
10 which would result in payments to only in the event that
11 Cloud Lending reached certain targets for which to
12 discuss later. And that's provided in the agreement
13 Sections 2.6 and 2.14.

14 So qualification for these earnout payments
15 was based on Cloud Lending, achieving what they called
16 an ARR run rate, which essentially was a -- a certain
17 level of recurring contractual subscriptions and
18 portfolio fee invoices on two certain measurement dates
19 of June 30th, 2019, and March 31st, 2020.

20 If they -- if those measurements were not met,
21 then there was -- there was no earnout payment at all
22 due, and the taxpayer would receive nothing. There was
23 a sliding scale whereby certain targets were met.

24 There were payments to the overall recipients
25 of the -- of the earnout property ranging from 20 to 40

1 million. Mr. Fulzele was a smaller portion of that and
2 capped at the 40 million.

3 And so if these targets were met as of these
4 measurement dates of June 30 -- 19 and March 31st, 2020,
5 which had some procedures for the actual payout, which
6 I'll discuss later, then Q2 would be required to make
7 those earnout payments. And that's provided again in
8 agreement Section 2.14. And these conditions were the
9 same for payment of the earnout were the same for all
10 equity holders.

11 So in 2018, at the time of the transaction,
12 Mr. Fulzele recognized approximately -- a gain of
13 approximately 10.7 or 8 million on the sale of his stock
14 in Cloud Lending for cash. That's not an issue here.
15 What is at issue is here is if he recognized that and
16 paid California tax on it as a resident. What's an
17 issue here is solely the earnout.

18 So from the transaction date on October 16th,
19 2018, he took about two months off, and none of these
20 facts are in dispute. We -- I don't think we've had any
21 factual disputes in -- in either of the briefs.

22 He traveled to Dubai on vacation with his
23 family for approximately two months, and then began
24 employment with Q2 in Austin, Texas in December 2018.
25 And during that period beginning of December 18, he

1 traveled significantly to Texas to work on the
2 integration of Cloud Lending with Q2.

3 He began his employment there in mid-December
4 2018, and then on February 19th, 2019 -- so
5 approximately two months later -- Mr. -- the -- the
6 taxpayers and their children moved to Texas and
7 established Texas domicile February 19th, 2019.

8 And he continued to perform the services for
9 Q2 and Cloud Lending entirely from Texas from the date
10 of that move until he left the company on December 15th,
11 2020.

12 So in 2020, Cloud Lending achieved certain ARR
13 run rate targets and the -- all of the equity holders,
14 including Mr. Fulzele, became entitled to the Earnout
15 payments. So he received -- in 2020, he received a
16 total of 4,334,568 of payments, which included
17 \$1,345,586 on May 1st, 2020, based on the first ARR run
18 measurement date of June 30th, 2019, and just under \$3,
19 \$2,988,092 on July 2nd, 2020, based on the ARR
20 measurement date of March 31st, 2020.

21 So beginning February 1st, February 19th,
22 2019, it's undisputed that they were California
23 non-residents. This is stipulated for 2020, which is
24 the only tax year at issue here. Accordingly, they did
25 not have source income and did not file a California

1 return.

2 The FTBs proposed adjustment is based on a
3 characterization of this earnout as an installment sale
4 under IRC 453. The FTB contends that because Mr.
5 Fulzele was a California resident in 2018, and it
6 characterizes this as an installment sale. We believe
7 incorrectly that this -- that the subsequent payments
8 under the earnout were California's sourced income to
9 Mr. Fulzele as a non-resident in 2020.

10 For the reasons I'll go through here shortly,
11 the earnouts properly characterized as unvested property
12 subject to a substantial risk of foreclosure, which was
13 properly vested in recognizing income in 2020 when the
14 taxpayers were California non-residents. And
15 accordingly, because that intangible property vested was
16 recognized in 2020 was not California's source income to
17 an extent.

18 And I think it's helpful here, we included the
19 brief to go through some, an overview of kind of the
20 federal tax requirements, and I think IRC Section 83
21 provides some significant guidance on what it means to
22 have a substantial risk of forfeiture and when property
23 is recognized.

24 And we referenced in the brief, but I'll refer
25 the -- the OTA to IRS revenue ruling 2007-49, which was

1 a merger sale transaction where an acquiring corporation
2 acquired half of an employee's vested stock and acquired
3 corporation for cash, similar to our case and the other
4 half for unvested stock in the acquiring corporation.
5 So the employee had vested stock in the original
6 corporation, the acquiring corporation similar to ours,
7 paid cash for some of that stock and gave unvested stock
8 in the new company.

9 The IRS determined that that unvested stock
10 was taxable at the time when it became substantially
11 vested and was no longer subject to a substantial risk
12 of a forfeiture, which unquestionably recognizes here
13 that it's possible to impose vesting restrictions on
14 property like the earnout at the time of the merger.
15 That could run for some period of time after that.

16 In addition to California's conformance with
17 Section 83, California also conforms with IRC 409-A,
18 which has an addition -- addition to tax for certain
19 deferred compensation. The federal edition is 20% and
20 the California is 5%. But California conforms in all
21 other substantial respects, and the overarching
22 principle of 409-A is that income is recognized when the
23 taxpayer, when there's a right to receive the income
24 without a substantial risk of forfeiture.

25 And if the -- if the certain requirements are

1 not satisfied, which one in part is having all equity
2 holders have the same terms, then there's this addition
3 to tax for both California and Federal tax purposes.

4 And under -- under the regulations to 409-A,
5 1.409-A-3_ 154-A. The time period of deferral was
6 treated at the beginning on the date when the property
7 became not -- no longer subject to a substantial risk of
8 forfeiture.

9 And so the important -- important point here
10 to be made is that when there are persons who previously
11 sold vested stock at the time of merger, and those
12 vesting restrictions delay recognition of that income
13 from the -- until the date of vesting, that's when the
14 income is recognized is when those vesting restrictions
15 lapse.

16 The FTB has -- has asserted that this is an
17 installment sale under IRC 453. Under IRC 453, an
18 installment sale is a disposition of property where
19 there's at least one payment received after the close of
20 the taxable year in which the disposition occurred.
21 That's 453-B1.

22 And under installment sale, the income is
23 recognized in the proportion of the gross profit bears
24 to the amount received in that year to the total
25 contract price, which will be important as I'll discuss

1 in a minute.

2 So for our California non-resident sourcing
3 requirements, California conforms to the Internal
4 Revenue Code for these tax years as of January 1st,
5 2015. And for non-residents -- non-residents are
6 subject to California tax to the extent of California
7 source income.

8 The California conformity includes conformity
9 with the timing for taxation of stock and other equity
10 compensation and -- and those vesting restrictions and
11 the -- the lapse for the time of recognition of
12 respected.

13 So to the extent an equity holder was not
14 working in California during the vesting period,
15 California generally does not impose California income
16 tax on that equity.

17 Now, for a non-resident income from intangible
18 property such as fixed shares of stock in a corporation
19 it's taxable to a non-resident as California source
20 income only if that intangible property has acquired a
21 situs in California, which Section 17952-C of the
22 regulations provides, there's a situs in California if
23 it's localized for it in another state, if it's
24 localized in connection with the business, trade or
25 profession of the state.

1 So it is substantial use and value attached to
2 and become an asset of the business trade or profession
3 of the state.

4 And so for installment sales under a regular
5 under Section -- California revenue taxation code
6 7952-D. I -- I apologize, that's the regulation.
7 Regulation 7952-D, provides the example that if a
8 California resident sells intangible property of the
9 installment method and substance becomes a non-resident.

10 Any gain attributed whether those installment
11 payments is California's source income absent of
12 business situs is exception, which -- which goes to this
13 -- the -- the second point here of if we're -- in the
14 alternative that would determined to be installment
15 sale, this site is provision becomes important.

16 So what these requirements do not address is
17 where there's new vesting restrictions imposed on
18 property after the effective date of the sale as we have
19 here.

20 And I'll -- I'll refer the OTA to be the case
21 which we cited in the brief of 2009 Malos Family Trust,
22 which dealt with situsing the business of intangible
23 property goodwill in that case, and provided that where
24 the taxpayer extends his activities with respect to the
25 intangibles to avail himself of the protection and

1 benefit of the laws of the state such as to bring his
2 personal property within the reach of the tax gathering.

3 There -- the reason for a single place of
4 taxation no longer exists. And so a taxpayer no missile
5 on one state carrying business on another is subject to
6 tax based on the value intangibles used there.

7 So here, as I've mentioned, I think that for
8 California purposes, the guidance that we have related
9 to Section 83 property is under Publication 1004 --
10 1004, which provides for restrict certain types of
11 compensation such as restricted stock are allocated
12 based on the California for a non-resident based on the
13 California work days from the grant date to the best
14 date.

15 So under the example provided, if a California
16 resident purchased stock subject to a substantial risk
17 of forfeiture for a four-year period and subsequently
18 became a California non-resident, the -- the gain on
19 that restricted stock would be allocated based on
20 California work days to total work days within that
21 grant to vest period.

22 And so based on those federal and California
23 requirements and the California conformity with those
24 federal requirements, this earnout is not California's
25 source income to any extent because it was improperly

1 included in income when it was became fixed and
2 determinable invested in 2020.

3 So under Section 2.1 of the agreement -- of
4 the merger agreement, the earnout was funded with escrow
5 funds that Q2 deposited and all equity holders were
6 treated the same, and so under 409-A, which they
7 comported with, this was not deferred compensation until
8 there was a lift of a substantial risk of forfeiture,
9 which happened at the time Cloud Lending achieved the
10 ARR run rate targets on those two measurement dates.

11 Accordingly, the -- the earnout was properly
12 vested. These two payments were properly vested Include
13 income by Mr. Fulzele in 2020 at the date of the
14 earnouts payments are the earliest 15 days prior to
15 each, pursuant to 2.14 of the agreement when they became
16 no longer subject to a substantial risk of forfeiture.
17 And again, I'll reference revenue ruling 2007-49.

18 The FTB, as I mentioned to the assert, this is
19 installment payment, the FTB's brief notably goes off
20 the assumption that this was an installment payment
21 without any analysis whatsoever of IRC - first
22 determination that it is an installment payment which we
23 disagree with.

24 They do note that Section 510 of the agreement
25 refers to a deferred contingent purpose price eligible

1 is the language used for installment treatment under
2 453. However, this isn't like a normal installment
3 agreement because this earnout was subject to a
4 substantial risk of forfeiture if these targets were not
5 met.

6 If Cloud Lending didn't meet these certain
7 targets, then there could have been no payment
8 whatsoever or widely varied amounts of payments.

9 And importantly, under installment sale, that
10 allocation of any gain based on the proportion of the
11 payment received to the total contract price would be
12 impossible here, where there's no way to know what the
13 total payment would be for either of the earnout
14 payments.

15 And so I think there are a couple other points
16 related to the FTB's argument on the installment
17 treatment. First, the FTB notably the agreement is --
18 is somewhat imprecise in referring to the transaction
19 being eligible for installment treatment. They also
20 refer to retention consideration, the agreement as
21 merger consideration rather than compensation, which is
22 what it should actually be referred to as.

23 And I think the point is that for federal
24 purposes, ultimately the meaning of that provision in
25 the agreement is the same if the earnout is deferred and

1 recognized at the time of the earnout payments, if any.

2 And in addition, it simply states that they're
3 eligible for it for installment treatment. And the
4 terms of that agreement can't modify the correct
5 characterization here, which is that it's unvested
6 properly -- property subject to a substantial risk of
7 forfeiture in 2018 and was properly recognized in 2020
8 when those earnouts were vested.

9 And so, again, I'll note that the FTBs brief
10 has no proof, no support, or analysis whatsoever for its
11 determination that this is an IR-50 -- IRC-453
12 installment sale. And unlike any typical installment
13 sale, these earnout payments were not fixed and
14 determinable at the time of the merger and were
15 completely subject to risk of forfeiture if those ARR
16 run rates were not achieved.

17 And so depending on the -- the company's
18 performance, Mr. Fulzele could have received absolutely
19 no amount payments or -- or widely bearing amount
20 somewhere between the minimum and the maximum depending
21 on how Cloud Lending performed.

22 Further, his management activities, he was
23 resident of Texas, his management activities were based
24 in Texas for Q2 a -- a Texas headquarter and base
25 company measured based on the Texas operation of this

1 Texas headquarter company.

2 And so I'd also point the OTA to the FTBs
3 opening brief, which incorrectly states, "The Appellants
4 sold their stock -- when the Appellants sold their
5 stock, they were no longer owners and there was nothing
6 remaining to vest."

7 And is previously provided. That's just
8 incorrect. This earnout was entirely contingent on
9 achieving these run rate targets. And there was no
10 guarantee whatsoever that Mr. Fulzele would actually
11 receive an earn out payment or if he did what the amount
12 of those earn out payments would be. And so these --
13 these payments were clearly unvested and subject to a
14 substantial risk of foreclosure contrary to the FTB
15 brief.

16 And I think this incorrect factual
17 characterization of them as vested determined payments
18 leads to their incorrect conclusion that this is an
19 installment sale under 453.

20 I also highlight that the FTB reference --
21 brief references BARAM Monte, which is -- that case
22 isn't -- is wholly misplaced here as in applicable
23 because it is all based on the assumption that this
24 wasn't -- that -- that was an installment sale, whether
25 the -- whether the arrangement there in between the

1 taxpayer's change of residency and the treatment of that
2 installment sale, there wasn't an issue in that case of
3 whether this was actually an installment sale.

4 And so here again, this earnout was entirely
5 contingent on Cloud Lending, achieving these ARR run
6 rate targets, which happened in 2020 when Mr. Fulzele
7 was a non-resident. And -- and so again, as a
8 non-resident at the time, this was properly vested and
9 recognized, none of this is California's source income
10 to the taxpayers as non-residents.

11 To the extent that there -- that the OTA
12 determines that there is any California source income,
13 then it is still required to be allocated based on the
14 portion attributable to California and based on the FTB
15 guidance available.

16 While -- while we believe that none of this
17 gain should be eligible to California based on
18 publication 1004, which interprets regulation 17951-5,
19 the appropriate allocation would be based on the -- the
20 portion of Mr. Fulzele working California from the
21 period of grant to the period of vest. I've -- I've
22 given an examples with the timing of that in the brief
23 on page 10 of our opening brief.

24 But to summarize, for the first earnout
25 payment received in May, 2020 or -- or determine 15 days

1 before that under the agreement, the grant to this
2 period would be October 16th, 2018 until late April,
3 2020, which is approximately 18 months.

4 And during that, he worked approximately one
5 month in California for mid-December 2019 until February
6 18th, 2019. So one 18th of that \$1,345,586 or
7 approximately \$74,755 would be California's source
8 income, even under an allocation method, which we
9 believe is incorrect.

10 For the second earnout payment of \$2,988,982,
11 which vested in July 2020 or 15 days before the period
12 of grant to vest would be October 16th, 2018 until late
13 June, 2020. So approximately 20 months.

14 And during that period, he again worked
15 approximately one month out of that 20 months in
16 California, which would result in one 20th of that
17 amount, even under the theory being attributed to
18 California, which would be \$149,449 in California source
19 income.

20 And so again, while -- while the appropriate
21 characterizations of the entire gain is not California
22 source income, because it was vested recognized in 2020,
23 even in this alternative to some sort of allocation as
24 necessary, it would be a total of approximately \$224,204
25 based on that one month work during each of those

1 granted vest periods.

2 And so lastly in the -- n -- in the
3 alternative that the OTA determines that the FBTs
4 characterization as an installment sale should be
5 upheld, which we believe it should not.

6 This earnout was intangible property that had
7 a situs in Texas. Mr. Fulzele was required to work for
8 Q2 in Texas. He was a Texas resident. All of his
9 management activities were performed in Texas and were
10 really driving an integral to Cloud Lending, achieving
11 those run rate targets and less than earnout payments.

12 And accordingly, that earnout, which was
13 property based on this Texas based company achieving
14 these certain targets acquired a business situs in
15 California and consistent with -- even in the
16 alternative that this is an installment sale that earn
17 -- the earnout acquired a business situs in Texas and
18 again is not California source income.

19 So in sum, just to recap, this was unvested
20 property subject to a substantial risk of foreclosure in
21 2018 and was vested in 2020. Accordingly, since the
22 taxpayers were in California, non-residents in 2020,
23 this was not California -- California's source income.

24 And even in the alternative that there's some
25 allocation as necessary, it should be based on the

1 1/18th or one 20th allocation ratio for its time in
2 California during that period. And again, in the
3 alternative that this is determined to be an installment
4 sale, which the taxpayer believes it should not, that
5 intangible property acquire in Texas situs and again, is
6 not California. That's all we have.

7 JUDGE LEUNG: Thank you Mr. Gorrod.

8 Judge Le, any questions for Appellant.

9 JUDGE LE: Yeah. Question. I believe you
10 stated that Mr. Fulzele was required to work at Q2
11 headquarter in Texas, is there anything you can point
12 out in our record that would show that -- prove that
13 statement?

14 MR. GORROD: The -- the employment agree --
15 the employment offer an employment agreement do not
16 specifically provide that, but Q2 was headquartered in
17 Austin, and he was required to go there as the general
18 manager of the company leading the management of the
19 company. He was the co-founder and CEO of the acquired
20 company.

21 And so that, I mean -- that was the
22 arrangement and they were negotiated. So it's not
23 provided in the offer letter, but he did actually move,
24 he and his family to Texas to work there on February
25 19th, 2019, and that's, you know, undisputed.

1 JUDGE LE: Thank you. Another question. Say,
2 hypothetically, he didn't work for Q2 in Texas, would he
3 still be entitled to the earnout?

4 MR. GORROD: If he would, yes. If they
5 achieved the run rate targets. I mean, I think without
6 his participation, it's near impossible that the company
7 would've achieved those targets.

8 He was continuing to run the company similar
9 to the capacity they did it before the acquisition, but
10 his residence in Texas assuming that he could do a good
11 job and drive the company to meet those targets wasn't
12 -- wasn't, you know, a condition of receiving or no.

13 JUDGE LE: Thank you.

14 MR. GORROD: Does that answer your question?

15 JUDGE LE: It does. No further questions at
16 this time. Thank you.

17 JUDGE LEUNG: Judge Lambert?

18 JUDGE LAMBERT: I have no questions at this
19 time. Thanks.

20 JUDGE LEUNG: I'll hold my questions. I'll
21 have Franchise Tax Board do their presentation first.

22 Mr. Xiao, 25 minutes.

23

24 PRESENTATION

25 MR. XIAO: Thank you. My name's Lawrence.

1 I'm, together with Ellen Swain, who represent the
2 Franchise Tax Board. So Ellen has already stated the
3 general facts and the main issue, which is consistent
4 with what we have. We pretty much agreed with all these
5 things.

6 So today I'll -- I'll present too many points.
7 First, I'll demonstrate that the correct legal
8 characterization of the earnout payment of approximately
9 \$4.3 million is proceeds from an installing sale of
10 stock and not compensation for services.

11 Second, I will show that under California law,
12 the characterization of this income was fixed to code
13 2018. So just repeating the background again,
14 Mr. Fulzele, he was the founder of Cloud Lending, Inc.
15 The core transaction here is the 2018 acquisition of
16 Cloud Lending, Inc. by Q2 Software, which is governed by
17 the merger agreement.

18 In 2018, Mr. Fulzele sold his entire stake,
19 which is the zero basis founder stock as part of this
20 merger agreement. It is undisputed that that Appellants
21 for California residents in 2018, the year the stock
22 sale occurred and upon subsequently became non-residents
23 of California after the sale.

24 As part of this merger, Mr. Fulzele received
25 an initial payment of over \$10 million in 2018 with a

1 stock and he correctly reported that on his 2018
2 California resident income tax return. The merger
3 agreement also created the possibility for future
4 contingent earnout payments, which is the payments that
5 issued in this appeal for 2020.

6 So crucially, after the stock sale after
7 October 16th, 2018, Mr. Fulzele took approximately two
8 months off traveling to Dubai on vacation with his
9 family, and then he began vacation -- begin employment
10 with Q2 in Austin, Texas in December of 2018. This
11 shows a clean and clear break between the stock sale and
12 the start of this subsequent employment with Q2
13 Software.

14 Mr. Fulzele received the earnout payments in
15 2020. The paying agent JP Morgan Chase Bank issued two
16 form 1099 is two app account in 2020 for a total of
17 approximately \$4.3 million in these or off payment, some
18 on issue here.

19 The Appellants did not file the 2020 income
20 tax return to the 2020 tax year. However, appellant's
21 federal tax return transcript shows that Appellants
22 received or reported the full earnout payments in the
23 amount of about \$4.3 million for federal purposes as
24 long term capital gains. So this amount is payment for
25 the sale stocks in 2018 and is not compensation for work

1 performed.

2 FTBs assessment of this income as California
3 source income is a direct application of law under
4 California Code Regulations Section 7952-D. This income
5 is directly achievable to the disposition of stock that
6 occurred in 2018 when Appellants were California
7 residence.

8 Appellants are trying to classify this given
9 this invested compensation to apply Internal Revenue
10 Code Section 73, but determining issue here is that the
11 stock they sold resulted being capital gains not and is
12 not payment for work performed. As was clarified
13 earlier, the work that was performed in 2019 and 2020
14 was not a condition to receive the compensation from the
15 earnout payments.

16 So this fund stock is separate from
17 compensation. The arm -- the earnout payments were
18 originated from the sale of appellant's zero basis fund
19 stock. It's not from employment in relation to the
20 performance of services and IRC Sections 83 and 409-A do
21 not apply here because those provisions are specifically
22 based on compensation given exchange for the performance
23 of services.

24 The capital gain income received in 2020 was
25 payment for the sale of stock which occurred in 2018,

1 and it was company's separate from his employment
2 agreement with Q2 Software.

3 The record establishes that Mr. Fulzele was
4 paid for his services through a separate employment
5 agreement Q2 Software, and he began that employment
6 after a two-month break in Dubai following the stock
7 sale. So the earnout payment was not necessary for, and
8 it wasn't intended to be compensation for services
9 relating to his employment agreement. Furthermore,
10 Mr. Fulzele's contract with Q2 had a separate retention
11 provision under Section 7 for severance, confirming that
12 an earnout payment was not tied to employment.

13 This provision established a distinct
14 negotiated that -- that the parties themselves agreed to
15 in the merger agreement and this as deferred contingent
16 purchase price installment sale under Section 453 for
17 tax purposes.

18 Furthermore, the statutory definition of an
19 installment sale under IRC Section 453-B1 is disposition
20 of property where at least one payment is to be received
21 after the close of the taxable year, which the
22 disposition occurs.

23 The disposition of property in this case took
24 place in 2018 and the payments were received in 2020 two
25 years subsequent to the tax -- taxable year disposition.

1 Consequently, the payments accountants received in 2020
2 while directly under the definition of stock sale under
3 IRC Section 453, which is a precise provision with
4 reference to in the governing merger agreement.

5 This income is sourced to the state of
6 California. The sourcing of this income is governed by
7 California Code of Regulation Title 18, Section 7952.
8 This regulation provides a clear objective standard that
9 the source of gain from the sale of intentional personal
10 property, such as corporate stock is determined at the
11 time the sale occurs.

12 Section 7952-D, reads, "The source of gains
13 and losses from the sale or other disposition of
14 intangible personal property is determined at the time
15 of the sale or disposition of that property."

16 For example, if a California resident sells
17 intangible personal properties, such stocks, under the
18 installment method and subsequently becomes a
19 non-resident, any later recognized gain attributable to
20 any installment payment receipts relating to that sale
21 will be sourced to California absent the business side
22 of exception.

23 The fact that this case fits directly within
24 this regulations framework, the sale happened while
25 taxpayers were living in California. Mr. Fulzele sold

1 off his stock to Q2 Software in 2018 when he and his
2 wife were both California residents. The source is
3 fixed at the time of sale under California Code
4 Regulations Section 7952-D.

5 The -- the structure of this continuing
6 service is completely separate from resident purchase
7 price defined in the merger agreement. The presence of
8 the dedicated compensation and retention package in the
9 employment contract demonstrates that the earnout
10 payment was by party's own design payment for the sell
11 stocks and not compensation for future services.

12 In addition, there's also no risk of statutory
13 risk of forfeiture as was argued. Appellant is arguing
14 that the installment payment faced a substantial risk of
15 forfeiture because the amount could have zero fund.

16 This was a straightforward business risk
17 dependent on the acquire company's financial performance
18 and its achievement of ARR run rate targets. This risk
19 does not meet the statutory definition of a substantial
20 risk of forfeiture.

21 Under forfeiture regulation Section 1.83-3, a
22 substantial risk of forfeiture exists only if rise in
23 transfer property are conditioned directly or indirectly
24 upon the future performance or non-performance of
25 substantial services by any person or upon a substantial

1 possibility of future forfeiture relating to a purpose
2 of the transfer. This is also confirmed at the appeal
3 of the bill, 2020-OTA-198-P, which situs IRC Section
4 83-A1 and 83-C1.

5 Gross income is recognized when property
6 rights of transferable or not subject to a substantial
7 risk of forfeiture. A substantial risk of forfeiture
8 specifically exists where the property price are
9 conditioned upon future performance of substantial
10 services by any individual.

11 The ARR rendering in the merger agreement are
12 purely a financial metric for the company itself. It's
13 not a condition related to the retention or the
14 performance of substantial services.

15 Furthermore, the amount of Appellants
16 initially negotiated stock sale payment in 2018 of over
17 \$10 million compared to the 2020 payments of about \$4
18 million undermines the claim that the remain should
19 constituted a substantial risk of forfeiture tied to
20 that service.

21 Finally, contingent payments are covered by
22 installing several rules. Appellants assertion that the
23 earnout payments not qualify as the installment sales
24 due to the amount being entirely contingent.

25 This argument is directly contradicted by

1 Internal Revenue Code Section 453 Act 8, which
2 explicitly addresses contingent payments within the
3 installment sale framework. This section specifically
4 includes that the fair market value of any payments
5 which are contingent as to amount as fall under
6 installment sales.

7 The contingency is used to determine the
8 transaction's value and it is not a condition precedent
9 for the sales completion or the payment investing.
10 Critically, the parties, the funds change residence
11 occurred in 2019 all by receipt of payments in 2020,
12 followed by the receipt of payments regulation.

13 This excluded that if a California resident
14 sells tangible property using a sale later becomes
15 arrest and he recognize from later payments remain
16 source of California.

17 THE REPORTER: I'm sorry. Can you slow down,
18 please?

19 MR. XIAO: Of course.

20 THE REPORTER: Thank you.

21 MR. XIAO: So the source of the income was
22 locked to California in 2018 when the sale was
23 completed. And the fact that these payments were does
24 not change to the source, it just means that purchase
25 price was paid in different stages.

1 Appellant failed to prove intangible asset
2 acquired legal is business in Texas, and they claim that
3 master gained the Texas business situs solely because of
4 the employ taxes, contradicts governing legal
5 principles, appellant bears the burden of proof, which
6 they have not met.

7 In the personal opinion, the appeal person,
8 73-SE-069 dictates that many employment or job duties
9 within the state do not establish business situs for
10 intangible asset. The taxpayer's claim relies
11 exclusively unemployment that failed to satisfy t
12 burden.

13 So in conclusion, the label evidence
14 demonstrates that the earnout payments must be
15 characterized as installment payments for stock solely
16 in 2018, not compensation for services. This is
17 substantiated by first merger agreement explicitly
18 defining the transaction as the installing sale and the
19 IRC Section 453.

20 Two, Appellants reporting income from the
21 installing sale on their federal tax return as long term
22 capital gains. And three, the fact that ARR had a
23 separate employment agreement with Q2, which provided
24 distinct compensation package, retention provision, and
25 termination calls.

1 Consequently, the income source of California
2 under the clear and objective situs of Code Regulations
3 Title 18, Section 7952-D.

4 The source of gain from the disposition intent
5 personal property is determined at the time of the sale.
6 Because the disposition occurred in 2018, while
7 Appellants were California residents, the source is
8 fixed to California.

9 The subsequent change of residency and work
10 are not relevant to determine the source of this income.
11 Therefore, I respect the request account action in its
12 entirety. I'd be happy to take any questions. Thank
13 you.

14 JUDGE LEUNG: Thank you, Mr. Xiao. Judge
15 Lambert, any questions for Franchise?

16 JUDGE LAMBERT: I have no -- I have no
17 questions. Thanks.

18 JUDGE LEUNG: Okay. Thank you Judge Le?

19 JUDGE LE: Yeah. I -- I believe you stated
20 that the facts are not in dispute in this case. I just
21 want to confirm that's what you said.

22 MR. XIAO: Yes. The facts are not in dispute
23 for --

24 MS. SWAIN: Judge, we do dispute the -- the --
25 the facts about the installment payment. Obviously,

1 we're not in agreement. I think that's for central
2 contention. I think that Mr. Xiao was describing, you
3 know, the facts that led up to the -- the time of the
4 sale and the time of changing residency and sourcing,
5 because I think that that is obviously an issue that can
6 be very contentious as to when someone ceases being a
7 resident in this case. We -- both parties agree on the
8 timing of -- of those things happening, but that's when
9 we depart in terms of our factual agreement. Thank you
10 for the clarification.

11 JUDGE LE: Thank you. Another question. FTB
12 That has to be submitted, Exhibit E. Is there a
13 particular page or line item number that you want us to
14 look at? I just want to clarify on what FTB said that
15 particular --

16 MR. XIAO: Absolutely.

17 JUDGE LEUNG: Judge Le, federal transcript,
18 right?

19 JUDGE LE: Yeah, the transcript.

20 MS. SWAIN: Judge, in Exhibit E, we see the
21 compensation. When you look first, I think your
22 transcript -- aren't the easiest things to -- to -- to
23 -- to read. But when you first look on the -- the
24 amount of income, which is on page 1, approximately,
25 three quarters down the page under the header, the bold

1 Bates header income, it says wages, salaries, just et
2 cetera.

3 That's \$1.468 million, which tracks what his
4 wages were and the services that he provided during the
5 tax year. But when you switch to page 9 and you see
6 Schedule D capital gains and losses, it starts at the
7 bottom of the page. You see long-term capital gain and
8 losses, which then begins on page 7, which totals that
9 long term capital gain reported of \$4.334 million, which
10 is the combined amount of those installment payments.
11 And that was what we were hoping to show.

12 JUDGE LE: Thank you. No further questions.

13 JUDGE LEUNG: Thank you Judge Le. Mr. Xiao,
14 one quick question at this point. You cited S-B-A
15 decision in 2020. What is the exact citation,
16 2020-OTA-183. What was that?

17 MR. XIAO: The bill or the S-B-

18 JUDGE LEUNG: The OTA decision that you said.

19 MR. XIAO: So that would be the appeal of the
20 bill. 2020-OTA -- 198-P.

21 JUDGE LEUNG: 198-P. Thank you.

22 Mr. Gorrod, five minutes for rebuttal.

23 MR. GORROD: Sure. Thank you. I guess first
24 I would just like to -- I -- I appreciate that the FTB
25 agrees that these payments are contingent. I think I

1 would like to clarify that we are -- we're not -- we're
2 not asserting that this was an exchange for services.

3 This was not, this was an exchange of vested
4 stock and the predecessor company or unvested -- an
5 unvested earnout payment, which is property, unvested
6 earnout payment to be paid by the acquiring company. So
7 we're not -- we're not necessarily, this was an exchange
8 for services.

9 We were referencing Section 83 and 49-A, which
10 have a substantial interpretation of what it means to
11 have a substantial risk of forfeiture and the timing for
12 recognition of income. And so the -- the really salient
13 point here is that that income is recognized when that
14 risk of forfeiture lapsed when it became fixed and
15 determinable in 2020.

16 But we're just to clarify, we are not
17 asserting that this was compensation for services. This
18 was properly, capital gain from property when that
19 announce is paid in 2020.

20 I do -- I do want to reiterate that obviously
21 the -- I don't understand the -- how the FTB asserts
22 that there was no risk of forfeiture and that the -- the
23 -- those ARR run rate measurement goals were not a
24 condition when if they weren't met, the taxpayer
25 would've received absolutely nothing. And this is the

1 -- this is the first instance.

2 The FTB's brief was just based on the
3 assumption there was an installment sale. There was
4 absolutely no analysis whatsoever for its position that
5 this was an installment sale. And similarly, the brief
6 didn't respond. And I think we had interpreted as not
7 disputing that there was a business site in Texas that
8 wasn't, was addressed in our first brief, and they was
9 completely absent from the FTB'S opening brief.

10 And so, you know, I just -- I just reiterate
11 that we disagree with the FTB on those points. And to
12 the extent that the OTA finds those persuasive, we -- we
13 respect -- respectfully request the opportunity to
14 submit, you know, additional briefing on those points.

15 If -- if the FTB agrees it's not necessary
16 because -- apologize if the OTA agrees that this is not
17 necessary because it's properly characterized as
18 recognized in 2020, then obviously that's not necessary.

19 And I would also just point out that those
20 provisions in -- with contingencies in -- in 453 are due
21 to differences in an amount that have to be clarified,
22 not -- not a -- not the sort of -- not the sort of
23 potential payment where it's, it's completely up in the
24 air, whether if, or the amount that will be received as
25 we have here.

1 So, again, I'd just like to -- to summarize
2 that this was properly unvested properly, properly
3 subject to a substantial risk of forfeiture. The FTB
4 has agreed that it's -- that it's contingent and
5 accordingly, it was properly recognized in 2020 and was
6 not an installment agreement.

7 And then in the alternative that there is some
8 California source income required, we believe it's
9 required to be allocated based on those the grant vested
10 is provided in our brief based on those dates and/or
11 that property is acquired in Texas site consist with the
12 two.

13 JUDGE LEUNG: Thank you Mr. Gorrod.

14 Final round of questioning. Judge Lee.

15 JUDGE LE: No further questions. Thank you
16 both for your presentation today.

17 JUDGE LEUNG: Judge Lambert?

18 JUDGE LAMBERT: I have no questions.

19 JUDGE LEUNG: I've got a few questions. A
20 question I'm going to go start. For the Franchise Tax
21 Board, you mentioned there are provisions in RC-453
22 regarding contingencies, isn't that more with respect to
23 how to value the installment agreement, whether you
24 value it at fair market than the time of sale versus
25 some later value when the final payment is made versus

1 some other way of measuring the amount of consideration?
2 Or is that more of a just saying that even you have a
3 contingency, it is still nonetheless a installment
4 agreement or installment payment?

5 MS. SWAIN: Judge, if I may. The -- the
6 payments themselves, the -- the fact that he's going to
7 have future payments was contemplated in the merger
8 agreement, and, specifically, under -- under Exhibit E.

9 It says the -- in the option termination
10 agreement, it says, you know, "Part of your
11 consideration for the sale of your vested options is our
12 future payments."

13 What -- what is contingent is what the amount
14 that would be calculated at -- at the time. And that
15 creates the installment sale and the fact that yes,
16 you're going to get a payment, but we're going to base
17 that on the metrics of -- of what the company's
18 performance is in that year, sets the actual amount.

19 It's a calculation, which in our position is
20 that when you read that -- you read, Section 8-B, which
21 you were just quoting off 453 to say, "okay, when we
22 have this situation where contingent as to the amount.
23 So that does not for still the installment payment
24 treatment under these circumstances.

25 JUDGE LEUNG: So for purposes of this

1 particular appeal under the contingency provisions of
2 453, FTB is going to accept whatever amounts get paid
3 out to the taxpayer in the year of payment. That would
4 be the value.

5 MS. SWAIN: In the year -- excuse me, in the
6 year of payment of the 2018 initial payment or of the
7 2020 subsequent --

8 JUDGE LEUNG: 2020.

9 MS. SWAIN: Oh, the 2020, yes. So that --
10 that -- that amount -- that amount would be the amount
11 that's taxable. I'm not sure what you're asking me.
12 Could you try again, Judge.

13 JUDGE LEUNG: Well, I'm trying to figure out
14 the contingency provisions in 453F, as in Frank, are
15 determining that in situations like this, where is --
16 there is a contingency when a taxpayer period gets a
17 payout in the future, which is not determinable in the
18 year of sale, when that -- that definition is basically
19 say no matter what, it is still an installment agreement
20 --- subject to the installment sale rules, or whether
21 that subsection F is just a -- a measure of what the
22 amount of income is going to be.

23 MS. SWAIN: Well, it's -- they are still
24 subject to based installment rules. And then the amount
25 -- the contingent, they're allowed to have, contingent

1 amount be treated as -- as the second portion of that
2 installment sale.

3 I mean, the -- under the IRC -- under IRS
4 location 537, it says, "A contingent payment sale is one
5 in which the total selling price can be determined by
6 the end of the tax year or sale."

7 This happens, for example, if you sell your
8 business, and the selling price includes a percentage of
9 its profit in future years.

10 If the selling price can't be determined by
11 the end of the tax year in which the sale or other
12 disposition occurs, you must use different rules to
13 figure the contract price and the gross profit
14 percentage, then those that you use for an installment
15 with a fixed selling price. And so we're e able to use
16 the installment rules under these circumstances.

17 JUDGE LEUNG: And are there any other cases
18 that you can refer us to that statements that situations
19 like this, that the entire transaction is still treated
20 as an installment sale other than just citing to 453.

21 MS. SWAIN: Yeah, I mean, we're certainly
22 happy to provide additional briefing if -- if that would
23 be helpful.

24 JUDGE LEUNG: Okay. And of course, if the
25 situations were reversed and Mr. Fulzele was originally

1 a Texas resident, and so his company and then moved into
2 California, you would of course agree that those earnout
3 payments two to three years down the road did not pay
4 California source.

5 MS. SWAIN: You know, Judge at -- at this
6 point, I -- that -- that's not really the facts of our
7 -- of our case. So I want to -- I want to draw back to
8 what the facts of our case are. Mostly because I've
9 learned over time not to be sourcing in my head or OTC
10 in my head.

11 So I think what's really important here is
12 that the regulations of 7952-D was promulgated
13 specifically for this situation. It was put in place in
14 2006 following the appeal of a -- of a residency tax
15 timing case.

16 So tax statute, and that's what 7952-D was --
17 was getting at -- was saying, no, the mobility rule does
18 not apply here.

19 And because there would be some argument
20 absent this tax timing rule that under mobility, that --
21 that a taxpayer such as have the -- the appellant would
22 argue that, okay, now this potential follows me, and not
23 specifically when the regulation was promulgated to say
24 no, we set that characterization at that date.

25 And I think when you look at, and your

1 question -- as I understand the questions to really get
2 to this idea that is this even an installment sale?
3 Does 7952-D apply?

4 And yes, it does apply because if you look at,
5 again -- if you look -- go back to Exhibit E in the
6 merger agreement, it specifically talks about what
7 happens, what was consideration for these vested --
8 vested options and consideration for these vested
9 options.

10 Was it a portion that could be earn out
11 payments which treated as -- could be treated as
12 installment payments, and that specifically takes a
13 square into 7952-D?

14 So would 7952, you know, going back to
15 hypothetical, would 7952-D apply in a situation where
16 you have a Texas resident moving to California?

17 We wouldn't even be looking at -- at 7952-D
18 because that's not -- that's -- that's really not the
19 question there. That's not the question. We would be
20 looking at -- we would be looking, this is -- this is
21 really for -- for California purposes.

22 JUDGE LEUNG: Okay. Thank you, Ms. Ellen.

23 MS. SWAIN: Thank you.

24 JUDGE LEUNG: Mr. Gorrod, I'm going to refer
25 back to Judge Le's question about the transcript. And

1 the Schedule D that for the facilities or the taxpayers
2 filed treating the -- the earnouts as long-term cap
3 gains. A.

4 And you are -- you are telling us that the
5 events occurred to allow them to receive those payments
6 occurred in 2019/2020. Why would you characterize as
7 long term opposed to short term.

8 MR. GORROD: I -- I'd have to go back and
9 check the dates. I believe it was over more than one
10 year.

11 JUDGE LEUNG: It was a 2020 earnout? I see
12 the first earn out was 2019. That -- that sort of makes
13 sense. But the second earnout was in 2020.

14 MR. GORROD: I believe there was some delay in
15 the -- in the calculation of it, I believe, I'm not
16 exactly sure the -- the reason for the delay, but there
17 was some sort of delay on the first one from that
18 measurement date until the date of payment.

19 It was -- it was 18 months for the first
20 earnout from the date of the -- the transaction when the
21 earnout was granted until the actual payment date.

22 So it was 18 months or 18 months minus 15
23 days, because I think they were supposed to pay it
24 within 15 days of confirming the amount there are
25 procedures under the merger agreement, there's a dispute

1 for whether they satisfied it or -- and what the amount
2 is that they could go through.

3 And so it was an 18 month period for the first
4 earnout and that 20 month period for the second earnout
5 from the date of the transaction until the date that the
6 earnout was paid.

7 JUDGE LEUNG: So you're -- you're -- you're
8 basing the characterization of long term using the
9 original sale date of the company?

10 MR. GORROD: Correct.

11 JUDGE LEUNG: So you're -- you're -- you're
12 basing the characterization of long term using the
13 original sale date of the company? Correct. Okay. And
14 with respect to your argument on the situs, what's the
15 intangible your using here to just say situs changed in
16 Texas or took place in Texas?

17 MR. GORROD: Sure. So we -- we believe it's
18 not an installment sale. That's the incorrect
19 characterization. And that situs discussion was solely
20 for the purpose of, if it's determined to be an
21 installment sale, then we believe it's within that
22 business situs exception that -- that similar to -- were
23 all where that goodwill had a portion of it in New York
24 based on the business operations and management there.

25 That here, Mr. Fulzele's activities, the

1 entire headquarters and commercial domicile was a Texas
2 based operation company. And his activities in managing
3 it, driving it to -- to achieve those targets was all
4 done within Texas.

5 And so that some portion of that, or all
6 should be attributable to a business situs is in Texas
7 and would be within that business situs as exception of
8 the -- the installments -- the California installment
9 sale provision.

10 JUDGE LEUNG: So you're saying Mr. Fulzele's
11 activities is the intangible?

12 MR. GORROD: No, the earnout payment is the
13 intangible. Did the right, that's intangible property.
14 The -- the right to those earnout payments.

15 JUDGE LEUNG: So the right to earnout payment,
16 correct, is intangible and that right which was, given
17 to Mr. Fulzele in 2018 as part of the merger agreement.
18 So you got cash for 10 and a half million.

19 MR. GORROD: Correct.

20 JUDGE LEUNG: And you got this earnout payment
21 so that you splitting the installment -- well, splitting
22 the transaction, the two parts. One is the actual
23 10-and-a half million dollar payout, and the second part
24 was the earnout payment?

25 MR. GORROD: Correct.

1 JUDGE LEUNG: And the earnout payment now
2 saying is the intangible, which acquired a Texas situs
3 by 2020.

4 MR. GORROD: That's, -- that's correct. It
5 was -- it was the earnout, the right to the earnout was
6 based on achieving certain targets in subscriptions. I
7 -- I can give you the actual --

8 JUDGE LEUNG: Well, that -- that's why I
9 understand that, you know, it could be based on sales
10 enough number -- customer, number of loans, whatever the
11 -- the -- the numbers are, the metrics are for the
12 earning that money that -- that's neither you or there.

13 I'm just trying to nail down what is the
14 intangible that you were referring to that acquired a
15 Texas situs. You're telling me this is the -- is the --
16 the earnout -- the agreement that paid to earnout, which
17 acquired a Texas situs by 2022.

18 MR. GORROD: Correct.

19 JUDGE LEUNG: Okay. Thank you. No further
20 questions. Judge Lambert? Judge Le?

21 JUDGE LAMBERT: No further questions.

22 JUDGE LEUNG: Okay. I'd like to thank
23 everybody for our excellent presentations. This brings
24 the hearing, this appeal to conclusion. The case is
25 submitted, a decision we will endeavor to set out a

1 decision within 100 days. And this will take us off the
2 record.

3 (The proceeding concluded at 2:37 p.m.)
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1 REPORTER'S CERTIFICATION

2
3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:

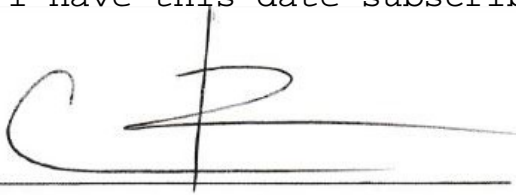
5 That the foregoing proceedings were taken
6 before me at the time and place herein set forth; that
7 any witnesses in the foregoing proceedings, prior to
8 testifying, were duly sworn; that a record of the
9 proceedings was made by me using machine shorthand,
10 which was thereafter transcribed under my direction;
11 that the foregoing transcript is a true record of the
12 testimony given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a federal case,
15 before completion of the proceedings, review of the
16 transcript [] was [] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee of
19 any attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date subscribed
21 my name.

22 Dated: March 30, 2026

23 

24 Certified Shorthand Reporter
25 For the State of California

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\$10 27:25 33:17	16th 8:13 10:18 23:2,12 28:7	43:6 49:17	40 9:25 10:2
\$10,500,000 9:1	17951-5 22:18	2019 7:4 9:19 11:4,7,18,22 23:5, 6 25:25 29:13 34:11 47:12	400 2:16
\$105 8:15	17952-C 15:21	2019/2020 47:6	409-A 13:17,22 14:4 18:6 29:20
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\$2,988,092 11:19	18th 5:7 23:6		453-B1 14:21 30:19
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\$224,204 23:24	198-P 38:20,21		470 2:16
\$3 11:18	19th 11:4,7,21 25:25		49-A 39:9
\$4 33:17	1:35 2:17 5:2,7		<hr/> 5 <hr/>
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