

BEFORE THE OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
S. SPOHR AND L. SPOHR,) OTA NO. 240817285
)
 APPELLANT.)
)
)
_____)

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS
State of California
Wednesday, February 18, 2026

Reported by:

CHRISTINA RODRIGUEZ
CSR No. 14898

JOB No. :
60788OTA(A)

1 APPEARANCES:

2
3 Panel Lead: ALJ TERESA A. STANLEY

4 For the Appellant: LINDA SPOHR

5 For the Respondent: VIVIAN HO
6 BRAD COUTINHO

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

E X H I B I T S

(Appellant's Exhibits 1 through 3 were received on page 9.)

(Appellant's Exhibits 4 through 6 were received on page 10.)

(Respondent's Exhibits A through L were received on page 10.)

P R E S E N T A T I O N

PAGE

By Ms. Spohr 11

By Ms. Ho 12

C L O S I N G S T A T E M E N T

PAGE

By Ms. Spohr 15

1 Sacramento, California; Wednesday, February 18, 2026

2 9:34 a.m.

3
4
5 JUDGE STANLEY: So we're going on the record
6 in the Appeal of Spohr, Office of Tax Appeals Case No.
7 240817285. The date is February 18th, 2026, and the
8 time is 9:34 a.m. The hearing is being held in
9 Sacramento, California and is being heard under the
10 Small Case Procedure. So I will be the ALJ, the
11 Administrative Law Judge, who will decide this matter.

12 I'm going to ask the parties to identify
13 themselves, starting with Appellant, please.

14 MS. SPOHR: Good morning. I'm Linda Spohr.

15 JUDGE STANLEY: Thank you.

16 And Franchise Tax Board.

17 MS. HO: Good morning. This is Vivian Ho
18 along with my co-counsel, Brad Coutinho, for the
19 Franchise Tax Board.

20 JUDGE STANLEY: Okay. And in the minutes and
21 orders, the issue that we said that remained to be
22 decided in this appeal is whether Appellants have
23 established a basis to waive or abate interest.

24 Ms. Ho, can you please put on the record FTB's
25 current position on interest?

1 MS. HO: Yes. Appellant further revealed FTB
2 has revised its position -- FTB's position for interest
3 during the period of November 19, 2022, to September 15,
4 2023. FTB's position is that interest is suspended
5 during this period under Revenue and Taxation Code
6 19116. Computations are not currently available but
7 will be provided at a later point.

8 JUDGE STANLEY: Okay. So the issue then is
9 to -- whether or not there's a basis to waive additional
10 interest in addition to what the Franchise Tax Board has
11 conceded; do you agree that that's the sole issue here,
12 Ms. Spohr?

13 MS. SPOHR: No.

14 JUDGE STANLEY: Okay. Can you tell me what
15 you think is at issue still?

16 MS. SPOHR: The reason I filed the amendment
17 was -- or the appeal -- was they said that they didn't
18 accept my amended return. My original taxpayer's
19 deceased, and she did a lot of mistakes, and I
20 immediately had it amended.

21 And because of COVID, I guess the Franchise
22 Tax Board didn't see the transcripts. But I have proof
23 on the amendment that the original overpayment was paid
24 to me in the amount that we settled on.

25 So the reason that I filed the appeal was

1 because they didn't accept -- they sent me a letter
2 saying they didn't accept my amended return. So I had
3 to prove that it was accepted.

4 JUDGE STANLEY: Okay. And that in minutes and
5 orders, we did list the agreements of the parties to
6 date without the additional interest that has been
7 waived as of this morning. So --

8 MS. SPOHR: They don't have an amount. I'm
9 sorry.

10 JUDGE STANLEY: I know they don't have an
11 amount, but just let me go over the agreements then, and
12 see if you agree that there's only -- that one remaining
13 issue -- because according to my notes, Appellants are
14 liable for additional tax of 2,634, which was I believe
15 in your amended return; right?

16 MS. SPOHR: The 11 hundred was from the
17 overpayment, then the original tax that was filed, that
18 was mistakenly done, and then the 14 hundred that was
19 due for amended one.

20 JUDGE STANLEY: Okay. So you are -- you are
21 still in agreement that you are liable for \$2,634?

22 MS. SPOHR: Yes, ma'am.

23 JUDGE STANLEY: And that that amount includes
24 an early withdrawal penalty of \$375?

25 MS. SPOHR: Yes.

1 JUDGE STANLEY: Reduced on appeal from \$625,
2 right?

3 MS. SPOHR: Yes, ma'am.

4 JUDGE STANLEY: And that the Franchise Tax
5 Board is agreeing to abate the accuracy related penalty
6 and a late filing penalty, you're still in agreement
7 with them relieving you of penalties, I assume?

8 MS. SPOHR: Yes, ma'am.

9 JUDGE STANLEY: Okay. So the only remaining
10 issue that I have is the interest. And --

11 MS. SPOHR: Just from the beginning of the
12 appeal, I didn't think it was fair that the
13 interest -- because it took so long to get back to me.

14 JUDGE STANLEY: Well, you can present your
15 case in a minute.

16 MS. SPOHR: Okay.

17 JUDGE STANLEY: We're just trying to narrow
18 down what we're going to talk about today -- spend your
19 time talking about.

20 MS. SPOHR: Okay.

21 JUDGE STANLEY: Okay.

22 Ms. Ho, do you agree with the issue as stated?

23 MS. HO: Yes.

24 JUDGE STANLEY: And does the Franchise Tax
25 Board still agree to the stipulations that were in the

1 minutes and orders?

2 MS. HO: Yes. Franchise Tax Board's position
3 remains the same regarding the stipulation.

4 JUDGE STANLEY: Okay. All right.

5 And for exhibits, we have -- Appellants
6 submitted exhibits one through three. Franchise Tax
7 Board did not object to the admissibility of these
8 exhibits, and they are admitted into evidence.

9 (Appellant's Exhibits 1 through 3 were
10 admitted into evidence.)

11 JUDGE STANLEY: Ms. Spohr, staff has said that
12 you brought something. Is it something that you wanted
13 to present? Or use in your own presentation?

14 MS. SPOHR: Yes. It was just information
15 that, in the amended return, it did include the past
16 \$1,100.

17 JUDGE STANLEY: So you're going to use that in
18 your statement when you make your presentation?

19 MS. SPOHR: Yes, ma'am.

20 JUDGE STANLEY: Okay. Perfect. Appellants
21 did admit three additional exhibits by the February 3rd,
22 2026, deadline. There's a October 31st, 2023, letter
23 from Appellant's to FTB explaining the amendments.

24 There is a March 8th, 2024, letter from the
25 IRS to Appellants, and a March 19, 2024, letter from the

1 IRS to Appellant. So two separate letters from the IRS
2 to Appellants.

3 Ms. Ho, have you had a chance to review those
4 documents?

5 MS. HO: Yes. And no objections.

6 JUDGE STANLEY: Okay. So Franchise Tax Board
7 doesn't object, I'm going to mark those exhibits four
8 through six. And they are admitted into evidence
9 without objection.

10 (Appellant's Exhibits 4 through 6 were
11 admitted into evidence.)

12 JUDGE STANLEY: Franchise Tax Board submitted
13 A through L. Appellant's did not object to the
14 admissibility of those exhibits, so they are also
15 admitted into evidence.

16 (Respondent's Exhibits A through L were
17 admitted into evidence.)

18 JUDGE STANLEY: Ms. Spohr, you indicated, and
19 by your presence here, it appears you're the only
20 witness. So can I ask you to raise your right-hand,
21 please?

22
23 LINDA SPOHR
24 Produced as a witness, and having been first duly sworn
25 by The Administrative Law Judge, was examined and

1 testified as follows:

2 MS. SPOHR: Yes, ma'am.

3 JUDGE STANLEY: Thank you. So you requested
4 15 minutes for your presentation, and you can proceed
5 when you're ready.

6

7 PRESENTATION

8 MS. SPOHR: Okay. Like I said before, it was
9 a -- we withdrew money from 104k that wasn't correctly
10 done. We amended it right away, but had a hard time
11 getting back from the IRS during COVID. When I received
12 the FTB account saying that we owed all this money --
13 failure to file, all this stuff -- I sent in them to the
14 amended return, and that everything was fixed, and they
15 denied it.

16 So then I appealed it to prove that they did
17 accept it. I was in contact with Ms. Ho. We came to
18 the conclusion that I owed the overpayment of tax, and I
19 wasn't aware that if you overpaid that that was due
20 immediately. The 2,684 -- well, when they told me that
21 they didn't approve it, and I filed the appeal, we
22 agreed on the amount.

23 But I since found in the amendment, it had the
24 1,185 and the 1,413 included, so I didn't think it was
25 fair that an appeal -- that they would charge an extra

1 amount because it took so long to get back to me. That's
2 why.

3 I hope you can hear me.

4 JUDGE STANLEY: Yes, I can hear you just fine,
5 and Ms. Rodriguez can hear you. It should be one push
6 to turn it green, and then one push to turn it off.

7 MS. SPOHR: Okay.

8 JUDGE STANLEY: Mine is being a little bit
9 weird this morning, too. All right.

10 Ms. Ho, do you have any questions for
11 Ms. Spohr?

12 MS. HO: No questions. Thank you.

13 JUDGE STANLEY: Okay. So the Franchise Tax
14 Board requested 10 minutes for its presentation.

15 And Ms. Ho, you can proceed when you're ready.

16 MS. HO: Thank you.

17

18 PRESENTATION

19 MS. HO: Good morning. My name is Vivian Ho.
20 I along with my co-counsel, Brad Coutinho, represent
21 respondent, the Franchise Tax Board.

22 The issue presented before you today is
23 whether Appellants established grounds for the abatement
24 of interest for the 2018 taxable year. Appellants are
25 in agreement that they underreported; and, therefore,

1 underpaid their 2018 tax liability by the due date of
2 April 15, 2019.

3 As Appellant's did not full satisfy their tax
4 liability by the due date for payment, FTB properly
5 imposed interest. As held in the precedential opinion
6 of Appeal of Moore, imposition of interest is mandatory.
7 It is not a penalty, but it is compensation for a
8 taxpayer's use of money when it should have been paid to
9 the state.

10 To obtain relief from interest, a taxpayer
11 must qualify under one of the waiver provisions.
12 Appellants have not established that they qualify for
13 waiver of interest. Firstly, Appellants have not
14 established that there was an unreasonable error or
15 delay, and FTB's handling of their case pursuant to
16 Revenue and Taxation Code, Section 19104.

17 FTB may abate interest under this provision if
18 interest of a proposed deficiency is attributed to an
19 unreasonable error or delay by an officer or employee by
20 FTB in performing administerial or managerial act which
21 occurred after the FTB contacted the taxpayer in writing
22 after the proposed deficiency was issued.

23 Waiver under this provision also requires that
24 no significant aspect of the error or delay is
25 attributable to the taxpayer. The OTA's jurisdiction

1 over FTB's failure to abate interest is limited to
2 whether FTB abused this discretion in denying interest
3 having made.

4 To show an abuse of discretion, a taxpayer
5 must establish that in refusing to abate interest, FTB
6 exercised its discretion arbitrarily, capriciously, or
7 without sound basis in fact or law.

8 Appellants have not demonstrated, and the
9 record does not reveal any error or delay. And FTB's
10 performance of any ministerial or managerial act for
11 tax year at issue.

12 Instead, the record shows that after issuing
13 the proposed assessment, FTB handled Appellant's
14 correspondence in a reasonable timeframe given FTB's
15 workload constraints. Moreover, interest abatement
16 based on the reasonable delay or error requires that no
17 significant aspect of the error or delay be attributable
18 to the taxpayer.

19 Here, Appellants failed to report the federal
20 adjustment prior to being issued the proposed
21 assessment, and incorrectly calculated their tax
22 liability on their amended return submitted in response
23 to the proposed assessment. As such, if there were
24 delays, it is significantly attributable to Appellants,
25 and Appellants have not established basis for abatement

1 under this provision.

2 Regarding the second statutory provision, the
3 OTA does not have jurisdiction over Revenue and Taxation
4 Code, Section 19112, relating to extreme financial
5 hardship.

6 Lastly, Revenue and Taxation Code, Section
7 21012, also does not apply as FTB has not provided any
8 written advice to Appellants. As such, FTB respectfully
9 request that its determination be sustained.

10 Thank you.

11 JUDGE STANLEY: Thank you, Ms. Ho.

12 Ms. Spohr, I saw that you were disagreeing
13 with some of what Ms. Ho said. You have five minutes to
14 make any closing remarks or rebuttal to what the Tax
15 Board presented.

16 MS. SPOHR: Thank you.

17

18 CLOSING STATEMENT

19 MS. SPOHR: The reason for their denial of
20 abating the interest when we were in a appeal states
21 that we incorrectly did the amended return. And I have
22 proof right here in the amended return that they
23 included the original 1,185 that was given to me in
24 2019, and the new 1,413 -- that this was all sent to
25 them in the original amended return.

1 So I have proof of that that -- that the
2 correct amount -- like I said, when it first was -- my
3 taxes were first done on time, she did it incorrectly
4 and gave us a refund of 1,185.

5 This 1,185 is included in the 1,413 that we
6 got apposed for taking out early withdrawal of our
7 401(k) money. I'd like to state that all of this is
8 because of taking a loan from our own retirement to buy
9 a house. And because of my taxpayer not filing it
10 correctly, we understand that we owe the amount.

11 But me having to prove that the amended return
12 was actually accepted by the IRS, I don't believe I
13 should owe extra interest during that time.

14 Thank you.

15 JUDGE STANLEY: Thank you, Ms. Spohr.

16 So that concludes the hearing in the Appeal of
17 Spohr, and we're off the record.

18 (The proceeding concluded at 9:51 a.m.)
19
20
21
22
23
24
25

1 REPORTER'S CERTIFICATION

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

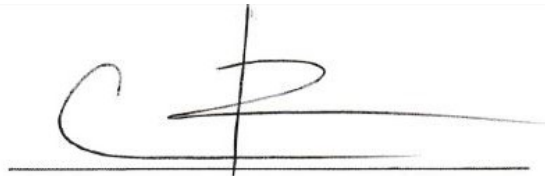
5 That the foregoing proceedings were taken
6 before me at the time and place herein set forth; that
7 any witnesses in the foregoing proceedings, prior to
8 testifying, were duly sworn; that a record of the
9 proceedings was made by me using machine shorthand,
10 which was thereafter transcribed under 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
25


\$

\$1,100 9:16**\$2,634** 7:21**\$375** 7:24**\$625** 8:1

1

1 4:4 9:9**1,185** 11:24**1,413** 11:24**10** 4:6,7**104k** 11:9**11** 4:11 7:16**12** 4:12**14** 7:18**14898** 2:19**15** 4:18 6:3 11:4**18** 2:17 5:1**18th** 5:7**19** 6:3 9:25**19116** 6:6

2

2,634 7:14**2,684** 11:20**2022** 6:3**2023** 6:4 9:22**2024** 9:24,25**2026** 2:18 5:1,7
9:22**240817285** 2:6
5:7

3

3 4:4 9:9**31st** 9:22**3rd** 9:21

4

4 4:5 10:10**400** 2:15

6

6 4:5 10:10

8

8th 9:24

9

9 4:4**95811** 2:16**9:34** 2:16 5:2,8**9:51** 2:17

A

a.m. 2:16,17 5:2,8**abate** 5:23 8:5**accept** 6:18 7:1,2
11:17**accepted** 7:3**account** 11:12**accuracy** 8:5**addition** 6:10**additional** 6:9
7:6,14 9:21**Administrative**
5:11 10:25**admissibility** 9:7
10:14**admit** 9:21**admitted** 9:8,10
10:8,11,15,17**agree** 6:11 7:12
8:22,25**agreed** 11:22**agreeing** 8:5**agreement** 7:21
8:6**agreements** 7:5,
11**ALJ** 3:3 5:10**amended** 6:18,20
7:2,15,19 9:15
11:10,14**amendment**
6:16,23 11:23**amendments**
9:23**amount** 6:24 7:8,
11,23 11:22**appeal** 2:5 5:6,22
6:17,25 8:1,12
11:21,25**appealed** 11:16**Appeals** 2:1 5:6**APPEARANCES**
3:1**appears** 10:19**Appellant** 2:7 3:4
5:13 6:1 10:1**appellant's** 4:4,5
9:9,23 10:10,13**Appellants** 5:22
7:13 9:5,20,25
10:2**approve** 11:21**assume** 8:7**aware** 11:19

B

back 8:13 11:11**basis** 5:23 6:9**beginning** 8:11**Board** 5:16,19
6:10,22 8:5,25 9:7
10:6,12**Board's** 9:2**Brad** 3:5 5:18**brought** 9:12

C

California 2:2,16,
20 5:1,9**case** 5:6,10 8:15**Certified** 2:19**chance** 10:3**charge** 11:25**Christina** 2:18**CLOSING** 4:16**co-counsel** 5:18**Code** 6:5**commencing**
2:16**Computations**
6:6**conceded** 6:11**concluding** 2:17**conclusion** 11:18**contact** 11:17**correctly** 11:9**Coutinho** 3:5
5:18**COVID** 6:21 11:11**CSR** 2:18**current** 5:25

D

date 5:7 7:6
deadline 9:22
deceased 6:19
decide 5:11
decided 5:22
denied 11:15
documents 10:4
due 7:19 11:19
duly 10:24

E

early 7:24
established 5:23
evidence 9:8,10
 10:8,11,15,17
examined 10:25
exhibits 4:4,5,7
 9:5,6,8,9,21 10:7,
 10,14,16
explaining 9:23
extra 11:25

F

failure 11:13
fair 8:12 11:25
February 2:17
 5:1,7 9:21
file 11:13
filed 6:16,25 7:17
 11:21
filing 8:6
fixed 11:14
found 11:23
Franchise 5:16,
 19 6:10,21 8:4,24

9:2,6 10:6,12

FTB 6:1 9:23
 11:12

FTB's 5:24 6:2,4

G

Good 5:14,17
guess 6:21

H

hard 11:10
heard 5:9
hearing 5:8
held 5:8
Ho 3:5 4:12 5:17,
 24 6:1 8:22,23 9:2
 10:3,5 11:17
hundred 7:16,18

I

identify 5:12
immediately 6:20
 11:20
include 9:15
included 11:24
includes 7:23
information 9:14
interest 5:23,25
 6:2,4,10 7:6 8:10,
 13
IRS 9:25 10:1
 11:11
issue 5:21 6:8,11,
 15 7:13 8:10,22

J

Judge 5:5,11,15,
 20 6:8,14 7:4,10,

20,23 8:1,4,9,14,
 17,21,24 9:4,11,
 17,20 10:6,12,18,
 25 11:3

L

late 8:6
Law 5:11 10:25
Lead 3:3
letter 7:1 9:22,24,
 25
letters 10:1
liable 7:14,21
Linda 3:4 5:14
 10:23
list 7:5
long 8:13
lot 6:19

M

make 9:18
March 9:24,25
mark 10:7
matter 2:5 5:11
minute 8:15
minutes 5:20 7:4
 9:1 11:4
mistakenly 7:18
mistakes 6:19
money 11:9,12
morning 5:14,17
 7:7

N

narrow 8:17
notes 7:13
November 6:3

O

object 9:7 10:7,13
objection 10:9
objections 10:5
October 9:22
Office 2:1 5:6
orders 5:21 7:5
 9:1
original 6:18,23
 7:17
OTA 2:6
overpaid 11:19
overpayment
 6:23 7:17 11:18
owed 11:12,18

P

paid 6:23
Panel 3:3
parties 5:12 7:5
past 9:15
penalties 8:7
penalty 7:24 8:5,6
Perfect 9:20
period 6:3,5
point 6:7
position 5:25 6:2,
 4 9:2
presence 10:19
present 8:14 9:13
presentation 4:9
 9:13,18 11:4,7
Procedure 5:10
proceed 11:4
Proceedings
 2:15

Produced 10:24**proof** 6:22**prove** 7:3 11:16**provided** 6:7**put** 5:24

R

raise 10:20**ready** 11:5**reason** 6:16,25**received** 4:4,5,7
11:11**record** 5:5,24**Reduced** 8:1**related** 8:5**relieving** 8:7**remained** 5:21**remaining** 7:12
8:9**remains** 9:3**reported** 2:18**Reporter** 2:19**requested** 11:3**Respondent** 3:5**respondent's** 4:7
10:16**return** 6:18 7:2,15
9:15 11:14**revealed** 6:1**Revenue** 6:5**review** 10:3**revised** 6:2**right-hand** 10:20**Rodriguez** 2:18

S

Sacramento 2:16
5:1,9**separate** 10:1**September** 6:3**settled** 6:24**Shorthand** 2:19**Small** 5:10**sole** 6:11**spend** 8:18**Spoehr** 2:6 3:4
4:11,18 5:6,14
6:12,13,16 7:8,16,
22,25 8:3,8,11,16,
20 9:11,14,19
10:18,23 11:2,8**staff** 9:11**STANLEY** 3:3
5:5,15,20 6:8,14
7:4,10,20,23 8:1,
4,9,14,17,21,24
9:4,11,17,20 10:6,
12,18 11:3**starting** 5:13**State** 2:2,20**stated** 8:22**statement** 4:16
9:18**stipulation** 9:3**stipulations** 8:25**Street** 2:15**stuff** 11:13**submitted** 9:6
10:12**suspended** 6:4**sworn** 10:24

T

talk 8:18**talking** 8:19**tax** 2:1 5:6,16,19
6:10,22 7:14,17
8:4,24 9:2,6 10:6,
12 11:18**Taxation** 6:5**taxpayer's** 6:18**TERESA** 3:3**testified** 11:1**time** 5:8 8:19
11:10**today** 8:18**told** 11:20**Transcript** 2:15**transcripts** 6:22

V

Vivian 3:5 5:17

W

waive 5:23 6:9**waived** 7:7**wanted** 9:12**Wednesday** 2:17
5:1**withdrawal** 7:24**withdrew** 11:9