BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,	)	
	)	
J. COYNE, JR.,	)	OTA NO. 18011393
	)	
APPELLANT.	)	
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TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, May 13, 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 1:05 p.m. and concluding at 3:45 p.m. on Wednesday, May 13, 2026, reported by Ernalyn M. Alonzo, Hearing Reporter, in and for the State of California.

APPEARANCES:

Panel Lead:	ALJ JOSH LAMBERT
Panel Members:	ALJ CHERYL L. AKIN ALJ TERESA A. STANLEY
For the Appellant:	J. COYNE, JR. DEBBIE WHITE
For the Respondent:	STATE OF CALIFORNIA FRANCHISE TAX BOARD JASON RILEY NATHAN HALL

I N D E X

E X H I B I T S

(Appellant's Exhibits 1-17 were received into evidence at page 6.)

(Department's Exhibits A-M were received into evidence at page 6.)

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Cerritos, California; Wednesday, May 13, 2026

1:05 p.m.

JUDGE LAMBERT: We are now on the record in the Office of Tax Appeals oral hearing for the Appeal of Joseph F. Coyne, Jr., Case No. 18011393. The date is May 13th, 2026, and the time is 1:05 p.m.

My name is Josh Lambert, and I'm the lead panel member for this hearing. And my co-panelists today are Judge Teresa Stanley and Judge Cheryl Akin.

For, FTB, can you please introduce yourselves for the record by stating your names.

MR. RILEY: Jason Riley, Franchise Tax Board.

MR. COYNE: Joseph F. Coyne, Jr., the Appellant.

JUDGE LAMBERT: Okay. Thank you.

MR. HALL: And Nathan Hall on behalf of Respondent.

JUDGE LAMBERT: Okay. Yeah. So, Mr. Coyne, you're the Appellant and FTB is -- I'll refer to them as FTB or Respondent.

So, thanks, to both parties for attending.

The issues in this appeal are: Whether Appellant is subject to passive activity loss limitations; and whether the statutory requirements of material participation have been met. And also, FTB has agreed to abate the penalties.

FTB has submitted Exhibits A through M, and Appellant has submitted Exhibits 1 through 16 as described in the Minutes and Orders. And there was a declaration, which was submitted recently, I think within -- before 15 days before the hearing, which I would identify as Exhibit 17. It's the declaration of J. Steed, and FTB was cc'd on it.

Does FTB have a copy of that, and do they have any objections?

MR. RILEY: We do have a copy, and we do not have objections.

JUDGE LAMBERT: Does FTB require submitting written questions in response to the declaration?

MR. RILEY: No.

JUDGE LAMBERT: Okay. Okay. Hearing no objections to that evidence, it's -- all the evidence is now on the record.

(Appellant's Exhibits 1-17 were received into evidence by the Administrative Law Judge.)

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

JUDGE LAMBERT: So, for the presentation, Mr. Coyne, you'll have 90 minutes. And I see that it's just you that's present. So, will you be testifying as a witness today?

MR. COYNE: Yes.

JUDGE LAMBERT: Okay. Then prior to your presentation I will swear you in, and FTB will have an opportunity to cross-examine you for 30 minutes.

And then FTB can provide its presentation for 30 minutes.

And then, Mr. Coyne, you can have your closing remarks for 10 minutes, and we may take a break depending on the time. So, Mr. Coyne, we'll start your presentation, but first I can swear you in. Can you please raise your right hand.

J. COYNE, JR.

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

JUDGE LAMBERT: Okay. Thanks. So, this is your opportunity to explain your position, and you have 90 minutes. You can proceed whenever you're ready.

PRESENTATION

MR. COYNE: Okay. I'm ready, and thank you for the time. I hope to be able to give some of that time back you to and not use it but it's hard to -- it's hard to predict.

At the outset, let me say a few things generally. It's been a long time since these events, 2005 to 2008. I -- I didn't contemplate how much time that was until I said to myself, "Wait a minute. You were 51, and now you're 71." And so memories fade. I'll try to tell you -- some things I have vivid memories of and try to answer any questions you have. But keep in mind it has been 20 years, and I'm gonna go into the length of time, but these were significant events.

And I -- I want -- I want to say through this process, because I just mentioned it's been 21 years, that it -- it's been a journey. But I want to -- and I'm gonna complain about a few things. But I want to say and -- that generally, you should be proud a lot of what your staff has done to cooperate and to help and to make me feel welcome. And it's appreciated. And I just wanted to say that because when I do criticize a few things that have happened, I want you to know there's a lot of people you can be proud of that dealt with this.

And over those 20 years I will note because I think it's a long time. I think it's an excessive amount of time. But the last five years was on part my responsibility in my part because my wife passed away, and

I was in the hospital for an hour -- or for a year. And then COVID, during COVID, and all that. So, all of the blame can't be on somebody else. Part of the blame is on me. But -- and some of the things -- I guess I'm just mentioning one of them -- are especially personal, but I think they have to put in context some of the events that occurred. And when folks say things like, "I couldn't have worked all those hours," worked all those hours. And I'm gonna give you the background of that so you have it in context.

I'm hoping that it's not true that you can't represent yourself because you have a fool for a client and worse lawyer. I'm gonna try. And I'm gonna try to teach you something about the oil and gas industry so you can put it in context and understand what happened and why it happened. But please be assured I'm trying to keep it to the things that are very, very relevant. Usually, when I introduce a witness, I ask them to give their background first; and I'm gonna give that to you.

I was born in Springfield, Massachusetts in 1955 in a little part of town called Indian Orchard. The sums that we are discussing today are wow. Okay. My dad never made more than $10,000. Okay. I worked in high school 54 hours a week when school was in session. Friendly ice cream country -- company did a study. When school was out of session, I worked 74 hours, and I had a second job. So when I say 54 hours, I mean get on the bus, go to school, and go to work, and work 54 hours. So, when people say I didn't work those hours, I worked those hours, and I had a long history of it.

Secondly, there seems to be some suggestion that with my educational background, that I'm not competent in the oil industry. And I need to assure you I am more than competent in the oil industry. I went to Notre Dame. That was the place to go when you were a little young Irish Catholic boy; started a pizza restaurant there. Went through and majored in accounting. Accounting has been important throughout my life, my legal life, my stock life, my oil life. I went to law school. I went to Stanford. I have used that, obviously, in law, Sheppard, Mullin, Richter & Hampton. I used it in -- this was all kinds of my businesses I've dabbled in, and I've used it in oil and gas.

But I'm not silly. I knew that I was not a petroleum engineer or geologist, whatever; and the Respondent points that out. How could he be involved? He's got a degree in accounting and law. But what did I do? In the 1990s I hired the head of the Petroleum Engineering Department to come to my law firm from 6:00 to 10:00 at night one or two nights a week and teach me petroleum engineering, geology, and seismic.

I -- before I left, I couldn't help resisting because all trial lawyers like props, and I had some of those books left over: Well Logging, Seismic Exploration and Fundamentals, my favorite, Petroleum Production Systems. When I was done with the training by the USC head of petroleum and engineering, I asked him, "How close did I come to a degree?"

And he said, "Joe, you're mid-level junior."

And I said, "I -- I want to be close to a degree."

He goes, "I taught you everything you need to know except the math, and the math you're going to have somebody else do."

So, I learned both scholastically and in the field, as they say, about the oil industry. And, by the way, it's been ups, and it's been downs. The two projects that we're about to talk to today are the two best I've had in my life. The last two projects I did failed miserably. But -- so, when you see all of what I'm --I'm gonna show you, I hope you understand I contribute meaningfully to the process.

So, the legal standard -- but what's the legal point here? Well, in the oil and gas industry state -- in this arena, state law follows federal law. The IRS has ruled that my intangible drilling expenses during these -- this -- this time period were properly applied against earned income. They were the ones who launched the investigation -- I'll get into that -- or the review. And, by the way, the California Board of Equalization has found that my partner, Lawrence Braun, who invested -- and I'm gonna show you similar to me, properly could write-off intangible drilling expenses against earned income.

Okay. So, the issue has been decided at the federal level. It's been decided at the state level, and I'm the only one being held -- held up here 11 years later. My prop -- my tax returns properly deducted intangible drilling expenses against active income. As a civil lawyer we would call it collateral estoppel or res judicata. You can't get different results for the same people. And I want to point out on my first slide here called "Taxpayer Income and Expenses," I explain. So we have some oil projects, and they're working -- called "working interest". What's a working interest? A working interest -- I'll give you comparisons to a royalty interest. If you're a farmer and you own the land and we lease it from you, we pay you a monthly stipend, and then you get some of the production. That -- but we have the working interest. We have to pay all the expenses. We make the decisions.

We invested through two entities. The first one is Verdugo Oil & Gas, LLC. I am a 50 percent owner of -- member of Verdugo Oil & Gas. Okay. Mr. Braun is 25 percent. Mr. Toth who lives in Chicago is 25 percent. And then I have my own LLC, JFC Oil & Gas where I own 100 percent of that. The net result of this is we -- in the Southridge project, which is the one that's here, we own 25 percent of it. I owned about 17 percent of it. I would say 16 and a half, something like that, and I'm the operating manager. And my law firm is Sheppard Mullin. I'm a law partner. Now, I'm a -- of counsel, but was an equity partner at the time.

Mr. Braun, you will notice, was both in Verdugo investing in the working interest and Sheppard Mullin. And the Board found in 2013 -- and I'm gonna get into it -- that Mr. Braun, with the same oil deductions on the same projects, properly deducted those or applied those against the active income at Sheppard Mullin. There is no difference. And, frankly, and credit the government, like, they haven't said there's a difference. Okay. So -- but notice I'm the operating manager, and that could potentially be important but -- and -- and, by the way, the federal government also found these were appropriate working interest. And a lot of the exhibits that you mentioned, Judge, show clearly the participation agreement, the operating agreement, et cetera.

But what -- what are we talking about here when we talk about intangible drilling expenses? Well, on my next page I show you a well. And I'm gonna point out it's a little graphically inaccurate. It shows us going down and making a left turn or right turn, whatever turn it makes, and -- as if it was square. I'm not good at graphics. When you go down, you don't take a right turn. What you actually do is you slowly curve. You go into what's called the curve, but I couldn't make it depicted there. Okay. So, now why is this important? Well, I can explain to you what is an intangible drilling expense, so you know.

So, when you drill a well, you put a platform. You've all seen them, the big rigs. By the way, when you go by -- just an aside. When you go by on some of the streets here in Long Beach or whatever you see rigs. Those aren't drilling rigs. Those are called workover rigs. So -- but you've got to think of a big, big rig that -- and these wells were drilled by particularly large rigs. You have a drill pipe. You come down, and at the end of the drill pipe you put a bit. And the bit is attached to a 22-foot pipe. It drills. Mud goes through. It spins the bit.

And then the cuttings, that are called, come up the side. And then you go down 22 feet. You put pipe in 22 more feet. All the cuttings come up. And there's a man who sits on the top, the mud - mud logger. When those cuttings comes up, he sits there and does a graph, long chart, and he tells us foot-by-foot what we're getting. Guess what? When we're drilling those rigs, or when we're drilling those holes and we're going down, you see as you go down, you look into the formation, and it might be a quartz. It might be a limestone. It might be dolomite. It might be limestone.

He's marking that and telling you what you see. Because when you go down, you don't know if you're gonna hit a zone that has oil, a zone that has water, a zone that has something else. When they're drigging [sic] -- drilling that rig -- or they were drilling that hole, the well, and they get to something that they don't expect, what do they do? The mud logger goes to my folks. They send the log to me. We talk about it. We talk about it over the phone. We talk about it. We debate it. What do we do? We keep going. But that tells you maybe there's a potentially other zone here. Okay. And I know about logging. Okay.

When you get to the curve, you keep going. Now, in the Woodford, which is the Southridge project, this well is about a mile and a quarter deep, and then you take a turn, and you go out. In this case, you go out a mile. If you can imagine a pipe going down, curving, and then going out a mile, it's amazing. And, at this time, because you've probably all heard about this and think, "Well, I've heard that." No, no, no, no, no. In 1993 a man named George Mitchell made this possible because he came up with something called fracking.

We started drilling these wells that were involved in 1997, '98, 2005. This was innovative. This was new. And by the way, I'm going to talk to you about fracking because I know some people don't like the word fracking. But when he was able to do this, we've reduced pollution in the United States to 1992 levels, I believe. The primary determine of that was -- we're able to frack and get natural gas, rather than coal. So, this was all productive. Okay. You go down. Now what do you do? You're at the end.

You pull up the pipe. Oh, you run a suite of logs. What kind of logs do you run? You run an electrical log. What does that tell you? That tells you where the water is, or is it oil? Or is it gas? You run a neutron density log. That tells you if the well is porous or the formation is porous. When you -- to get oil and gas, you need porosity and permeability. Porosity is like a sponge, those little holes. Do they hold oil or gas? But then you need permeability, and permeability happens when you frack. You break it up, and those little holes get connected so the gas can come up to the wellbore. So -- oh, and you do an acoustic log. You do other -- you can do other kinds.

By the way, now they even have them -- they come out of the computer in colors, and they code, and they make it so much easier for you than in the days of this type of log but -- okay. When you -- then you put pipe in the hole all the way down. Okay. Pipe. Then you -- you frack. What is fracking? Well, fracking, you go to the end of the hole, you take a plug, and you put it, let's say, most commonly 250 feet in, and then you run tubing through it, and then you put water. We usually do slick water -- what is called slick water fracks. And they breakup that 250 feet. They -- you perf into the pipes. You put holes in the pipes. Then the water comes down for the fracking. It goes out into the formation, breaks up the rock, breaks up the sponge, if you will, to get permeability. Then you come back 250 feet, and then you do the same thing over all the way to the curve. Okay.

What happens? Every day, every single day, every frack, I get a report first thing in the morning, and I talk to the field. And you're gonna say, "Joe, well, okay. How much time does that take? I guess that might be it." It takes a lot of time. What happens if something goes wrong? What happens if the water goes out and doesn't break the rock? There's lots of things that go on. By the way, I said 250 feet. We have used others. I'm known for, "Joe says small intervals, big fracks. Breakup that stuff." Okay.

Then when you're done -- okay. Now, you fracked it. You drill out the plugs. You come in, and then you put in your production tubing, and the well is ready to produce. But meanwhile, at the top, you have to make a whole bunch of decisions. How many water tanks? How many compressors? Are we gonna -- where is the nearest pipeline? Are we gonna build a pipeline? Because keep in mind, you don't know if that well is gonna give you natural gas yet, and you've invested all this money, okay, tubing, compressors, all of those things.

So, what's intangible, and what's tangible? Well, the labor -- I'm giving you examples -- the fuel site prep, the chemicals, the cement, the drilling mud, all of those things. And I said to my myself, "Why cement?" Oh, it's not salvageable. So, those are undisputed intangible drilling expenses. What are tangible drilling expenses? Well, tangible drilling expenses are the stuff that you can salvage later; the pipes, the compressors, the pumps, all of that stuff. And it varies from well to well how much goes into each.

You literally calculate it by cost element, obviously. But let's say it's 50/50 just -- it might be 60/40 or 70/30, and it all depends on the well. But that's the difference between intangible drilling expenses and tangible drilling expenses. So, the next chart just explains that when you have intangible drilling expenses, you can write those off in year one. The tangible drilling expenses you write-off over seven years. But people -- and you got to understand, since I'm -- I'm obviously very proud of our success on this project. I'm success -- I'm proud of the fact that we help with the environment. But you get a lot of grief when you're the oil guy.

And people say, "Oh, you got all these tax breaks." Well, we don't. They always cite, "Wait, don't you write off intangible drilling expenses?" No. Yes, intangible drilling expenses. But keep in mind, when you go to sell the property, you've already expensed it. And so, the only thing you can write-off is the tangible expense, the remaining basis, if you will. So, there's no -- there's no free lunch here; but just to get that out of way.

I want to explain to you the wells that are at issue here from an overview perspective of what you can take from them. In 2005, these were the Campbell Ranch wells. I showed you the ones drilled in 2005. They were in Hemphill County, Texas. They were much different formation than what we later did in Southridge, much harder, much deeper. I think these wells went down maybe even two miles at some time. But the point of that was -- and those were sold in January of 2006. So, when you talk about writing off intangible drilling expenses in these wells, they would have been written off the next quarter anyway. But the FTB people look at it, didn't want to hear it. Didn't want to talk about it.

Okay. So, in 2006, this was our first good project. And I -- I can tell you stories of other projects that weren't so good, but -- and some -- a couple that were mediocre. But this was our first good project. So, in 2006, now let's see. This is when I turned 51. We started with a project in Oklahoma, Atoka and Coal County. It says state, but that should be under county. And there's a difference, by the way, between Texas and Oklahoma legally. And my legal and tax expertise had come in handy because I prefer now to operate in Oklahoma because you have what's called forced pooling.

You can -- imagine all these farms out in the winter land and people have owned them for 100 years. And in the 1920s they passed it on to their kids, and then they passed on. But nobody ever thought anything was there. The minerals got passed on. Well, no now in 2006 when you try to drill a well, you've got to figure out who owns the mineral interest; and they don't stay with the land oftentimes. They go -- the farmer sells to another farmer, but he keeps the mineral interest; his kids get it. And there are a host of legal issues that I get involved in involving trusts, inheritance. In Oklahoma when can you force pool or not? I am intimately involved. Okay.

But I'm gonna just tell you so you know all that glitters isn't gold. The Betts and the NOAK here, remember those two wells for a minute. Because remember, we're now starting a new project and we drilled those two wells. Okay. In 2007, we drilled -- the next two pages -- that's 19 wells. We were sputting a well every three weeks. Imagine the time that it took my team and me to plan the drilling of -- of that well that I just explained to you with the curve. Imagine. Because, by the way, the NOAK and the Betts -- I have the figure here. I don't want to -- cost $6,349,000 for the Betts and $5.5 million for the NOAK. You should not think that a poor kid from Massachusetts puts his share of that money in, unless he pays attention to every, everything, and I did.

And, by the way, my guys, yeah, they -- they tried me some time. But 20 -- 2008, 23 wells; two a month. Okay. And the first two wells $11 million were wasted. They never produced a dime, but the California Franchise Tax Board said "Oh, you wrote those off against other income." Wait a minute. We didn't get anything. Zero. They weren't just intangible drilling expenses, they were everything. We lost our shirt. Okay. But we're going to get on that. And those were sold in 2010 -- was it 2010? Yes, 2010 we sold those wells. But because I was held up here, those intangible drilling expenses have never been deducted from the proceeds of that sale. And I've asked the Franchise Tax Board give me an accounting, and they won't do it. And they don't do it. And they haven't done it to this day. Okay.

So how did all this start? And, by the way, I -- I hope I don't sound mad. I've had a great life. You saw my law firm stuff, saw stock stuff. You saw oil. Oil, gas, and stocks are my passion. If I -- if I was in the next generation where they talked about following your passion, this is my passion. I mean, yeah, I like to try cases sometimes but, you know, this is it.

So, what happened here? Okay. The IRS -- and there's a mistake on my charts, and I want to correct. So you just know for the 2005 period. Sometime in 2009, I believe, the IRS says they're gonna challenge the write-off of intangible drilling expenses. And the mistake is it wasn't Braun, it was Coyne up here. And I got a letter later on from the FTB, very nice, basically saying us too. Us too. We got this from the Feds. We're going to do the same thing.

It was a woman. I called her Ms. V. I try not to put last names in here. She was delightful. She said, "Okay. Yeah, we got this going on. Let's use the data from both." I, in 2009 approximately, I called up the local IRS office in L.A. A wonderful man by the name of Mr. Mejia. And we're opponents, but he was very nice, and I explained, look, at -- here's what intangible drilling expenses are. You guys, these are working interest. They have a special category of treatment under taxes. And he was very honest with me, and he said, "Mr. Coyne, we're in L.A. We don't see much about oil and gas, but we'll look into it."

And the IR -- I talked to the Franchise Tax Board, and they said, "Well, we're gonna wait for the IRS to see what they do," and they launched this thing. And since that time -- I counted from memory, there may be more -- eight different auditors from the FTB. Now, most of them were delightful people, and I loved dealing with them, but it -- this is all complex. And when you try to teach someone the oil, they didn't understand the oil stuff. They were transferred out within two years. It just became -- it became a nightmare.

But Mr. Braun, my partner in both the oil and the gas, he was -- got a letter from the FTB, and they said we're gonna challenge this. Okay. And in my papers I said, "Well, you know, the FTB with Braun decided that they were properly the intangible drilling expenses were properly taken, and we got a nice apology and -- from the Board of Equalization. And I got greeted with a, "No, there's never -- nothing from -- we didn't get apology." Well, I'm doing this because I want you to know I'm credible. Here is a copy, on the next page, from the person who handled it on behalf of Mr. Braun to very nice man named Ian Foster at the Franchise Tax Board.

"As you indicated to us in our last face-to-face meeting in San Diego, we passed along the State's apology to the Brauns regarding this two-year ordeal," which they had been though with regard to this matter. It was actually four, but two was with one auditor, and then two was with Mr. Foster. But I'm going to tell you Mr. Braun is a wonderful human being, and this meant a lot to him. That's how I found out about it.

So, the -- so, then what happened? That was 2000 -- June of 2013. Mr. Braun, who invested in the same projects as me, deducted it against Sheppard Mullin income, just like I did, was told by the FTB go in peace, we agree with you. I thought okay, I'm going to call. But I waited a little while because the F -- the IRS then ruled in 2013 that Mr. Coyne had properly deducted intangible drilling expenses against Sheppard Mullin and other income.

So, now I'm sitting there. I'm thinking, okay, this is over. The Feds agree. The California Franchise Tax Board agreed with Braun. And I had my accountant call up the Franchise Tax Board and -- as she says in her declaration -- the person said, "I don't care." Well, that just spun me into orbit as you can imagine. And so, I called personally. Usually, I try to do this through my accountants and stuff, and I called the auditor. And you notice I didn't put the quote in here. I'm gonna give you the quote, and I'm under penalty of perjury.

I called up and said, "Hey folks, the Feds have ruled. California Franchise Tax Board has ruled with Braun." Same thing. Same thing. I tried to explain it, tried to explain it. And his closing comment to me was, "Mr. Coyne, let me explain this to you. I've never given more than a $20,000 refund, and I'm not gonna start now." That person I'm mad at. The other people have tried their best. Okay. So what happened? This should be intangible drilling expenses one dash and active versus passive, which we'll get to because we don't have to get to the 500 hour 10 test. Okay.

The FTB finds Braun invested in appropriate oil and gas interest, and there's the IRS section that allows you to write those off. And then someone at the FTB properly raised the issue. Okay. But you're an LLC, does that limits your liability. So, they can't be written off. And we provided the same documentation that you've looked at. And I'm gonna show you in a second the -- the debt that we signed onto. And they found -- this is what they found.

Mr. Foster, "As a limited liability company, Verdugo, LLC, limits the taxpayer's liability with respect to the underlying investments by operation of law. You" -- that's Braun -- "argue however, that the taxpayer's execution of the aforementioned lines of credit for $60 million on May 31st, 2007, and again $81 million, November 24th, provide the taxpayer with effectively unlimited liability because the credit limits are far beyond any liability that reasonably might accrue. I agree that the amounts of the credit lines, while not technically unlimited, are sufficiently high to provide what amounts to unlimited liability respect to the underlying oil and gas investments to which they relate."

Now, we have explained this to the FTB. Mr. Braun explained it, and it's accepted. The FTB has accepted it, but they wouldn't let it apply to me. Interestingly, Mr. Braun in those proceedings, never contended that he was an active investor because he spent 500 hours or more, because I'm the operating manager. I hold four times the interest. I do the work like that. Okay. But the FTB allowed him. So, now you get to me. I invested in the same quality oil and gas working interest. I signed on the same debt, I think more. And right now the FTB today, you, need go no further. It's been decided by the Feds and by the state. Okay.

My personal guarantees, and I this is why I added Mr. -- one of the reasons I added Mr. Steed's recommendation. And I told you about the HOAK and the Betts. And I told -- here are the personal guarantees that I signed from 1995 to 2006, and Mr. Braun didn't remember it and that's why I gave Mr. Steed's declaration because I didn't want you to think there was a time period, 2005 or 2006 when I wasn't personally liable. And if I can explain just for a minute. I own a quarter of the project. My partner, my friend, my camaraderie, God love him. He's deceased. Just deceased a couple of years ago.

His family owned 50/60, I think. I owned 25, and some other people did. But I had to personally guarantee to him his company's Pablo and Cactus. I had to write a personal guarantee and did from 1995 to 2016. Then there are the two guarantees. This is $60 million and $81 million, the Great Plains AG Bank. Why did we go and add Citibank? Well, remember that NOAK and the Betts and all those we had were doing. The AG Bank went and said, hey, you guys -- Paul, you and your buddies are -- we're an agricultural bank. He was a cattle feeder. You got to get yourself a new bank.

So, at this time, we concurrently had $141 million of guaranteed debt when those -- with those wells that we drilled. I mean, think about that for a minute. A one-hundred-and forty-one million dollars I was personally liable for. And now, despite making the same -- now, making a decision that said, in Mr. Braun's case, you're liable for that. You can deduct them. It's been 11 more years, and they haven't said, "Mr. Coyne, we get it. We ruled that way. The IRS rules that way. Go in peace."

Okay. Now, the IRS found in my favor, not Braun's favor. He did -- he was never challenged by the IRS. And so, I gave you a chart. When the original notice came out from the IRS, FTB cited that and says us too. We went through two IRS reports; one on 12/1/2011, and one in May of 2012, and that was when we were arguing discussing debating with the IRS. And the FTB said "Oh, yeah. We're going with the feds. Yeah, what they say." Okay. But on August 21st, 2013, the final report came out, and the IRS said, "Mr. Coyne, you can deduct those intangible drilling expenses. Go in peace."

What did -- what did the FTB do? Nothing. They've ignored it. They've never distinguished it or explained it; and it was the IRS that kicked off this whole thing, and the State of California follows California law. And the State of California in Braun's case decided the same as the IRS. How can that be? Because, as I showed you, we -- we weren't protected. We had $141 million in debt. But -- and this is important on the next stage -- on the next page. Remember, Mr. Braun was not the operating manager. He had $140 million exposure, and the California Franchise Tax Board said that was enough. But I'm the operating manager. I had the $141 million of exposure. And as the operating manager, I have listed out here, what are the liabilities of the operating manager: Personal liability comply, fraud misrepresentation -- wait a minute -- negligence, defamation, harassment, violation of laws -- securities laws. Mr. Braun was not the operating manager. This is all incremental liability that I had and do have now.

Now, I'm a trial guy. I told you that, so I'm used to people suing and being sued. Tell me, what cause of action could exist that isn't negligence, fraud, violation of law, environmental? What could happen in the oil field that isn't covered? So, this panel -- I hope you're throwing up your hands and saying how could this happen? Because there -- right there, we can stop. Qualifying working interest, unlimited liability, functionally and actually, and in prior decisions of the IRS and the California Franchise Tax Board. I -- I just want to ask a rhetorical question. How can this panel ever, ever go against what the IRS said and what this Board of Equalization did in the Braun case, when my case is even better because I'm the operating manager? And I hope I've convinced you a little, but we'll get into it.

So then I said as a precaution, I know there's this five-hundred hour exception. And so, I'll invoke that too. They'll understand that I worked 500 hours. What was the Franchise Tax Board's response? Wait a minute. Wait a minute. I supplied my declaration, Braun's declaration, Toth's declaration. By the way, they're all lawyers under penalty of perjury. We take that seriously. Mr. Steed, Debbie White, and my secretary. Why did I do my secretary like that? 'Cause I thought everybody would ask me. Because she sat outside of my office every day, dealt with all these people, saw the documents, the maps -- we're going to talk about those -- come in, and knew exactly how much I worked on it.

But Mr. Steed, he's the guy -- he's a geologist -- he knows. My partners know. Five declarations is it? -- six declaration? Not one ounce of controverting testimony or evidence came in. Basically, their analysis was, J.F. Coyne, he can't work that hard. The numbers don't add up. But they don't think -- and I'm going to explain -- about efficiency or analyzing time or how you can do that. The FBI -- the FTB is wrong. And I think on the stock issue, they've given up. But I -- I hope because it's not in here. But you say, "Mr. Coyne, how did you get" -- so, let me just show you this chart and, I might be to blame for a part this. This is the FTB saying, "Well, at law you -- you worked 4,308 hours or something, and then oil and law a thousand each.

Well, the answer is 4,308 -- no. That's a mistake. They said, I don't know where it comes from. It might be a typo. I might have made the typo. Around that time I billed -- and just remember it's chargeable hours in the private law firm, the reality is somewhere, I think, on average 28-- 2850 I put -- to give you the benefit of the doubt. And then the issue is in oil and stocks 500. That's what I have to do. I think I did 1,000. I'm going to -- but all I have to do is 500. I could trip and get over that. Okay.

I worked from September 29th, 1980, to August 2nd, 2012, never took a sick day. My last full week's vacation was September 24th, 1984, twice in the intervening 20 years. I tried to take a week's vacation, and it was an utter disaster, and I never really got it. Okay. I work every day of my life. I work all day. I get up at 5:30. The stock market opens up at 6:30. I spend from 5:30 to 6:30 reading analyst reports, preparing for the stock market, and trading. In this period, I traded for 222 trading days. I think it's in the record. I traded 156. I traded $125 million worth of stock. Now, it sounds like I'm bragging. I'm not bragging. It was hard, and it's so personal. Okay.

Now, I'm going tell you something really personal. Because you could look at that and say, "Mr. Coyne, you're killing yourself." Well, one year later they don't know this in fairness to them, but they never entered into say dialogue with me, and they would have known it. In November of 2009, I had a stroke. It's called a T.I.A. They call it a mini stroke. By the way, there's nothing mini about it, if you've ever had a stroke. I talked to my doctor. My doctor asked this routine, and he said, "You're gonna kill yourself." Within two months I left Sheppard Mullin, and I went in-house because I was killing myself.

But if you think I'm mad or emotional, it's because I did this, and it's not without consequences -- a lot of different consequences. I read research reports, company reports. I have two -- I have two black -- I have two iPads in case one runs out, and I need to trade. Hundreds of millions of dollars at stake, but that was stocks. And then we get to oil and gas operations. I think I've -- I hope I've convinced you I've trained myself enough. But, after I do my stock and the stock market opens, I get this report. This report gives me a report on the weather. Why is the weather relevant? The weather determines pricing, and I make decisions about whether to hedge, what to nominate, and what to sell on a daily-daily basis.

This report, later in the day that I get, issue pricing on natural gas liquids. Butanes, isobutane contain natural gas. We have to make decisions, do we strip the glass of its natural gas liquids that are used in chemicals, or we can allow 1080 BTU gas down a pipeline, and do we just sell it as higher energy content. I am involved in all of those decisions, and it takes a lot of study and activity.

But let me go through my participation in the process. It starts at the beginning. We look for projects. We go with brokers, owners. My team does a screen. But then I get involved in all the land issues, as I described, the geology. We look at neighboring. We have maps, faulting, well control, which means if I drill here but there's another well a mile away, how does that compare? What about half -- half-a-mile away? We look at production from those wells. We develop a seismic plan. We try to -- we try to decide whether we need seismic or not.

A development plan, how can we bring leases together? How fast can we do it. The rig, how big does the rig have to be? Pipe in the hole, by the way, I told you about pipe in the hole. You don't know it, but the casing up top is wider, bigger diameter. Do you use seven to seven-eighths, seven to five-eights, four eighths, four and five eighths? What do you use? I get involved in all of that. What does the formation show as we go down? I get involved. When we drill through it, do we get a sample in the mud of oil and gas? What are the costs? How far have we gone every day?

Fracking, I told you about that. I get involved in all of that; the surface equipment, the tanks, the pressers, the pipeline, operator. And then when the operation starts, you're producing the oil and gas. Everybody thinks you turn it on, and it comes out. That's not how it works. You have a daily guy that goes out there, which you then have to make decisions. What happened? The volume went up. The volume went down. Did something fall into through the perfs and block the pipe? We just had that one, so I'm giving you that as an example.

I remembered in during this time period we were coming online, and we had a cold spell. We were on the phone, and we debated it, and we hired crews to go all night during the cold-- cold spell to go out to all of the wells and try to keep them running. We did the same thing this past January. But just to give you an idea of why that's not wasted time, this past January natural gas sells for about $3 -- a little under $3 on the NYMEX today. In Europe it's 13. With this cold spell in January that we had that was so bad, we got $52 from MCF. I thought I had died and gone to heaven, but now it's now down below $2.80.

Okay. That was caused by a decision we made to expend those people out there 24-hours a day, and we got reports. But we also got reports in the morning, "Hey, this many went under any way. Hey, by the way, we told the pipeline we're going to deliver this much. What are we going to do? How are we going to do it?"

By the way, I talked about weather. When you're in the hurricane season, what are you gonna do? Are you gonna sell more of your gas on contract, or you gonna sell it on a daily daily basis? Usually, we do 50 percent we sell a month forward, 50 percent we do on what's called a daily daily. But if you think gas prices are going down, we can increase it -- we've increased it 70 on the monthly basis. I get involved in all of those decisions. I've literally talked to the brokers out there. If it's cold, then you got to look for -- and you got to educate yourself. Because right now in the United States we produce 20-some-odd BCF of gas. We run through and -- to liquify natural gas. It's going to 30. It's going up 50 percent in the next two years. Those are the projections as of this morning.

That means I have to decide whether to hedge the gas or not, or not hedge because I think demand is coming. But what's coming in terms of production? There are a host of issues. Land issues come up every day. You can't imagine how somebody claims you gave -- my brother, he didn't inherit this. My dad gave me this. I mean, the legal stuff comes up. It's royalty issues. Oh, the landowners, the royalty issues; the owner says, "Hey, wait a minute. You're giving me $3 minus what the broker costs to sell that for you. I'm a royalty owner. I shouldn't have to pay the broker's cost." A legal issue comes up, other things. You strip the gas. Well, wait a minute am I getting -- am I getting the right amount? There's -- there's constant arguments.

But anyway, I studied voluminous data. I take calls -- or in this period, 20 wells a year, I was taking two, three, four calls a day. Now, today, every other day, five times a week, four times a week, and daily weather we talked about. Team -- team meetings, these engineers, geologists, I've met them in Massachusetts, New York, Washington, Louisiana, Texas, Oklahoma, Colorado, California, and Las Vegas. Okay. It's not -- they said I'm a thousand miles away. Yeah, I'm a thousand miles away, but I have a telephone, and I meet with them. Now, you can get some of this online drilling stuff. I'm not very good at it. So, but when a well is being drilled, I used to have it sent to me. Now, you can get it online.

So, I don't know how I can do more to explain, but that -- that the notion that I couldn't drill -- bill 5 -- I couldn't work 500 hours when I was working at Sheppard Mullin what -- is I crazy. And, by the way, think about it. We had a -- I hate to travel. But I used to have to travel all the time, and I was 7 million miles;

and 4 million of those are probably flight miles.

Why am I mentioning that? Well, when I'm on Sheppard Mullin business flying to New York or wherever; yeah I can do some work for the client, and I did. And sometime I can even work some time for a different client, and then I don't have to charge the client that I'm on the flight for. But then a lot of the times I'm sitting there in the first -- in the coach or first class, depending what I'm in -- and trying to read drilling reports. Trying to read -- read about seismic. I'm sitting outside waiting for my flight for two hours, and I'm working on oil stuff, but they don't consider that. And if they had just asked me, I could have explained to 'em. It's not hard. By the way, I work Saturdays and Sundays. I work Saturdays and Sundays in law, stocks, oil. They don't understand. I worked constantly.

Okay. A couple -- I'm gonna close. I think I'm meeting my promise to give you back some time, hopefully. I call it the "penultimate outrage." On November 18, 2016, I was going to get a refund from the federal government of $1.3 million, $1,359,000. I got a letter from the Department of the Treasury, which is here, telling me that the FTB had intercepted that million 3, and it was because of the audits that we're discussing today. Okay. You know what? The IRS had already ruled I was right. The California FTB in the Braun case had decided I was right. They took it. That's -- okay. They took it. But you know what? They applied it to 2008, the year that's at issue here. They've never told me. They've never accounted for it.

I've asked them. Tell me what did you apply it to, and which deduction, and which this and that. All I know is that a million 3 of my money for the last nine years is somewhere at the FTB, and they don't tell me. Okay. And then I said, "Well, Joe, if you're going to be there and tell them your story and you're gonna express your frustration, tell them your final outrage, and that's my chart: 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, and 2024; every year since 2008. Guess what? On all of my federal and California returns, I treated intangible drilling expenses the same way that I did from 2005 to 2008, and not once as the IRS or the California Franchise Tax Board challenged any of those deductions. They shouldn't, by the way.

And in fairness to them, there are some years here where I probably didn't need to -- or didn't have the income or the deductions to apply it. But it's now been 16 years, and I treated everything the same and no one has complained. Why are they complaining about 2005 and 2008? Why hasn't someone said to me, let's figure this out.

It'll go away. We went away for Braun. The Feds went away from you. The federal government, I actually know why they didn't. Because Mr. Mejia, when he told me that he was not going to -- they're just allowing -- he was allowing the intangible drilling expenses. He said, "Mr. Coyne, I hope you don't mind, but I'm having your file sent to me every day -- every year, and I'm gonna audit you every year."

I said, "Mr. Mejia, now you're telling me I'm special?"

He goes, "Well, I'm doing this because I understand now, oil and gas, 'cause I talked to the guys in Houston and in Texas. They're the experts. So, it's actually better."

So, I know why they haven't challenged me. But the California Franchise Tax Board has not said one word, and they shouldn't. But, you know, enough times come by.

And I guess my conclusion would be, if you need anything, I'd like to submit whatever more evidence you need. I'm hopeful that -- I'm hopeful that -- it's so complicated. I -- I often ask myself if I was a judge what would I say, and I'd giving them the rulings on the law. But then I'd tell them, go cooperate with each other and figure out financially what this means; and that's what I'd recommend to you. The -- I don't need to win on the 500 hours because that's in addition to the working interest with the unlimited liability, and I'm the managing operator. I hope I didn't get too upset, but I worked those hours. I promise.

That's my spiel.

JUDGE LAMBERT: Thank you, Mr. Coyne, and thank you for your testimony.

I think we could just -- maybe we'll take a break now for 15 minutes, and then we return.

Then, Mr. Riley and FTB, you can ask questions if you want, and then the panel may ask questions, and we can move on to FTB's presentation after that.

So, we could just take a break now and go off the record.

(There is a pause in the proceedings.)

JUDGE LAMBERT: We can go back on the record.

At this time, Mr. Riley, if you had any questions for Mr. Coyne, you can proceed.

CROSS-EXAMINATION

BY MR. RILEY:

Q Okay. Again, Mr. Coyne, I'm Jason Riley with Franchise Tax Board. I've just got a couple of questions. So, Mr. Coyne, during the tax years at issue, 2005 to 2007, you resided in California; correct?

A Yes.
Q Was that on Ashdale Avenue?
A Yes.
Q Is that --
A Yes.
Q Is that considered part of Los Angeles?
A Yes.
Q Did you have other residences in California during the tax years at issue, 2005 to 2007?
A Other residences, no. Residences, no.
Q And you worked on Hope Street in Los Angeles at this -- during the tax years at issue?
A Yes. Yes. That's where my main office was.
Q Okay. And the commute from Ashdale to Hope Street is about -- is that about 45 minutes each way?
A Actually, are you talking about presently or then?
Q I think then.
A I don't think it was that much. It's gone through a transformation since I started. But it depends on the day, yes.
Q So, less than 45 but, like, 35 minutes?
A Thirty-five, forty-five. I mean, it depends on the traffic.
MR. RILEY: Okay. Thank you.

That concludes Franchise Tax Board's questions, and then whenever you're ready, we have a presentation as well.

JUDGE LAMBERT: Okay. Thank you, Mr. Riley.

I think first I'll just ask the panel if they have any questions at all at this point.

Judge Stanley, did you have any questions?

JUDGE STANLEY: I have a couple. And some of them are things to which you've referred that I don't think we have in our file. But first of all, for our stenographer, you've been mentioning some names. When you mention names, could you spell those names for her too, like, the three that I caught were Ms. V, which is just the initial V.

MR. COYNE: Right.

JUDGE STANLEY: And Mr. Mejia and Ian Foster, could you spell those for her.

MR. COYNE: Sure. Mr. Mejia I believe was M-e-j-i-a, I believe. Don't hold it to me. And Mr. Foster, I-a-n, Ian, F-o-s-t-e-r. And then I think I mentioned Mr. Steed, S-t-e-e-d.

JUDGE STANLEY: Okay. Thank you. That's just to keep the record clean --

MR. COYNE: Sure.

JUDGE STANLEY: -- because she'll come asking us later.

Okay. And you referred to the IRS reports, the audit report.

MR. COYNE: Yes.

JUDGE STANLEY: Do you -- did you submit that to us with our files so that we could see exactly what the IRS audited?

MR. COYNE: Yes, I believe I did. And let me -- I might be able to help you -- the final IRS audit report was dated August 21, 2013. I don't know the exhibit number, but I know that's been provided. But I can provide another copy or make it easy for whatever you need.

JUDGE STANLEY: Okay. I -- I don't recall seeing it, so in our file, so if you can find the exhibit to which we need to refer, that would be useful. And other than that, I think it might be helpful if we can see that they audited the exact same thing that the Franchise Tax Board did. But that would be up to Judge Lambert to decide whether to accept it at this late date. So, I'll just let it hang out there. And then you also --

MR. COYNE: Okay. That's a key document. It should be in the record but --

JUDGE STANLEY: Yes.

MR. COYNE: And of course, they audited the same thing because the IRS notice to me is what triggered the IRS audit and then the California Franchise Tax Board audit.

JUDGE STANLEY: Okay. And I assume that because I don't think I saw that in the file.

MR. COYNE: Okay. Sure.

JUDGE STANLEY: So, then you also, at one point, picked up some things on your desk, not the books, but some other things on the desk when you were talking about clients and working for the law firm on the plane while you're traveling for law firm business. What are -- it looked -- it looked like iPads or notebooks or something like that.

MR. COYNE: Oh, I'm sorry. These are the -- these are my two iPads. When I was talking about the stocks, what I do is I have a special app on here from NBC that you pay for and from Bloomberg, and I use them continuously through the day. And I was just making, sort of, joke to -- not a joke. But no. Everybody says, "Joe, why do you have two iPads or iPads?"

And I say, "Well, I trade stocks, and if this one runs out of battery, I got this one."

So that's just the level of detail that I go to, I guess, is the way to say it.

JUDGE STANLEY: Okay. So -- sorry. I didn't mean to cut you off. So you weren't saying that you record hours on those?

MR. COYNE: Oh, no I never -- I never record hours on them. No.

JUDGE STANLEY: Okay. And then can you let us know what your role is with Pablo Energy.

MR. COYNE: Let me explain that. So my friend Paul Engler, who I told is deceased. He started a company called Cactus Feeders. He started with 52 bucks in his pocket, eventually became the largest cattle feeder in the United States with 750,000 cows on herd at any one time. In the mid-90s when he and I were defrauded in an oil deal, I met him. And we liked each other so much we decided we could do it together. He formed a separate company under Cactus Feeders called Pablo Energy. Pablo Energy was a licensed -- nobody who owns working interest. You always hire the guy who owns the rigs or the guy who will send the people out.

And he -- Pablo means Paul. So, he named it Pablo Energy. And at that time, so when I said Paul owned -- or his family owned 60 percent and I owned 25 percent and some other investors owned it -- we hired Pablo to be the, quote, "Operator," who we paid and we communicated with to buy the rig or get the rig or whatever. And it was -- that's standard practice when you own a working interest. You have a separate license to operate in -- states of Texas and Oklahoma require that.

So, that's not unique at all. It's done all the time. It doesn't -- it doesn't affect the issues here. When Paul reached a certain age -- I forget what it was -- he wasn't really -- I think he was 80 or so. He wasn't able to -- he sold off Cactus Feeders, which went with -- and Pablo. I acquired Pablo Verdugo Oil and Gas and related entities now. This is after the relevant time period. So Pablo Energy is now owned by entities that I control. And so I'm the C -- and then this was after this period. I'm the CEO.

So, but during the relevant time period, there's Paul who is doing his cattle business. There was Jerry Steed, and there was sort of me as the largest outside investor, but I was also younger than Paul. So, I sort of ran -- that's why I had to learn all of this because I was the one sort of running the Southridge project with Jerry. Paul was the -- the biggest investor, so we obviously included him. But he didn't have this technical knowledge that I had nor the time nor -- he was older and didn't have the interest. And so I was the primary guy with Jerry doing it.

JUDGE STANLEY: Okay. And I'll come full circle and ask you to spell Paul's last name.

MR. COYNE: Oh, Paul Engler, E-n-g-l-e-r.

JUDGE STANLEY: Okay. Thank you.

MR. COYNE: You're welcome.

JUDGE STANLEY: I don't have any more questions at this moment.

MR. COYNE: Okay.

JUDGE LAMBERT: Thanks.

And, Judge Akin, do you have any questions?

JUDGE AKIN: I do. I wanted to follow up one of the things that Judge Stanley asked. When the IRS was doing its audit, do you recall which tax years they were looking at? Is it the same ones at issue here?

MR. COYNE: They -- in part yes, and in part no. They looked at all of the years. The years in which they disallowed the deductions were 2006. In 2007, I don't -- it was a small amount, and then 2008 was a huge amount. I don't know that they looked at 2005. But 2008 just -- that's why I showed you the chart with the wells; 2007 and 2008 are the big years but especially, in 2008 from the financial perspective.

JUDGE AKIN: Okay. Thank you. That answers that question. I also wanted to ask if you could share some information about the number of employees -- what is it? -- Pablo Energy, Inc., and Pablo Energy II, LLC, the operators. How many employees did they have? You know, how many were kind of on -- on the ground, you know, working the drills and versus, like, management types? Do you have any information about that you can share with us?

MR. COYNE: Yes. I -- I know a lot. I -- I'm going back 20 years. But -- so, mostly, Jerry Steed was the lead person who I worked with multiple times during the day. He's a geologist by training. Then we had a man named Gary Wurdimeman, W -- Oh, God -- u-r-d-i-m-e-m-a-n. He was a petroleum engineer. I worked with him, obviously, a lot. And then we had a land man named Jim. He specialized in land. And then we had hired -- and I'm not sure when it was in this - whether it's this period or a few years later -- but we hired two young -- one geologist and one petroleum engineer who are still with us.

Our -- my hope, at the time, was Paul, me, get the young guys have them work up. Then a woman named Shannon was the office manager. Then we had a geo -- geosteerer who worked when we needed her. Boy, she's smart. And then we have an accounting department. So, when you add up all those people, you -- let's say 15 to -- or so, 15 to 20. But you asked about the rig. The -- neither the working interest owners nor the -- the Pablos, the operators of the world, which they very rarely own a rig. They go out -- and we do this today in the market.

We look at the project, and we say how far will we have to dig vertically? And then I -- I made a point of saying these were one-mile laterals. We're now drilling two-mile laterals when we can. And that influences the rig you need. So, you would never own your own rig because depending on what the project is or where you are, you might be paying too much for a rig or too little for the rig. So, you go out to a drilling company and you take bids and you get costs, but also get availability and their location of their premises and their prior track record, and their prior track record in the project.

So, in this case, originally on the Campbell Ranch project, Paul happened to own a rig; and we used it, but we got rid of it, and we started contracting. So, I think all during this time period we contracted. And then in the Southridge, I believe all the rigs were contracted from third parties, and I get -- I got involved in all of that. So, yes. And -- and they usually come -- I think you asked another question. They usually come with their own crews. So, when you hire the drilling rig, the suppliers supplies you with the roughnecks on the platform.

We -- oh, I forgot some other people. We also employ, and did employee, people who would go out and monitor rig operations. Remember, the rigs -- the rigs run 24-hours-a-day, 364-days-a-year. We'd get Christmas off between the 12 and 4, the -- the guys on the rigs. So, it's that kind of operation.

So, you need two or three people out in the field when they're drilling, or when they're fracking. Those tended to be -- and I'm not sure the legal employees. I know they're employees. Some of them wanted to start off as contract people or not, and I don't know when they changed. So -- but we -- we supervise all them.

JUDGE AKIN: Got it. I just wanted a general understanding of how they operated.

MR. COYNE: Oh, okay.

JUDGE AKIN: So that's perfect and answers my question. So, thank you.

MR. COYNE: Okay.

JUDGE AKIN: And I don't have any additional questions at this time.

JUDGE LAMBERT: Thanks.

I have no questions at this time. So, we can move on to FTB's presentation for 30 minutes.

So, Mr. Riley, you can proceed when you're ready.

MR. COYNE: I'm sorry. Could I just interrupt? I have the August 21st, 2013, IRS audit report, if that's easier for you folks.

I think, Judge Stanley, you asked about it, and I have the copy here. I don't know. I can give it to you. I don't think I marked it up. Or I can send it into the record, or I can try to find it in the record. I'm sorry. Sorry to disturb.

JUDGE LAMBERT: Well, perhaps could somebody at OTA get a copy and then make copies of that for the panel and FTB so we can take a look and see it, what it is first. We'd appreciate it. We'll come back to it.

For now, FTB, Mr. Riley, did you want to proceed?

PRESENTATION

MR. RILEY: Good afternoon. Again, I am Jason Riley, and this is Nathan Hall; and we represent Respondent Franchise Tax Board in the Appeal of Joseph F. Coyne, Jr.

And this appeal is about three things: A California resident omitting his California taxable income; that same taxpayer holding his interest in an entity that limits his liability; and whether that taxpayer substantiated his material participation in the activity.

California residents are taxed on their entire taxable income, regardless of the source; and Mr. Coyne is a residence of California. For the 2005 to 2007 taxable years, he failed to properly report his entire income from all sources on his California tax returns. While he reported $4 million and $6 million and about $5 million dollars on those returns, respectively. Mr. Coyne also omitted income of about $6 million, $19 million, and $9 million dollars respectively in each of the 2005 through 2007 taxable years.

Respondent audited and determined Mr. Coyne owed additional California tax of about $176,000 dollars for 2005, $1.3 million for the 2006 taxable year, and $429,000 in income for the 2007 taxable year. Respondent also denied Mr. Coyne intangible drilling costs of about $3.6 million for 2007 because Mr. Coyne chose to structure his ownership of the oil and gas interests in a way that limits his liability. He held each of his interest in LLCs, limited liability companies. Taxpayers can generally structure their affairs however they choose, but are bound by the tax consequences of the choice.

The consequences of the decision here means that he is not eligible to take the tax relief Congress intended with respect to those investors who are, quote, "Willing to accept an unlimited and unprotected financial risk proportionate to their ownership interest in the oil and gas activities." Unlimited. It's not equal to their investment, not have funds available. It's an unlimited and unprotected financial risk that is required. Internal Revenue Code section 469(c)(4) provides that where taxpayers hold a working interest in oil and gas properties through an entity that limits their liability, that interest is passive, unless they materially participate in the activity. Congress used specific, yet expansive language here.

With respect to his LLCs, Mr. Coyne has argued that his ownership of limited liability companies does not limit his -- does not limit his liability, because in May 2007, the operator Pablo Energy II, LLC, obtained a line of credit for which J.F. Coyne, Jr., Oil and Gas, LLC, and Verdugo Oil & Gas, LLC, executed limited guarantees of 7 percent and 21 percent respectively. Of that, Mr. Coyne's share of the limited guarantee is about $10 million of the operator's $60 million loan. Relative to what Mr. Steed, in his declaration called a $500 million investment, that is not unlimited.

But the operator -- the operator's 2007 line of credit is -- is also not relevant to the 2005 or 2006 taxable years. Moreover, the operator, Pablo Energy II, LLC, having access to a line of credit does not create the unlimited and unprotected financial risk that Congress intended, nor does the line of credit convert Mr. Coyne's

LLC investments into an activity that qualifies. As a result of holding his interest in LLCs, his losses are passive; and passive losses can only be offset by passive income.

Mr. Coyne could either generate passive income, or he could sell the interest as he did with Verdugo Investments, LLC, in 2006, for which Respondent then allowed the intangible drilling cost. Or Mr. Coyne must prove he materially participated in the activity. Material participation in a business activity requires a taxpayer to meet the requirements of Treasury Regulation 1.469-5T sub (a). Here, Mr. Coyne alleges he participates in the activity for more than 500 hours during such year. Mr. Coyne has offered several declarations as support, and the first of these declarations were offered in 2016, which is a decade after the taxable years at issue. Mr. Steed also offered a -- a second declaration 20 years after the taxable years at issue. And Steed is pronounced, S-t-e-e-d.

These declarations were not accompanied which corroborating evidence. These declarations each refer to Mr. Coyne's interest in his LLCs as investments. The declarations are vague as to dates. They lack foundation and personal knowledge for the matters asserted, and are speculative and conclusory as to Mr. Coyne's activity, and were, in large part, offered by persons who were 1,000 to 2,000 miles away from Mr. Coyne's Los Angeles office. So, the declarations' opinions on Mr. Coyne's time are of limited value. And Congress set a high burden of proof with respect to material participation.

The Internal Revenue Service used Congress' high bar when it identified the indicators of a taxpayer that did not materially participate in a business activity. Among them, the taxpayer's residence is hundreds of miles from the activity. The taxpayer has a job requiring 40-plus hour per week for which he received significant compensation. The taxpayer has numerous other investments that absorb a significant amount of time, and the taxpayer has third-party management for day-to-day oversight and care of operations.

So, let's go through these. Mr. Coyne lives more than one-thousand miles away from the oil and gas activity in Texas and Oklahoma. Mr. Coyne has a job requiring -- well, I mean, Mr. Coyne reduced the hours that he -- that they have claimed to this point. But to today -- until today, Mr. Coyne's representatives have claimed that he had a job requiring 80-plus hours per week, and for which he received millions of dollars in compensation.
Mr. Coyne has numerous other investments. For example, he made some 2,200 trades in 2007 alone. And those trades

are all corroborated by documentary evidence.

And Mr. Coyne had Mrs. -- Ms. White looking after the daily accounting and financial concerns from Oklahoma City, and Mr. Steed on the ground at the drilling operations in Texas and Oklahoma. Mr. Steed was the president of Pablo, the operator of the working interest. Mr. Stead's declarations describing the Verdugo and Joseph F. Coyne, LLCs, as investors in the working interest. And he -- he described them as investors in each of the first three paragraphs of his declaration from two weeks ago; the 2026 declaration. So Mr. Steed is on the ground in Texas and Oklahoma, and it seems that Mr. Steed is the one who's -- who's managing these working interests.

So there is every one of the indicators that Mr. Coyne did not materially participate in the oil and gas activity. Moreover, based on the claims of his working schedule as an attorney and his stock trading business in Los Angeles, Mr. Coyne does not realistically have enough time in the year to materially participate in the oil and gas activity. The declarations and briefing indicate Mr. Coyne works around the clock seven days a week. But in 2009, his representative -- his then representative, Ms. White, W-h-i-t-e - represented to FTB that Mr. Coyne worked 365 days a year, including weekends and holidays, and spent more than 4,380 hours as a litigator; and also, more than 1,170 hours in the stock trading business. And we have his stock trading -- we have the records from his stock trading business, his Wachovia, his Bank of America, and Schwab statements indicate that, for example, in 2006 Mr. Coyne made 1,500 trades; worth about $15 million. And in 2007, he made 2,200 trades worth about $92 million.

Until today, Mr. Coyne had never disputed the 550, 550 -- 5,550-plus hours reported in the year 2009, of his non-oil & gas activity. Indeed the declarations that he provided leaned into those numbers throughout the course of this appeal.

Okay. I will slow down a little. So, apologies.

Okay. OTA should also consider that Mr. Coyne in, throughout 2005 to 2007, he had an hour-plus round trip commute from his home to his downtown L.A. office. So, that puts us somewhere closer to 6,000 hours. And he is asking the Office of Tax Appeals to tack on an additional 500 hours managing a business that's more than 1,000 miles away with others managing locally. So now we're up to 6,500 hours. Maybe it's humanly possible, but there are only about 8,700 hours in a year. And so while it's mathematically possible to fit 6,500 into 8,700, it seems unlikely.

And such a work total seems even less likely without substantiating documentation of the actual time spent on the oil and gas activity. A taxpayer's failure to introduce evidence that is within its control gives rise to the presumption that the evidence, if provided, would be unfavorable to its position. The IRS looks for contemporaneous daily time reports, logs, or similar documents related to the oil and gas to substantiate time spent.

But what we have here in this appeal is we've got declarations; and these declarations by themselves are ballpark guesstimates offered up in 2016, a decade after the fact. And Mr. Steed's -- Mr. Steed's declaration and today's -- and today's testimony are offered up 20 years after the fact -- 20 years after the taxable years at issue. OTA does not have to accept these ballpark guesstimates when their content suggests that Mr. Coyne had fewer than six hours per day for some combination of sleep, time with family, meals, and other personal time continuously over a three-year period.

Moreover, the activities described in the witness statements include, studying and reviewing financial statements, reviewing monthly operation reports, or preparing summaries of the finances. These describe participation as an investor, and such activity does not count towards material participation. Mr. Steed's first declaration from 2016 estimated 500 -- 500 to 750 hours, but that's a decade after the years -- of tax years at issue. Now, in 2026, 20 years after the fact, he's estimated anything less than 1,000 hours per year is, quote, "Preposterous." These estimates of daily phone calls are unsupported with documents in the record.

In conclusion, well -- conclusion to the first part. I'm gonna address a couple of things with -- with respect to Mr. Coyne's -- the arguments of res judicata and Mr. Braun.

But in conclusion to the -- this portion on material participation, Mr. Coyne omitted millions in California income, which the briefing admits, and he owes California tax. As for the intangible drilling costs, he holds his interest in a manner that limits his liability; and the operator, Pablo Energy II, LLC's, access to a line of credit does not create unlimited liability.

As for material participation, they've always had him working more than 4,400-hours-a-year as an attorney and 1,200-hours-a-year in a stock trading business; and they have not substantiated the time spent on oil and gas. Again, is this humanly possible? Maybe. But the OTA does not have to accept Mr. Coyne's ballpark guesstimates that lack substantiation.

And now I'm gonna move on to -- I'll move on to

Mr. Braun. Now, Mr. Braun -- Mr. Coyne has mentioned that Mr. Braun had a case. I mean, he has stated that it was before the Board of Equalization. The case was not before the Board of Equalization. Well, first of all, Mr. Coyne is not Braun. Mr. Braun was not a party to this appeal. He's a different taxpayer, and a different taxpayer's resolution is not relevant to this -- this proceeding. Despite the claims in Appellant's briefing, as well as today, Mr. Braun did not have a hearing at the Board of Equalization. He had a protest at the Franchise Tax Board, which was resolved during the protest. So, it's -- it's not relevant. But it also does not estop Franchise Tax Board from collecting in the case of Mr. Coyne.

R&TC section 19801 directs that neither the Franchise Tax Board, nor any officer nor -- or agency having any administrative duties under this part, nor any court is bound by the determination of any other officer or administrative agency of this state. So, the government cannot be estopped from collecting taxes because of an -- an administrative official's erroneous ruling. In this case, the Franchise Tax Board believes that the -- the ruling related to Mr. Braun is erroneous.

Regarding res judicata. It doesn't apply. The application of res judicata depends upon the satisfaction of four elements. The parties in each action must be identical. Mr. Coyne is not Mr. Braun. A court of competent jurisdiction must have rendered the first judgment. Mr. -- Mr. Braun did not go to the Board of Equalization. Mr. Braun had a protest at the Franchise Tax Board. The prior action must have resulted in a final judgment on the merits. Again, Mr. Braun did not have a judgment on the merits. And the same cause of action or claim must be involved. Again, Mr. Coyne -- well, Mr. Coyne's matter has yet to be adjudicated.

Let's see here. With respect to Mr. and Mrs. Braun -- sorry -- Mr. Braun and unlimited liability, I think we heard today that the -- the -- the protest hearing officer determined that the line of credit of $60 million in favor of the operator Pablo Energy II, LLC, was, quote, "Sufficiently high to provide what amounts to unlimited liability with respect to the underlying oil and gas investments to which they relate." This decision was erroneous. The law states that the financial risk must be unlimited and unprotected.

And while $60 million may seem like a large sum of money for a line of credit, the limited guarantee that Mr. Coyne -- the limited guarantee was for 7 percent of that $60 million as it relates to Joseph F. Coyne Oil and Gas, LLC, and 21 percent of the $60 million for Verdugo Oil and Gas, LLC, of which Mr. Coyne was a 50 percent shareholder. So, that's about $10 million. It was not $60 million.

And we should also consider that the declarations of Ms. -- from the declarations that Mr. Coyne submitted, for example, the declaration of Jerry Steed, S-t-e-e-d, it suggests that the projects cost many millions of dollars with our collective debt at one time totaling over $100 million in debt; or that Mr. Coyne and his partners had 25 wells and in excess of 180 horizontal wells, each costing approximately $3 million per well for a total of over $500 million invested.

A line of credit, in the 2007 taxable year, for $60 million, based on a $500 million investment, is equivalent to 12 percent. But 12 percent liability coverage, even -- even if somebody were to take the line of credit and apply it, right, this is just a loan. This is not a -- this is not a requirement that the -- that these funds be used against the liability. This 12 percent liability coverage is not unlimited. Mr. Coyne's limited -- Mr. Coyne's limited guarantee of $10 million amounted to just 2 percent of that $500 million. And $10 million -- excuse me -- and $10 million is not sufficiently high to provide unlimited liability with respect to the alleged $500 million in oil and gas investments.

And because Mr. Coyne held his interest in LLCs and the liability is not unlimited, he's got to demonstrate material participation, which he has not done with -- he's not substantiated that in -- in the record. Respondent properly determined that Mr. Coyne's losses in connection with oil and gas activities were passive activity losses.

And with that, I am happy to answer any questions that the panel has. Thank you.

JUDGE LAMBERT: Thank you. Thank you, Mr. Riley.

Perhaps first maybe could we take a look, Kristen, at the handouts, the copies that were made?

MR. HALL: Judge Lambert, Respondent would just note, before we even go into this, we do object to these being entered into evidence at this -- at this late hour. Mr. Coyne is an experienced litigator. He's been well aware of the deadlines for introducing exhibits, according to the OTA's notices and so forth. So, we object to these being entered into evidence.

JUDGE LAMBERT: Okay. And this is -- this is not currently in the evidence; that's correct? Maybe we could give, like, also 10 minutes just to review it, and let the panel review it, and FTB, -- an opportunity -- and we'll address how to proceed.

So we could just take a break and go off the record, and we'll return in 10 minutes.

(There is a pause in the proceedings.)

JUDGE LAMBERT: Okay. We can go back on the record now.

Okay. So, first, I wanted to ask, Mr. Coyne, so we could see that this document shows some sort of interactions with the IRS. But we wanted to know, is this something you wanted admitted into the record?

MR. COYNE: Is this document being the --

JUDGE LAMBERT: The audit reports.

MR. COYNE: The audit report, yes. And I -- I -- as I said, it's hard to explain numbers, and I do have accounting training, but this is all -- but I can explain when you go back and look at it what to look at, and that's probably -- so, yes. If you notice on one of the pages -- and this is the easiest way to look at it. It says, "Tax summary 2008 original return with final audit adjustments." Those are the final audit adjustments off the IRS.

And then you go to the next page, and it looks like this. I can -- if you want to see it here, this is how the IRS communicates among their accountants. It looks like this.

THE HEARING REPORTER: Mr. Coyne, when you step away from the microphone, we cannot hear you.

MR. COYNE: Oh, okay.

JUDGE LAMBERT: We can't hear your microphone if you stand away from it.

MR. COYNE: Oh, I'm sorry.

JUDGE LAMBERT: We see the document.

MR. COYNE: Okay. So, when you go through this what you'll note, these are the final adjustments of the IRS. And you will notice, for the first time since they launched their investigation, and they issued their final ruling, they made no adjustment for intangible drilling costs. That means they were no longer challenging them. And I wish it was in English and explanatory, but it's all done in numbers. I can get you the final resolution. I can submit something, and my accountant explain. But that's how she explained it to me as recently as the other day.

Because that's -- that's their telling us we're no longer challenging your -- your intangible drilling expenses, and that's how my return for 2008 was treated. So, that's the final word.

MR. RILEY: Mr. Coyne?

MR. COYNE: Yeah.

MR. RILEY: Could you show me that page that you were -- I couldn't -- I couldn't see the page that you're --

MR. COYNE: Sure. Sure.

MR. RILEY: Is that -- okay. So, I guess Franchise Tax Board is gonna --I -- I guess we're gonna object to this is not a federal document. This is a tax summary of the original return with final federal audit. The -- and the -- I would question the -- whether the Internal Revenue Service would include California State information in a -- in a spreadsheet. So, while this may be something that was prepared by Mr. Coyne's accountant, this does not appear to be a federal document.

MR. COYNE: It's -- it's summary -- I gave you the whole packet. It summarizes all of these figures that the IRS -- this is from the IRS -- that's -- that's in small print. You can go through them. There's no deduction for intangible drilling expenses, and this document shows -- it -- it -- it explains it in numbers in print that you can understand, that I can understand. I'm sorry. That's what the IRS gave us.

JUDGE LAMBERT: Okay. Mr. Coyne, I was going to ask if you have good cause for why this is being submitted on the day of the hearing, and why -- why it was not previously submitted?

MR. COYNE: I think it was. I thought it was. I didn't know until just now that someone was contending that it wasn't. The Franchise Tax Board, obviously, know what happened at the federal government. And it -- it's beyond my imagination that it's not here. It's not there. And frankly, that the FTB knowing it's accurate, why -- that they would dispute its admissibility? I -- I -- I -- the answer is I didn't know until just now that someone was claiming it wasn't there. And I can go through the record and try to find it for you, or give me some days, give my accountant some days, but I -- I didn't try to ambush anyone.

JUDGE LAMBERT: Okay. Thank you.

MR. COYNE: And if it helps, they can comment on it as much as they want in the supplemental filing. I don't care. I'm not trying to -- please understand. I'm not trying to ambush anybody.

JUDGE LAMBERT: Okay. Well, I think that considering everything that -- we could allow it, but we understand that OTA does not have to follow the IRS. And then we can determine the weight and relevance of this document and take into account what FTB -- Mr. Riley said about which documents look as if though they're not from the IRS.

And I just want to check with FTB if you wanted to do any post-hearing briefing on it, or --

MR. HALL: No, Judge Lambert. I mean, we're happy to address this document now. We continue to object to this document for numerous reasons as mentioned before. You heard from Mr. Coyne, Appellant, that he really has not shown good cause. This document is dated 8/21/2013. So, he's had this document for over a decade. This document also, these IRS papers, are unrelated to the tax years at issue. These are 2008 tax year, which are not the tax years at issue and simply irrelevant; and so we object on that ground as well.

And substantively, these documents appear to be settlement computations or some type of computation, but they give no indication in -- in terms of the determination of any substance that was made at the federal level that has any bearing on the issues before the OTA today. And these -- these same reasons apply to this letter from Debbie White, which is dated March 31st, 2017.

You know, we're -- we're attempted to raise Der Wienerschnitzel as well, which is commonly cited for the proposition that FTB is not bound to follow a federal determination that it believes to be erroneous. But here there isn't even a federal determination that we could point to that FTB would be bound by. As mentioned, these IRS papers relate to a completely different tax year outside the years at issue. So, again, we object on relevance as well as Appellant having not shown good cause for why they should be admitted today for the first time.

MR. COYNE: Your Honor, I'd like to take you up on your invitation to submit the supplemental briefs so you can be assured that it's what the IRS treatment was during the relevant period. And whether or not they're bound to follow the IRS, the law is clear, and we cited it that California follows federal law. The federal -- federal government, the IRS, as I said, went to Texas and Oklahoma to check it out and made these determinations. It must be given some weight that that's federal law if the IRS is determinative. But may I please submit something just to make -- so, we're all clear.

JUDGE LAMBERT: Well, on the first page, I see it says tax year ended 12/2006 and also 12/2008?

MR. COYNE: Yes.

MR. HALL: But, Judge Lambert, if you look at the -- the actual documents that are -- you know, the computations, these pages with the numbers on them, they do not refer to 2006. They refer only to 2008.

MR. COYNE: It's the same treatment, Your Honor, but some are --

MR. HALL: And we don't need -- we don't need --

JUDGE LAMBERT: Let's not talk over each other.

MR. HALL: Yeah.

JUDGE LAMBERT: Thanks.

MR. COYNE: Your Honor, that's what I'm suggesting. Just let us put it down on paper for you, and you can decide. I mean, it's -- it's got to be relevant what the federal government did with the federal statute that kicked off this investigation. I mean --

JUDGE LAMBERT: Yeah. Okay. Well, I believe that you thought that it was in the record based on your presentation referred to. And I understand that it deals with 2008, and I understand that FTB doesn't have to follow the IRS. So, I'm going to just admit it, and then we'll give it the weight that it deserves. And I'm taking what FTB says into consideration. I don't think we need any briefing on it, so I'd like to move on now to panel questions for FTB.

So, Judge Stanley, did you have any questions?

JUDGE STANLEY: I do not. Thank you.

JUDGE LAMBERT: And, Judge Akin?

JUDGE AKIN: I also do not have any questions at this time. Thank you.

JUDGE LAMBERT: Okay. At this time, Mr. Coyne, you can make your closing remarks for 10 minutes.

MR. COYNE: Your Honor, I think I gave you 45 minutes back, if I need a couple of more minutes, please indulge me.

CLOSING STATEMENT

MR. COYNE: But counsel said that, "Oh, these guarantees, they're not the entire guarantee." Well, I took out the guarantee, the one dated May 31st, 2007, $60 million. And I went to the terms of what I guaranteed. And I quote, "Guarantor hereby unconditionally guarantees to lender the payment when due, by acceleration or otherwise, of 100 percent of any obligations or indebtedness of the company to lender arising under the loan." A hundred percent of the debt. That's $60 million.

Now, counsel said, "Oh, yeah, but it's only part or that's part." Well, no. It's the entire thing by the document, and that's in record.

And then the limited guarantee of -- to Citibank I was liable for 50 percent of the obligations of the buyer under the member agreement being 9.996 percent of the obligations. Now, so the question is that's 60 and let's call 10, $70 million, was that enough? Well, what did the FTB say in the case of Braun? 'Cause I didn't read you this yet. There's the $6 million -- $60 million guarantee dated May 31st, and this one is November 24th. Unfortunately, the line of credit dated November 24, 2008, has no bearing on this matter because it was executed after the years at issue.

But the line of credit dated May 31st, 2007, this is the $60 million, provides the taxpayers with effectively unlimited liability for the 2007 tax year. They meet the requirements of an exception from passive activity for 2007 as set forth in IRS section 469. Thus, I find the taxpayers are entitled to the claimed intangible drilling cost. Well, and this was in effect in 2008, 2007, 2008.

He wants to talk about 2007, 2008. Fine. Those are the guarantees that were in effect, and the California Franchise Tax Board said one's enough. Why is the California Franchise Tax Board now running away with the IRS says and what it says, saying I'm not bound by it. Same investments, same times, same guarantees, same everything. Okay. I want to talk about at that. Counsel talked about that at one time what happened was my accountant in Oklahoma filed my -- I -- I have to file Oklahoma state income tax every year. I filed it.

In the early year she didn't understand the unitary tax system in California, and didn't file for some period of time, years, and we admitted it. She apologized. She said I'm wrong. I made a mistake. I didn't yell at her, but yeah, that's -- that was all taken care of. What does it have to do with now. Okay. Now, I -- I have to go over this. So we got the guarantees.

We got me being an operating manager and having essentially unlimited liability for negligence, fraud, statutory violations, the whole thing, plus Mr. Braun.

Then we get to -- to the hours. Counsel says that somehow he got the idea that I billed 4,380 hours. Okay. I'm gonna tell you something under penalty of perjury. No lawyer in Sheppard Mullin has ever billed that number of hours, nor did I, nor could I have. I don't know how they got there through Debbie White's declarations. It makes no sense. Okay.

I think the record in the firm's history is 3,200 and-something hours. I'm saying my average was 2,885. They make it up. They make up this 4,380 and say how many hours in a week? Okay. But it's not. So I just earned 1,500 hours a year possible, I guess, because that is demonstratively false, and I don't know how it can be used at this hearing. But let's say, okay, counsel said -- and this is what I wanted to mention about efficiency -- and he was on cross, and I thought I knew where he was going. He said it is an hour commute each way.

And, by the way, in the back of my head I said keep -- keep saying this hour, 'cause I'll explain that hour. Okay. It's not an hour, 45 minutes or 35 minutes, whatever it was. You know, last week I was sitting in my -- where do you think -- do you think Joe Coyne goes from Downtown L.A. to West L.A. and sits in my car and listens to my favorite love songs like I'd like to? The answer is no. I call my oil guys. I call my stock guys. Both ways.

Last week I was sitting there with my little, iPad, and I had it on there. And I was listening to an investor conference call 'cause the quarterly reports had come out, which was an hour and 30 minutes stuck in traffic, but I only got through 30 or 45 minutes of it in the car; and I said I wonder if they know? When you say my time is long, that hurts your case because I spend it doing work. Okay. I spend -- it's -- it's just -- it's not fair. It's not accurate. It doesn't depict what goes on.

Now, if you have 2,800 hours, let's say, you have plenty time to work 500 and 500 on that. And he says, "Well, you got five declarations," but he said this three times. They were in 2016. Well, wait a minute. The IRS and the Franchise Tax Board didn't rule until 2013, and then we went back to the auditors, and we went back and forth. How could they be earlier than that? In 2010 and 2011 when everybody was considering it, I wouldn't have gotten five declarations from people. I got 'em in 2016 because that's when the dispute came about. It wasn't skullduggery.

Two Thousand Thirteen [2013] the IRS rules. They rule on Braun's case. Two Thousand Fourteen [2014] we're talking to them, and then doesn't breakdown. And the thing has gone on for 11 years. So, the fact that the declarations were considered sent in 2016, he's in -- he's criticizing them for their tardiness, or they couldn't remember. What was I going to do? I couldn't get them before then. I wouldn't get them before that.

And there's this -- some confusion about Pablo, as he says. Pablo is a company that makes almost no money because it's a captive and it's the official operator, but we run it. And -- and there is -- if -- if the standard was you can't have a company that you bring in, or your own company to do it, and you can't be actively involved or you can't be that -- doing operations? No one would ever meet the standard because the State of Texas requires the operator. We run the operator. Mr. Steed and I run the operator, tell them what to do down to the thickness of the metal in the pipe; down to everything. We go through that. And in this case where there were 20 wells and 19 wells, we did it on a daily basis.

Now, Mr. Steed works 2,400 hours or whatever he works, and I work my 500 to 1,000, I guess now the best estimate. But he's the point of the spear, and he says it's 1,000 miles away. Who cares? That telephone goes both ways. My computer goes both ways. I mean, that's reality. I -- I've been on the rig. I go to our offices. I meet the guys. I've literally flown in for the -- for the stuff. I -- a thousand miles away is irrelevant. It's just irrelevant.

And I am involved day-to-day. He said, "Well, I call us investors." Of course I call us invertors. That didn't mean -- doesn't mean I'm not participating as the operating manager in the decision.

But I don't know if there was any other questions. By the way, I'd like to get the whole story here. My accountant made the mistake of not putting some of my Oklahoma income in California. What he left out was, for the prior five years it would have been to my advantage to put my California losses into California, but she didn't do it. It was only when the Campbell Ranch wells turn profitable. Now, they say, "Oh, you didn't declare the income." Well, it was her mistake. She made an honest mistake, but she made the mistake through what was my disadvantage. I mean, to say somehow that we did something wrong; well, I have to take responsibility for it with Debbie. But it was incorrect, but it wasn't nefarious. That's my point. And I don't know why it's coming up here.

Stock trading. Five-hundred hours is

two-hours-a-day, an hour-and-a-half-a-day. You get up at 5:30. You talk to your broker four times. You spend $125 million on stocks. You pay $260,000, I think the record says, in commissions, and he thinks I didn't -- I have apps on my phone. I had -- it's in the record. I have seven stock periodicals that I read. I have four brokers. Five hundred hours? Really?

So, I'm sorry for taking such offense to it. You don't even have to get to the 500 because the personal guarantee, the federal government, the Braun case decided it all, if you believe the California Franchise Tax Board and the IRS. But, you know, 500 hours? I'll look you all in the eye and tell you I did it; much more than that. I promise.

Thank you. If there's anything else that I forgot to mention because we had that break --

JUDGE LAMBERT: I think --

MR. COYNE: I don't think I'm missed anything.

JUDGE LAMBERT: Okay. Okay. Just checking.

MR. RILEY: FTB would like to make a clarifying point regarding the limited guarantee that Mr. Coyne mentioned. It is exhibit -- I believe it's now Exhibit 14, but it was Appellant's reply brief Exhibit B. So, I believe that that's renumbered as 14.

Pablo Energy, in that -- in that limited guarantee, is defined as the borrower. Okay. The lender has agreed, among other things, to extend to the borrower a revolving line of credit in the amount up to $60 million. Okay. As a condition of making the loan to borrower, lender has required this guarantee from guarantor. Guarantor owned is the owner, or either directly or indirectly, of an interest in J.F. Coyne, Jr., Oil and Gas, LLC, the company. Okay.

If we go down here to the guarantee of payment what is -- what is being guaranteed with this document? Okay. It says guarantor hereby unconditionally guarantees to lender the payment when due by acceleration or otherwise of 100 percent of the obligations or indebtedness of the company. Okay. It's not obligations of the borrower. It's just obligations of the company. Okay. Joseph F. Coyne, Jr., Oil and Gas, as -- as Respondent stated in its presentation, is a 7 percent owner of Pablo II. So, this is not a guarantee. This -- this particular document is not a guarantee of $60 million. It's a guarantee of 7 percent of the $60 million.

And as -- as stated in our presentation, when combined with the guarantee for the similarly defined company of Verdugo Oil & Gas in the -- in a separate -- as the company in another guarantee, the two of them when added together amount to -- it's 27 percent. But of that, Mr. Coyne is a 50 percent shareholder in -- in Verdugo, which amounts to 17 percent or what Respondent stated in its presentation of $10 million. Okay.

So -- so the guarantees, when we actually look at them, and we actually look at what the language states, it's not a guarantee of $60 million. Okay. It's a guarantee of his percentages, which amount to again, 17 percent or about $10 million of that $60 million, which is not unlimited.

MR. COYNE: No. No, it's not. Here's the limited guarantee. It's signed by me personally. I personally guarantee all of the money borrowed by Pablo Energy up to the $60 million. It wasn't broken out. I wish it was broken out. It wasn't broken out. It's -- it's right here. I can -- I can give it to you. It's --

MR. RILEY: It's paragraph of one of the agreement.

MR. COYNE: It's the limited guarantee agreement. Yes, that's what I read. Guarantor hereby unconditionally guarantees to lender the payment when due by acceleration or otherwise of 100 percent of any obligations of indebtedness of the company. 100 percent. The company is Pablo. Pablo borrows the money, we guarantee it.

MR. RILEY: No. If I -- again, the -- in this particular agreement, the company is defined as J.F. Coyne, Jr., Oil and Gas, LLC.

MR. COYNE: Well --

JUDGE LAMBERT: I'm going to pause everything for now because I don't want this back and forth to happen. We're trying to do closing statements, and we've heard the arguments from both sides, what you stated, and then we can take it under consideration when we're making our opinion.

MR. COYNE: Okay.

JUDGE LAMBERT: So, that being said, if there's nothing further, I don't believe there's any more questions from the panel.

I'd like to thank the parties for attending today, and I'll conclude the hearing.

And we will issue a written opinion within 100 days.

So the record is now closed. Thank you.

(Proceedings concluded at 3:45 p.m.)

HEARING REPORTER'S CERTIFICATE

I, Ernalyn 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 22nd day of June, 2026.

____
ERNALYN M. ALONZO
HEARING REPORTER