

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
T. LEE and S. LEE,) OTA NO. 231214957
)
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 APPELLANTS.)
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TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Thursday, February 12, 2026

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Proceedings, taken at
12900 Park Plaza Drive, Suite 300, Cerritos,
California, 90703, commencing at 9:53 a.m.
and concluding at 10:33 a.m. on Thursday,
February 12, 2026, reported by Ernalyn M. Alonzo,
Hearing Reporter, in and for the State of
California.

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APPEARANCES:

Panel Lead: ALJ ASAF KLETTER

Panel Members: ALJ STEVEN KIM
ALJ KENNETH GAST

For the Appellant: S. LEE
SON VU

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

AMELIA BREEN
JACKIE ZUMAETA

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I N D E X

E X H I B I T S

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

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

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By Ms. Breen	24

<u>A P P E L L A N T ' S</u> <u>W I T N E S S E S :</u>	<u>D I R E C T</u>	<u>C R O S S</u>	<u>R E D I R E C T</u>	<u>R E C R O S S</u>
Mr. Saavedra	11			

1 Cerritos, California; Thursday, February 12, 2026

2 9:35 a.m.

3
4 JUDGE KLETTER: So let's go ahead and go on the
5 record.

6 This is the Appeal of Lee. It's OTA Case
7 No. 231214957. Today is Thursday, February 12th. The
8 time is 9:53 a.m. I'm Judge Kletter, and with me are
9 Administrative Law Judges Kenny Gast and Steven Kim.
10 While I am the lead Administrative Law Judge in conducting
11 this hearing, all three judges are co-equal decision
12 makers.

13 A hearing reporter, Ms. Alonzo, is present and
14 reporting this hearing verbatim. To ensure we have an
15 accurate record, we ask that each person speaks one at a
16 time and avoids speaking over one another. Please speak
17 clearly and loudly. When needed, Ms. Alonzo or any panel
18 member will interject to ensure proper transcription. And
19 after the hearing, Ms. Alonzo will produce the official
20 hearing transcript, which will be available on the Office
21 of Tax Appeals website. The hearing transcript and the
22 video recording are part of the public record.

23 Now, I'd like if the parties can please each
24 identify yourself by stating your name for the record,
25 beginning with Appellant.

1 And, Mr. Saavedra, if you can also just introduce
2 yourself as well.

3 MS. LEE: Good morning, and thank you for the
4 opportunity to be here today. My name is Sandra Lee, and
5 I'm here to request an abatement and --

6 JUDGE KLETTER: Ms. Lee. I'm so sorry. Just --
7 just your name.

8 MS. LEE: Oh, just my name?

9 JUDGE KLETTER: Yeah.

10 MS. LEE: Good morning. My name is Sandra Lee.

11 JUDGE KLETTER: Okay. Great. And do you see a
12 green button when you --

13 MS. LEE: I see a button. I think I pushed it.
14 No.

15 JUDGE KLETTER: So just make sure that the green
16 button is on, and if you could just state your name again
17 for the record.

18 MS. LEE: Okay. Good morning. My name is Sandra
19 Lee.

20 JUDGE KLETTER: Thank you so much.

21 MS. VU: Good morning. My name is Son Vu,
22 counsel for Appellant.

23 MR. SAAVEDRA: Good morning. My name is Cruz
24 Saavedra. I'm appearing as a witness.

25 JUDGE KLETTER: Thank you.

1 MS. BREEN: Good morning. My name is Amelia
2 Breen for the Franchise Tax Board.

3 MS. ZUMAETA: Good morning. I'm Jackie Zumaeta
4 for the Franchise Tax Board.

5 JUDGE KLETTER: Thank you so much.

6 Welcome, everyone. The issues on appeal today
7 are whether Appellant's have established reasonable cause
8 to abate the late-filing penalty for the 2021 tax year;
9 and also, whether Appellants have established grounds to
10 abate the underpayment of estimated tax penalty for the
11 2021 tax year.

12 With respect to the evidentiary record, Franchise
13 Tax Board has provided Exhibits A, as in apple, through H,
14 as in Henry. Appellants have not objected to the
15 admissibility of these exhibits. Therefore, these
16 exhibits are entered into the record.

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

19 JUDGE KLETTER: Appellant's have provided
20 Exhibits No. 1 through 7. Franchise Tax Board did not
21 object to the admissibility of these exhibits. Therefore,
22 these exhibits are entered into the record.

23 (Appellant's Exhibits 1-7 were received into
24 evidence by the Administrative Law Judge.)

25 JUDGE KLETTER: As a reminder, we're scheduled

1 for 40 minutes today; 20 minutes for Appellant's
2 presentation, and that will include Mr. Saavedra's
3 testimony, 5 minutes for questioning of the witness,
4 10 minutes for Franchise Tax Board's presentation, and
5 then 5 minutes for Appellant's closing statement and
6 rebuttal.

7 Now, before I turn it over to Ms. Vu for her
8 presentation, I just want to swear Mr. Saavedra in so that
9 we can accept your statements as evidence.

10 Mr. Saavedra. No need to stand, but if you can
11 sit at the chair and raise your right hand.

12
13 C. SAAVEDRA,
14 produced as a witness, and having been first duly sworn by
15 the Administrative Law Judge, was examined, and testified
16 as follows:

17
18 JUDGE KLETTER: Thank you.

19 Ms. Vu, are you ready to begin your presentation?

20 MS. VU: Yes, I am.

21 JUDGE KLETTER: Okay. So you'll have 20 minutes,
22 and I will give you a 10-minute and a 5-minute reminder
23 just quickly. So please go ahead and begin.

24 MS. VU: Thank you.

25 ///

1 For the FTB, they paid the penalties and filed a
2 claim for refund, which was denied, and the OTA appeal
3 followed. For the IRS, they filed a claim 843 asking for
4 the abatement of the penalties. That claim was denied.
5 To dispute that, they hired Mr. Saavedra, an experienced
6 tax attorney, to dispute the penalties. Mr. Saavedra
7 filed a protest with the IRS, and that matter was
8 considered by the IRS Independent Office of Appeals. The
9 Appeals Office sustained that failure to pay penalties.

10 The Appellant's in this OTA case are not
11 disputing the failure to pay those penalties. However,
12 the IRS penalties were reduced by the Appeals Office
13 reducing the failure to pay file penalty by about 50
14 percent, a saving of \$32,000 plus related interests. The
15 Appellants are disputing a portion of the FTB's failure to
16 file penalties based on the IRS abatement. Appellants
17 understand that there's no law that requires the FTB to
18 follow federal adjustments. However, it is my
19 understanding that the FTB will also grant an adjustment
20 for the failure to file penalty if the Appellants can show
21 that the IRS made the adjustment based on reasonable
22 cause.

23 So with that background -- pardon me. With that
24 background, the sole issue is whether Appellants can prove
25 to this OTA panel that the IRS granted the \$32,000

1 abatement based on -- was based on reasonable cause. And
2 to do that, the Appellants have asked Mr. Saavedra to
3 testify today as a witness to the factual circumstances of
4 this IRS appeal. He's a fact witness and is not being
5 paid to appear today. To establish certain facts,
6 Mr. Saavedra will sometimes refer to legal authority and
7 to Internal Revenue Manual. His statements are made as
8 allegations of fact and not conclusion of law or his
9 opinion.

10 Regarding the evidence offered in this appeal by
11 the FTB, Appellants do not object to any of it being
12 offered. However, they do argue that FTB Exhibit H is
13 irrelevant to proceeding, and the factual reasons will be
14 addressed by Mr. Saavedra.

15 I now call Mr. Saavedra to testify as the only
16 witness today.

17

18 DIRECT EXAMINATION

19 BY MS. VU:

20 Q Mr. Saavedra, please state and spell your name
21 for the record?

22 A Yes, good morning, panel. Good morning, staff.
23 And good morning, Franchise Tax Board counsel.

24 My name is Cruz Saavedra, C-r-u-z,
25 S-a-a-v-e-d-r-a.

1 Q Thank you for appearing today. And,
2 Mr. Saavedra, was what's your educational background?

3 A I have an undergraduate degree in accounting from
4 USC. I have a law degree from Cornell University.

5 Q And what's your work experience?

6 A Immediately after law school, I worked for the
7 Internal Revenue Service as a trial attorney. It was
8 actually the Department of Treasury. And after that, I've
9 been in private practice for about 35 years doing tax --
10 tax controversy work.

11 Q Do you have any teaching experience?

12 A I also have taught for almost 20 years at
13 Cal State Los Angeles in their Continuing Professional
14 Educational program. I teach tax research and tax
15 procedure.

16 Q And do you emphasize any type of law?

17 A Well, I emphasize tax controversies.

18 Q In dealing with tax disputes, do you have
19 experience in contesting the imposition of penalties?

20 A Yes.

21 Q Does that apply to the failure to file penalties
22 as well?

23 A Yes. That's a regular part of my practice.

24 Q And what about the failure to pay penalties?

25 A Yes, the same.

1 Q So are you then familiar with the term
2 "reasonable cause?"

3 A Yes.

4 Q And how does that relate to disputing penalties?

5 A Well, the Franchise Tax Board has conforming
6 legislation with the IRS, and the Internal Revenue Code
7 section for failure to file penalties and the Franchise
8 Tax Board Revenue and Taxation Code section, both provide
9 for the possibility of abatement of penalties if there's
10 reasonable cause.

11 Q And what is reasonable cause?

12 A Well, it's a facts and circumstances test, but
13 it -- it generally requires that a taxpayer acted
14 prudently. But have -- even having acted prudently,
15 things happen beyond your control. Typically, it would be
16 health problems or casualty or disaster of some sort.

17 Q Were you retained by the Appellants Timothy and
18 Sandra Lee to dispute penalties in their case?

19 A Yes.

20 Q Do you recall the years and the types of
21 penalties?

22 A Yes. The year was 2021. The penalties were
23 failure to file penalty and a failure to pay penalty.

24 Q And what did you do to dispute these penalties?

25 A The Appellants had already filed a claim 843 with

1 the IRS, and that's for an abatement of taxes. And that
2 claim is normally filed before the taxes are paid. That
3 claim was denied, so I filed a protest which would take
4 the case out of field review into the appeals office.

5 Q And what grounds did you file the appeal?

6 A The Appellants had relied on a CPA to file their
7 return late. And so I relied on reliance of professional
8 advice or consult in order to abate the penalty.

9 Q Was there a case that was relevant to your
10 reasonable cause argument?

11 A Yes. There's a -- it's a 1985 Supreme Court case
12 that most people are familiar with. It's the Boyle case.
13 And it basically holds, what's called a black and white or
14 a bright line rule, that you cannot delegate the
15 responsibility to file a return on time. And so the --
16 the Boyle case pretty much precludes, under most cases,
17 the reasonable cause application to abate the penalties.

18 Q And how did you deal with that case?

19 A Well, in this case, the taxpayers had relied on
20 the CPA. And in the Boyle case, it was an attorney filing
21 an estate tax case. And the attorney admitted that he
22 made a mistake and it was not at issue. But the Supreme
23 Court, as I stated, held that even if the attorney made a
24 mistake, you can't use that as a reasonable cause because
25 you can't delegate the requirement.

1 But, in this case, the reasons for the CPA not
2 filing the return on time sounded a lot like typical
3 reasons for a taxpayer. She claimed she was ill. She
4 claimed she had computer problems. And so having
5 acknowledged the Boyle case with the appeals officer, I
6 distinguished it, arguing that I would take the position,
7 if I went to court, that these factual circumstances
8 related to the CPA could apply to her in -- in some sort
9 of an impunitive way, and that would be our position. In
10 other words, the facts were not the same as in the Boyle
11 case.

12 Q Are you aware of the term "hazards of litigation"
13 in dealing with the IRS?

14 A The -- the reason that most people go to appeals
15 in the IRS is the idea of hazards of litigation. Now, the
16 hazards of litigation, it's really quite a powerful tool
17 because you cannot compromise taxes normally, other than
18 filing an offer and compromise. But when you're in
19 appeals, if you're challenging the assessment of a tax or
20 an audit adjustment, the appeals officers can look to the
21 hazards of litigation, the availability of witnesses, all
22 types of things; and they can compromise the case down to
23 an amount that they feel reflects the hazards. And the
24 appeals office can also split penalties. They can take a
25 10 percent and make it 5. They can take a fraud penalty

1 of 75 percent and make it 30 percent. So -- and I'll cite
2 for the --

3 JUDGE KLETTER: Mr. Saavedra, sorry to interrupt
4 you.

5 MR. SAAVEDRA: Yes.

6 JUDGE KLETTER: I just want let Ms. Vu know she
7 has 10 minutes remaining.

8 MS. VU: Thank you.

9 MR. SAAVEDRA: Thank you.

10 The -- the ability to weigh the hazards of
11 litigation is authorized to the appeals office and in
12 Internal Revenue Service Manual section 8.11.1.2.7.5, and
13 this is of July of 2019. And the ability to so-call split
14 penalties, which is very common, is in IRM 8.11.1.2.3.

15 BY MS. VU:

16 Q Mr. Saavedra, how did the appeals office rule?

17 A She reduced the \$65,000 failure to file penalty
18 down to \$32,000. Mrs. -- or the Appellants were very
19 unlucky. They had some very, very minor estimated tax
20 payments in earlier years, and that stopped the automatic
21 abatement for the first time. Which in 2021, the IRS
22 allowed automatic abatement penalties. It was -- it was
23 her first time with that kind of penalty. At that time,
24 the Franchise Tax Board did not -- did not allow the first
25 time abatement, but the Franchise Tax Board did pick it up

1 in 2022.

2 So there -- there was no argument on the
3 estimated tax payments, even though it was unfair, but I
4 had my arguments on Boyle. And, of course, what was key
5 to this case is this was a once-in-a-lifetime high-level
6 transaction for these taxpayers. They're -- they're
7 everyday workers -- excuse me -- but, you know, they're
8 not high rollers. And to have \$100,000 of penalty, it's
9 quite extraordinary. And I felt that a court would look
10 at this very closely before they would impose \$100,000 of
11 penalties on the average middle class taxpayer.

12 MS. VU: Just one minute, panel, please. Thank
13 you.

14 MR. SAAVEDRA: Excuse me. She's asking to be
15 called as a witness. I'll let counsel decide that.

16 MS. LEE: I just want to say one thing. Can I
17 say one thing?

18 MR. SAAVEDRA: It's up to --

19 MS. VU: I need to confirm.

20 MS. LEE: Do -- do I have to be sworn in if I say
21 one thing?

22 MS. VU: Ms. Lee, what is it that would you like
23 to say?

24 MS. LEE: That I'm so upset 'cause my
25 brother-in-law was dying. It was -- that's what's --

1 JUDGE KLETTER: Can we take a break? I just want
2 to --

3 MR. SAAVEDRA: And I can testify as to what
4 she --

5 JUDGE KLETTER: We're going to go off the record
6 for 5 minutes.

7 (There is a pause in the proceedings.)

8 JUDGE KLETTER: And we are going back on the
9 record.

10 And we have approximately 10 minutes left for
11 Appellants' presentation.

12 So please proceed, Ms. Vu.

13 BY MS. VU:

14 Q Mr. Saavedra, in front of you is Appellants'
15 Exhibit 4, which is a two-page letter dated
16 November 22nd, 2024, from the appeals office on the
17 abatement issue for 2021. Do you recognize this document?

18 A Yes, I do.

19 Q Does it establish, to your understanding, that
20 the abatement was based on reasonable cause?

21 A Yes. If I -- if I may read from the document. A
22 third party's illness is not made reasonable cause, even
23 if the taxpayer reaches out to the third party multiple
24 times. And, of course, the appeals officer was talking
25 about the Boyle case. But what is not stated here is even

1 though she states that it doesn't -- it doesn't meet
2 reasonable cause, she did abate by 35 percent -- by
3 \$35,000 -- \$32,000 for the reasons I stated. It was a
4 sympathetic case and distinguished from Boyle.

5 Q Would you please give the authority that the
6 appeals office used to reduce the penalty?

7 A Well, I mentioned earlier that the appeals
8 officer has hazards of litigation under the Internal
9 Revenue Manual. And they have the ability to split
10 penalties when they feel it's appropriate.

11 Q Were you the only one who handled the IRS
12 abatment at the penalty case?

13 A Yes, I was the only person who made arguments to
14 the appeals officer.

15 Q Does the IRS maintain records on individual
16 accounts?

17 A Yes, the IRS maintains a very elaborate -- it's
18 called IDRS, Integrated Data Retrieval System. And they
19 keep records of accounts on all taxpayer accounts.

20 Q Are you familiar with the records the IRS kept on
21 the Appellants?

22 A Yes.

23 Q Have you reviewed exhibits offered by the FTB in
24 this case?

25 A Yes, I have.

1 Q Which ones are in their files?

2 A The -- I believe the -- the Franchise Tax Board
3 you meant to say.

4 Q Yes. My apologies.

5 A Okay. The Franchise Tax Board has what's called
6 a transcript of account. And the one they have is
7 Exhibit G. That's called a literal transcript because it
8 explains what the transaction code is on the Exhibit G,
9 Account Transcript. It shows an abatement of penalty
10 under TC Code 161. The Franchise Tax Board also has in
11 their exhibits what's called an IMS specific transcript,
12 and that's usually used by internal IRS people because
13 they can read all the codes. It's the same thing, and
14 that has the abatement of the penalty also. Those two
15 exhibits offered FNG by the Franchise Tax Board do
16 directly relate to my clients' file, and they're in my
17 files too.

18 Q Have you also viewed Exhibit H?

19 A Yes, I have.

20 Q Is that entry 065 part of Appellants' IRS
21 account?

22 A Well, Exhibit H is an internal document used by
23 any IRS person that has authority to input data into the
24 IDR system. And it basically states that you have to give
25 a reason for putting in the entry. And 065, according to

1 the exhibit, says that you -- it says use 065 only when
2 PRC is not reasonable cause. So this -- this 065
3 document, Exhibit H, I -- I have no knowledge from my
4 personal knowledge as filed that that entry is ever made
5 into the records of this taxpayer.

6 The only records that are showed made by the
7 appeals officer would be the TC 161, and they're simply
8 abatement of penalties. So I would have to conclude
9 factually that it was based on reasonable cause because
10 that's the only authority to do the abatement.

11 JUDGE KLETTER: Ms. Vu, just want to let you know
12 you have 5 minutes remaining.

13 MS. VU: Thank you.

14 BY MS. VU:

15 Q So to reiterate, based on the facts of the appeal
16 that you submitted with the IRS for the Appellants was the
17 abatement of \$32,000 based on reasonable cause by the IRS?

18 A Yes.

19 MS. VU: Thank you.

20 Panel, I actually have no more questions for this
21 witness.

22 JUDGE KLETTER: I'm going to turn it over to my
23 panel.

24 And thank you, Ms. Vu, for your presentation.

25 Judge Kim, do you have any questions for either

1 of -- or I'm sorry -- for Appellant?

2 JUDGE KIM: Excuse me. I just want to clarify
3 with the witness. So you're saying that the letter,
4 Exhibit 4, states does not meet reasonable cause under
5 Boyle, but it's still reasonable cause. Can you clarify
6 what you're saying by that?

7 MR. SAAVEDRA: Yes. Yes. The -- no one in the
8 IRS can determine the correct amount of tax without some
9 authority, right. The only authority that the appeals
10 office has to reduce a penalty for failure to file is
11 reasonable cause. It's the only issue I raised. The
12 appeals office has the unique authority under hazards of
13 litigation and the ability to split penalties to reduce
14 failure to file. And so it -- it's not stated in here,
15 but it's -- it's the only grounds upon which she could
16 have actually reduce the penalty by \$32,000.

17 I'm not sure if you -- if I answered your
18 question, but I tried to.

19 JUDGE KIM: Okay. Thank you.

20 JUDGE KLETTER: I'm going to turn it over to
21 Judge Gast.

22 Judge Gast, do you have any questions for either
23 of the parties?

24 JUDGE GAST: Yeah, just a follow-up question as
25 well for the witness.

1 Is there authority on the IRS side or federal
2 side that you can get a partial reduction to the
3 late-filing penalty for reasonable cause versus an all or
4 nothing?

5 MR. SAAVEDRA: Yes. That is the IRM section that
6 I cited before, and I'll cite it very quickly again.
7 That's 8.11.1.2.3, July 3, 2019. And to paraphrase it,
8 the appeals office has penalty settlement authority for
9 less than a full amount assessed. Now, penalties are
10 assessable, meaning that when you file a return, they're
11 assessed because there's -- and there's no process.
12 They're assessed and go into collection. So when you're
13 dealing with this, you're talking about abatement of
14 penalties. And so that -- that's the authority, the
15 Internal Revenue Manual.

16 JUDGE GAST: Thank you. No further questions.

17 JUDGE KLETTER: This is Judge Kletter. Thank you
18 panel members. I do not have any questions at this time.
19 I'm going to turn it over to the Franchise Tax Board.

20 Before they begin their presentation, I want to
21 ask Franchise Tax Board if they have any questions for the
22 witness.

23 MS. BREEN: No questions of the witness.

24 JUDGE KLETTER: Okay. Then, Ms. Breen, you'll
25 have 10 minutes for your presentation. Please go ahead

1 and begin.

2 MS. BREEN: Thank you.

3

4 PRESENTATION

5 MS. BREEN: Good morning. My name is Amelia
6 Breen, along with my co-counsel Jackie Zumaeta,
7 representing the Franchise Tax Board.

8 First, Appellants have not established reasonable
9 cause to abate the late-filing penalty, and second,
10 Appellants have not established that the estimated tax
11 penalty imposed for the 2021 tax year should be abated.
12 With respect to the late-filing penalty, Appellants' 2021
13 return was due April 15th, 2022. As Appellants filed
14 their 2020 -- 2021 -- excuse me -- return over a year
15 late, FTB properly imposed the late-filing penalty at the
16 maximum amount. This penalty may be abated if Appellants
17 can show that the failure to timely file was due to
18 reasonable cause and not due to willful neglect. The law
19 presumes that this penalty was imposed correctly.
20 Additionally, the burden of proof is on the taxpayer to
21 show reasonable cause exist to abate the penalty.

22 Here, Appellants argue that they late filed their
23 tax returns because the tax preparer was hospitalized.
24 However, each taxpayer has a personal nondelegable
25 obligation to ensure timely filing of tax returns and

1 reliance on an agent to perform this act does not
2 constitute reasonable cause. Appellants also request
3 first time abatement. However, this is only available for
4 tax years 2022 and later, and the year at issue is 2021.

5 Lastly, Appellants argue that the IRS partially
6 abated the late-filing penalty. In support, Appellants
7 provide a letter from the IRS. The letter states that
8 Appellants' arguments did not constitute reasonable cause.
9 Beyond the testimony here today, Appellants have submitted
10 no further evidence. Because the burden is on the
11 taxpayer to show that reasonable cause exist and the only
12 evidence submitted states that there was no reasonable
13 cause found, therefore, it is FTB's position that the
14 late-filing penalty was properly imposed and should not be
15 abated.

16 With respect to the estimate tax penalty, a
17 taxpayer must either make tax payments during the year
18 that one, total 90 percent or more of the year at issue
19 liability or two, 110 percent or more of the preceding
20 year's liability for married individuals with income over
21 \$150,000. However, for taxpayers with income over
22 \$100 million, paying 110 percent of the previous year's
23 liability does not satisfy estimate tax payment
24 obligations. Because Appellants' adjusted gross income
25 was over \$1 million in 2021, they were required to pay

1 90 percent or more of their current year of liability to
2 satisfy estimate tax penalty -- sorry -- estimate tax
3 payment obligations.

4 Appellants' timely prepayment fell short of the
5 required amount, so FTB imposed the estimated tax penalty.
6 The estimate tax penalty cannot be abated for reasonable
7 cause, but may be abated if Appellant show by reason of
8 casualty, disaster, or other unusual circumstances that
9 the imposition of the penalty would be against equity in
10 good conscience. As discussed in FTB's opening brief,
11 this is a narrow -- narrower standard than reasonable
12 cause. Appellants have not argued that a casualty,
13 disaster, or other such unusual circumstances would
14 prevent the imposition of the penalty. Therefore, the
15 estimate tax penalty should not be abated.

16 In sum, FTB respectfully request that its
17 position sustained.

18 Thank you. I'm happy to take any questions.

19 JUDGE KLETTER: Thank you, Mr. Breen.

20 I'm going to turn it over to my panel again.

21 Judge Kim, do you have any questions for
22 Franchise Tax Board?

23 JUDGE KIM: I do have one question. Does FTB
24 always follow an IRS determination that a penalty should
25 be abated for reasonable cause?

1 MS. BREEN: FTB -- sorry -- FTB generally follows
2 IRS determinations that a penalty abated for reasonable
3 cause, unless FTB finds that by a preponderance of the
4 evidence that there's not reasonable cause.

5 JUDGE KIM: Thank you.

6 JUDGE KLETTER: I'm going to turn it over to
7 Judge Gast.

8 Judge Gast, do you have any questions for
9 Franchise Tax Board?

10 JUDGE GAST: No questions. Thank you.

11 JUDGE KLETTER: Okay. I also do not have any
12 questions. So I'm going to turn it back to Ms. Vu.

13 You'll have 5 minutes to make a final statement
14 or rebuttal to anything that Ms. Breen said or if there's
15 anything else you prepared or would like to say before the
16 case is submitted. You'll have 5 minutes. Please go
17 ahead.

18 MS. VU: Esteemed panel, we actually rest on the
19 evidence offered. We don't have a rebuttal.

20 JUDGE KLETTER: Okay. All right. Then in that
21 case I'm going to just turn it over to my panel members
22 one last time to just make sure if there is any other
23 questions.

24 Judge Kim, do you have any questions for either
25 of the parties?

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JUDGE KIM: I don't have any more questions.
Thank you, everyone.

JUDGE KLETTER: Okay. And, Judge Gast, do you
have any questions?

JUDGE GAST: No questions. Thank you.

JUDGE KLETTER: Okay. And I also do not have any
questions as well.

So this concludes the hearing. We will meet and
decide the case based on the documents and the testimony
presented here today. We will issue our written decision
no later than 100 days from today. The case is submitted
and the record is now closed.

This concludes this hearing session.

Thank you, and we're going to go ahead and go off
the record.

(Proceedings concluded at 10:33 a.m.)

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HEARING REPORTER'S CERTIFICATE

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

That the foregoing transcript of proceedings was 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 5th day of March, 2026.

ERNALYN M. ALONZO
HEARING REPORTER