

BEFORE THE OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
S. OLIVIA,)
Appellant.) OTA NO. 240415980
_____)

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS
Cerritos, California
Tuesday, June 16, 2026

Reported by:

SHELBY K. MAASKE
Hearing Reporter

Job No.:
63124 OTA(B)

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TRANSCRIPT OF PROCEEDINGS, taken at
12900 Park Plaza Drive, Suite 300, Cerritos,
California, commencing at 1:27 p.m. and
concluding at 3:41 p.m. on Tuesday,
June 16, 2026, reported by Shelby K. Maaske,
Hearing Reporter.

1 APPEARANCES:

2
3 Panel Lead: HO KIM WILSON

4 Panel Members: ALJ STEVEN KIM
ALJ KEITH T. LONG

5 For the Appellant: SIVAN OLIVIA
6 WALTER WEISS, ESQ.
7 KOUROSH RAHMANIAN

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

10 VANESSA BEDFORD
11 CARY HUXSOLL
JASON PARKER
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I N D E X

E X H I B I T S

(Appellant's Exhibits 1 through 4 were marked for identification on page 9)

(Appellant's Exhibits 5 through 7 were marked for identification on page 11)

(Appellant's Exhibit 5 and 6 were received in evidence on page 15)

(Appellant's Exhibits 2 and 3 were received in evidence on page 16)

(Department's Exhibits A-E were received into evidence on Page 17)

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

PAGE

By Mr. Weiss

20

By Ms. Bedford

61

WITNESSES:

DIRECT

CROSS

REDIRECT

RECROSS

Guillermo Jorge Capello 23

Sivan Wizman Olivia 31

1 Cerritos, California; Tuesday, June 16, 2026

2 1:27 p.m.

3
4
5 HEARING OFFICER WILSON: We are going on the
6 record. This is the appeal of Olivia, OTA Case
7 No. 240415980. The date is June 16, 2026, and the time is
8 1:27 p.m. This hearing is being held in Cerritos,
9 California. I am Hearing Officer Kim Wilson, and my
10 co-panelists are Administrative Law Judges Keith Long and
11 Steven Kim. I will be the lead for the purpose of
12 conducting this hearing; however, we are equal
13 participants in deliberating and determining the outcome
14 of this appeal.

15 Okay. We will go ahead and introduce the parties
16 for the record beginning with Appellant.

17 MR. WEISS: Walter Weiss, attorney for Sivan
18 Olivia. And on my right is my witness there, Mr. Capello
19 -- Guillermo Capello, who will testify today.

20 HEARING OFFICER WILSON: Thank you.

21 For the Department?

22 MS. BEDFORD: Vanessa Bedford, Attorney III.

23 MR. HUXALL: Cary Huxall, from the Department's
24 legal edition.

25 MR. SAMARAWICKREMA: Nalan Samarawickrema,

1 Hearing Representative for CDTFA.

2 HEARING OFFICER WILSON: Thank you.

3 As stated in the Minutes and Orders, the issues
4 to be decided in this appeal are whether the Notice of
5 Dual Determination was timely issued, whether Appellant is
6 the responsible person for the unpaid sales tax liability
7 for Roadrunner Auto Group, Inc., and whether the penalty
8 should be abated.

9 Next, we will move on to the exhibits. Appellant
10 submitting an exhibit index identifying Exhibits A through
11 E. The proposed exhibit index listed Exhibit A as a
12 Minutes of Special Meeting of Shareholders for Roadrunner
13 Auto Group.

14 Mr. Weiss, I did not find that in your
15 submission, but I did see it in CDTFA's submission.

16 MR. WEISS: I believe I have copies.

17 HEARING OFFICER WILSON: Is it okay to refer
18 to --

19 MR. WEISS: Yes. Actually, I did say in my
20 submission I did not object to what they're submitting, so
21 I want to use it as well for myself. That's all.

22 HEARING OFFICER WILSON: That's fine. The next
23 exhibit was -- you have proposed Exhibit B, which is a
24 Secretary of State Statement of Information filed on
25 April 11, 2018. I didn't see that in the record either.

1 MR. WEISS: Well, actually, there's -- let me
2 find -- sorry about that. I thought I submitted that, you
3 know, in the -- let me see if I have it here. Give me one
4 second. Here is a copy of it. Let me see if I have extra
5 copies for you guys. I'll show it to them. It's the
6 Statement of Information. There's another one filed
7 October 31st, so I might have got confused. If you could
8 run a couple copies.

9 HEARING OFFICER WILSON: Is it the same document?

10 MR. WEISS: No. There's three of them. One of
11 them is dated October -- April 11, 2018, and another one
12 October 31st -- I think that's their exhibit -- 2018, and
13 then there's another one I submitted in April 2019. But,
14 you know, if you need -- I'm happy to get copies. It
15 lists Sivan Olivia as CEO, Rico as secretary and Rico as
16 CFO. My apologies. I should have got -- I might have got
17 it confused with another one.

18 HEARING OFFICER WILSON: Okay. I did, in the
19 Minutes and Orders, ask for you to provide the
20 documentation and to relabel your exhibits numerically.

21 MR. WEISS: Yeah, you did, and I haven't done a
22 very good job of that, so I can do that right now. I
23 mean, I have, basically, that, minutes and one other
24 document, the declarations would be it. Let me mark them.
25 So I will mark the special minutes -- A, B, C, D? Like

1 that, as I introduce it?

2 HEARING OFFICER WILSON: Well, you will need to
3 label them numerically.

4 MR. WEISS: Okay. So I will call this one -- I
5 introduced -- I submitted two declarations today. One
6 could not testify, Jorge Gurrola. I put a declaration in
7 lieu of his testimony. And I got a declaration, which
8 late -- I admit it's late, but it will be used for
9 impeachment because it's one of the witnesses they used.
10 Let me find it here.

11 MR. PARKER: We were provided both copies of both
12 the declarations.

13 MR. WEISS: You have them?

14 HEARING OFFICER WILSON: Yes, we do have those.

15 MR. WEISS: I gave it to them in the front.

16 HEARING OFFICER WILSON: Yes. I think we will
17 take a few minutes recess while you gather your documents.

18 MR. WEISS: I appreciate that, yes. I'm short
19 staffed here.

20 HEARING OFFICER WILSON: So we'll go off the
21 record and come back in five minutes. And just a reminder
22 to turn off your microphones while you're on recess.

23 (There was a pause in the proceedings.)

24 HEARING OFFICER WILSON: Back on the record.

25 Mr. Weiss, did you get your exhibits sorted?

1 MR. WEISS: Yes. I will have six exhibits.
2 Well, you know, shall I go through and identify them for
3 you?

4 HEARING OFFICER WILSON: Yes.

5 MR. WEISS: All right. Exhibit No. 1 is Special
6 Meeting of Shareholder Roadrunner Auto Group, Inc. that
7 would be dated -- that's effective April 1, 2017. It's
8 unsigned.

9 (Exhibit 1 was marked for identification.)

10 HEARING OFFICER WILSON: Okay.

11 MR. WEISS: Exhibit 2 is a Statement of
12 Information for Roadrunner Auto Group, Inc., filed on
13 4/11/2018, with the Secretary of State which lists the
14 officers.

15 (Exhibit 2 was marked for identification.)

16 MR. WEISS: Exhibit No. 3 is another Statement of
17 Information, filed 5/1/2019, which has different officers
18 and directors.

19 (Exhibit 3 was marked for identification.)

20 HEARING OFFICER WILSON: Mr. Weiss, is your
21 microphone on?

22 MR. WEISS: Okay. I can yell. But 5 -- we have
23 got that. Okay. And then Exhibit 4 is Declaration of
24 Guillermo Capello.

25 (Exhibit 4 was marked for identification.)

1 MR. WEISS: I submitted it, and, you know, the
2 Department can certainly look at it. He's going to
3 testify live, but I wasn't sure. But I submitted it a
4 while ago, so it's there. And Mr. Capello is here.

5 HEARING OFFICER WILSON: I don't see that.

6 MR. WEISS: I submitted that. Well, he's here.
7 Let me -- he's live, so maybe -- I don't know if you need
8 it.

9 HEARING OFFICER WILSON: Okay.

10 MR. WEISS: So but in fairness to them, I did
11 submit it in prior pre-trial hearings, and they have a
12 right to ask him --

13 HEARING OFFICER WILSON: Ms. Bedford, do you have
14 that?

15 MR. PARKER: I don't believe I've seen this.

16 MR. WEISS: I did submit it. We have had a
17 couple of these continued, so I said previously submitted.
18 But if you want a copy, that's fine.

19 HEARING OFFICER WILSON: I don't have that
20 either. I don't think it was actually submitted.

21 MR. WEISS: All right.

22 HEARING OFFICER WILSON: But since he's here --

23 MR. WEISS: He's here.

24 HEARING OFFICER WILSON: We will have his
25 testimony.

1 MR. WEISS: His testimony should supercede a
2 declaration.

3 HEARING OFFICER WILSON: Please continue.

4 MR. WEISS: So if that was No. 4, we don't need
5 it, or assume we do. Exhibit No. 5 is the Declaration of
6 Frank Campagna, who is unable to testify because of health
7 reasons.

8 (Exhibit 5 was marked for identification.)

9 HEARING OFFICER WILSON: We have that.

10 MR. WEISS: No. 6 would be the Declaration of Ela
11 Perlman, which was just submitted today. I got it last
12 night. I know it's late, but it could be used for
13 impeachment purposes.

14 (Exhibit 6 was marked for identification.)

15 HEARING OFFICER WILSON: Okay. And the last one?

16 MR. WEISS: I think that's it.

17 HEARING OFFICER WILSON: The other document I was
18 handed was Declaration of Jorge Gurrola.

19 MR. WEISS: That's the last one. Here it is.
20 That would be the last declaration. Hold on. Yes, that
21 would be my last one.

22 (Exhibit 7 was marked for identification.)

23 HEARING OFFICER WILSON: Okay.

24 MR. WEISS: He's not available to testify; he had
25 to work.

1 HEARING OFFICER WILSON: Okay. Can we see the
2 Statement of Information that --

3 MR. WEISS: Which one?

4 HEARING OFFICER WILSON: That you are providing
5 today.

6 MR. WEISS: The one --

7 HEARING OFFICER WILSON: The 4/11.

8 MR. WEISS: Okay. Hold on. This one is
9 October 31st. Hold on. Let me find that. I'm sorry.
10 Well, you know, I just -- it is here. I might have given
11 it to them. Did I give you the --

12 HEARING OFFICER WILSON: I think you gave it, I
13 believe, to Ms. Brown to get copies.

14 MS. BROWN: No.

15 MR. WEISS: I think I gave it to her for copies.
16 That one is -- I'll get it when she copies it.

17 HEARING OFFICER WILSON: She's indicating that
18 you didn't.

19 MR. WEISS: I handed her something. I think so.

20 HEARING OFFICER WILSON: I think you were
21 intending to ask, then you didn't.

22 MR. WEISS: Well, this is -- this is it. I'll
23 show it to you. That's it right here.

24 HEARING OFFICER WILSON: I can't see that far.

25 MR. WEISS: May I approach you?

1 HEARING OFFICER WILSON: Sure.

2 MR. WEISS: That's it.

3 HEARING OFFICER WILSON: Thank you.

4 MR. WEISS: Do I get it back?

5 HEARING OFFICER WILSON: Yes. Let's go ahead and
6 ask the Department if they have any objections to the late
7 exhibits.

8 MR. PARKER: We object to the exhibits based on
9 the fact they were not provided within the 15-day
10 deadline. I believe that's Exhibits 2, 4, 6 and 7.

11 HEARING OFFICER WILSON: Okay. Mr. Weiss, again,
12 can you explain why these were late admissions?

13 MR. WEISS: Well, the declarations, I just got --
14 I just received. I mean, I thought that one of my
15 witnesses was going to testify so I got a declaration
16 late. And Perlman was late. And the other one is my --
17 let's go back here.

18 2 is -- I thought I provided the one for
19 April 11th, but if not, you know, I can -- that would be
20 my mistake, you know, my office's error. I don't think
21 she should be penalized. And I think it's public record.
22 There's no surprise there.

23 HEARING OFFICER WILSON: I don't recall
24 Ms. Perlman being on your list of witnesses.

25 MR. WEISS: She wasn't. She's their witness.

1 She was quoted in their papers.

2 HEARING OFFICER WILSON: And then she wasn't able
3 to provide this before the deadline?

4 MR. WEISS: Unfortunately, the first time, I
5 guess, we tried to reach her -- we reached her yesterday.
6 It's been a little bit tough. And she provided it to me
7 last night, so I submitted a declaration. And I think in
8 fairness, impeachment can be used at any time in any
9 courtroom. Maybe you have different rules. I would not
10 have used Ms. Perlman if they were not named in their
11 position papers.

12 HEARING OFFICER WILSON: Okay. I don't think we
13 are going to allow that.

14 MR. WEISS: Why not?

15 HEARING OFFICER WILSON: For timeliness, and then
16 I don't know that the Department is going to address her
17 directly.

18 MR. WEISS: Well, if they remove her name from
19 any of their position papers, that's fine; but if they
20 refer to her, I certainly believe I have a right to bring
21 that in.

22 HEARING OFFICER WILSON: Okay. Well, this appeal
23 has been lasting a few years, so you were given a few
24 deadlines to provide the information.

25 MR. WEISS: Well, I'm going to object to that.

1 Listen, if we stipulate we are not going to use her, then
2 I will, you know, have no problem.

3 HEARING OFFICER WILSON: Okay. We'll go ahead
4 and allow Mr. Gurrola's declaration since he was indicated
5 as a witness, and then we will just give it the
6 appropriate weight.

7 MR. WEISS: I also object -- I have objections to
8 any of their people that are not here as well. Hearsay.
9 I objected to it in my papers. Lack of foundation and
10 hearsay.

11 HEARING OFFICER WILSON: Okay. So let's see. We
12 are going to go with Exhibit 1, which is the minutes from
13 the shareholders meeting. We'll go with Exhibit -- I
14 forgot what exhibit number it is for the declaration of
15 Frank Campagna. What was that exhibit number that you
16 had?

17 MR. WEISS: I had it as 5.

18 HEARING OFFICER WILSON: Okay. Exhibit 5 will be
19 admitted.

20 (Exhibit 5 was received in evidence.)

21 HEARING OFFICER WILSON: Declaration of Jorge
22 Gurrola. That was Exhibit No. --

23 MR. WEISS: 6.

24 (Exhibit 6 was received in evidence.)

25 HEARING OFFICER WILSON: We also have the

1 Secretary of Statement of information for May 1st, 2019.
2 That will be Exhibit 2, I believe.

3 MR. WEISS: It's another -- I have it April 11th
4 -- May 1st, 2019, is that what you said?

5 HEARING OFFICER WILSON: Yes.

6 MR. WEISS: Here. Yes. That's Exhibit 3.

7 HEARING OFFICER WILSON: And we will take the
8 Secretary of State, April 11th, because it's a public
9 document. So those exhibits will be admitted into
10 evidence.

11 (Exhibits 2 and 3 were received in evidence.)

12 HEARING OFFICER WILSON: CDTFA proposed Exhibits
13 A through E. Ms. Bedford, is that correct?

14 MS. BEDFORD: Correct.

15 HEARING OFFICER WILSON: And Appellant, did you
16 have any objections to the admissibility?

17 MR. WEISS: I object to Ms. Solorzano's -- I
18 object to that because she's not here. It's hearsay. It
19 lacks foundation. And we have tried to contact
20 Ms. Solorzano, but she's unavailable. We understand she
21 moved out of state, which makes it a problem jurisdiction.

22 HEARING OFFICER WILSON: Okay. Generally, rules
23 relating to evidence and witnesses contained in the
24 Evidence Code and Code of Civil Procedure do not apply to
25 appeals -- to OTA, and all relevant evidence is

1 admissible. OTA regulations do not permit objections from
2 the admissibility of relevant evidence based on timeliness
3 and for items that are unduly burdensome. However, OTA
4 does use the California Rules of Evidence as a guidance
5 when weighing evidence.

6 MR. WEISS: So you will give it the weight you
7 deem it to be -- you will weigh it -- you will admit it
8 but you will give it the weight that you deem it to be?

9 HEARING OFFICER WILSON: Yes.

10 MR. WEISS: So my objection would still stand
11 because those are the rules of evidence.

12 HEARING OFFICER WILSON: All right. So we will
13 admit CDTFA's Exhibits A through E.

14 (Exhibits A through E were received in evidence.)

15 HEARING OFFICER WILSON: Next, we will go over
16 witnesses.

17 MR. WEISS: Okay. Let me call --

18 HEARING OFFICER WILSON: We are not ready yet.

19 MR. WEISS: Sorry.

20 HEARING OFFICER WILSON: I'll just go over them.
21 You indicated four witnesses, but I see you only have two
22 today. That is -- can you pronounce your name again?

23 MS. OLIVIA: My name?

24 HEARING OFFICER WILSON: Yes.

25 THE WITNESS: Sivan Wizman Olivia.

1 HEARING OFFICER WILSON: Thank you. And your
2 other witness was?

3 MR. WEISS: Mr. Capello, Guillermo Capello.

4 HEARING OFFICER WILSON: Since you are having
5 less witnesses, would you like to revise your time
6 estimate?

7 MR. WEISS: I think so. I mean, I would probably
8 cut it in -- I think I probably asked for too much time to
9 be honest, with but four witnesses, you never know. I
10 think I used, like, three hours -- close to three hours.
11 I think two hours. I would think -- I mean, it depends
12 upon -- my case isn't going to be that long, but it
13 depends upon cross and, you know --

14 HEARING OFFICER WILSON: Okay. Let's just focus
15 on your presentation.

16 MR. WEISS: Probably two hours.

17 HEARING OFFICER WILSON: Okay. And we are
18 already 30 minutes in. So we will go ahead with opening
19 presentations for both parties and then closing
20 presentation. During the opening presentation, your
21 witnesses can testify in the narrative or you can ask
22 questions. Following your presentation, the Department
23 will have a chance to ask questions and the Panel will ask
24 questions, and then we will move on to the Department's
25 presentation.

1 MR. WEISS: One quick question. Is the witness
2 -- when I question the witness, is he sitting here?

3 HEARING OFFICER WILSON: Yes.

4 MR. WEISS: Okay. Got it. Thank you.

5 HEARING OFFICER WILSON: All right. Okay. So
6 Ms. Wizman Olivia, please raise your right hand.

7
8 SIVAN WIZMAN OLIVIA,
9 called as a witness, and having been first duly sworn, was
10 examined and testified as follows:

11 THE WITNESS: Yes.

12 HEARING OFFICER WILSON: And Mr. Capello, please
13 raise your right hand.

14
15 GUILLERMO CAPELLO,
16 called as a witness, and having been first duly sworn, was
17 examined and testified as follows:

18 THE WITNESS: Yes I do.

19 HEARING OFFICER WILSON: Thank you.

20 All right. Mr. Weiss, please proceed when you
21 are ready.

22 MR. WEISS: All right. I will call Mr. Capello
23 first. Well, do we do our opening argument first?

24 HEARING OFFICER WILSON: However you would like
25 to proceed.

1 MR. WEISS: Let me go with my opening argument.
2 I did submit a brief, and much of what I'm going to say is
3 in the brief.

4 HEARING OFFICER WILSON: We have read your brief,
5 if you want to just hit highlights --

6 MR. WEISS: I think that's what I'd like to do.

7 HEARING OFFICER WILSON: -- for efficiency of
8 time.

9
10 OPENING STATEMENT

11 MR. WEISS: The Department's position is --
12 CDTFA's position is that Ms. Olivia is liable under
13 Revenue and Taxation Code 6829 and Regulation Code 1702.
14 That is not the case. Number one, she did not have
15 authority to pay creditors, to pay bills, to determine
16 when they would be paid. She did not have the authority
17 despite being named as a titular officer on filing that
18 she did not sign and she was unaware of.

19 Okay. Number two, she may have signed one or two
20 checks possibly, and it was done at the direction of
21 someone else. She never was in the office. She's a
22 full-time housewife with four kids and also has a niece
23 that she's taking care of. She has five kids. She may
24 have been in the office on weekends.

25 Mr. Capello, who was there every day, will

1 testify to that. Plus, the declarations that were
2 submitted by Mr. Gurrola also support that. There was no
3 willfulness. There was no money collected ever in her
4 control and not used to pay sales tax.

5 You don't have responsibility and you don't have
6 any willfulness, so 6829 fails in that regard. There's no
7 willfulness. She never collected any money. She didn't
8 handle the finances. She had no involvement. She was a
9 passive investor who invested \$120,000.00 at the direction
10 of her boyfriend, and also at the direction of Uri Kohen.

11 Mr. Kohen put the money in his pocket and
12 basically took the money, disappeared, and essentially,
13 she was stuck trying to, you know, preserve her
14 investment. She got involved late of June 2019, tried to
15 negotiate with CDTFA, essentially, to try to save her
16 investment. There wasn't any money there.

17 And to make matters even worse -- I submitted an
18 exhibit where a couple of gentlemen -- if I can pronounce
19 their names right -- came involved -- you know, I
20 submitted a Statement of Information. Essentially, a
21 couple of gentlemen got in there and -- let me get you
22 their names.

23 Mr. Karan Geozalian, they filed a statement of
24 information on May 1, 2019. Apparently, they took over
25 the business from Mr. Kohen. Mr. Kohen invited them in

1 there. They filed this Statement of Information.
2 Ms. Olivia is not listed anywhere, and they basically --
3 essentially, took a bunch of vehicles, pocketed it, and
4 that's one of the reasons why there's not a lot of funds
5 there to pay.

6 So clearly, 6829 and Regulation 1702, I don't
7 believe apply. The main piece of evidence the Department
8 has is a questionnaire signed by Paola Solorzano. Well,
9 Ms. Solorzano is not here. She didn't return phone calls.
10 I believe she signed that thing and tried to deflect her
11 responsibility on to Ms. Olivia.

12 The signatures on the checks were signed by
13 Ms. Solorzano, not by Ms. Wizman -- Olivia. Sorry. And
14 so I think that there's a bias in there. And obviously,
15 she, you know, is no where to be found. So I think her
16 questionnaire is biased. Because she basically worked for
17 Mr. Uri Kohen that ran the business.

18 Mr. Kohen had the dealer's license. And in order
19 to run this business, it was a used car auto dealing, you
20 have to have a dealer's license. The dealer's license was
21 in Mr. Kohen's name. He took the money from Ms. Olivia,
22 kept the dealer's license, and these other people got
23 involved.

24 Ms. Solorzano answered directly to Mr. Kohen.
25 And, you know, that -- so a lot of people ran away and

1 they stuck this lady with the responsibility of the
2 payroll taxes.

3 We have told you who our witnesses are going to
4 be. And I believe, based upon the evidence we are going
5 to provide today, and the declarations, I don't believe
6 that Ms. Olivia should be held personally liable for these
7 debts under 6829.

8 HEARING OFFICER WILSON: Okay.

9 MR. WEISS: Mr. Capello, are you ready to -- I'm
10 going to call my first witness, Mr. Guillermo Capello.

11
12 DIRECT EXAMINATION

13 BY MR. WEISS:

14 Q Mr. Capello, what is your full name?

15 A Guillermo Jorge Capello.

16 Q And what is your occupation?

17 A General manager at that time.

18 Q At that time -- can you tell me what you mean by
19 at that time?

20 A Since 2016 to 2019, in the beginning of '19.

21 Q You worked for Roadrunner Auto Group as the sales
22 manager between year 2016 and 2019?

23 A Yes.

24 Q When did you leave the business? When did you
25 terminate your employment?

1 A Beginning of '19, I guess. I can't remember
2 exactly.

3 Q Besides being the sales manager, were you -- did
4 you have any other duties?

5 A Well, all the duties day by day. I have to
6 control the floor, the sales people, down payment and
7 closing profit -- pretty much everything.

8 Q And to give the Panel a little background, please
9 describe the business of Roadrunner Auto Group. What type
10 of business was it?

11 A It's a used car lot. You know, there were a lot
12 of issues, credit, banks, and also customers. So I am
13 involved in customer service, fix, service, mechanics,
14 banks, closing and property. This is day by day, you have
15 to sell a lot of cars to cover the expenses.

16 We have to cover, right, expenses. The
17 dealership has big, big expenses -- large expenses.
18 Right. So sometimes you break even, sometimes you make,
19 right, but no ways it's a guarantee you have success in
20 the business.

21 Q Okay. And who was in charge of the company's
22 finances during the time period you were employed with
23 Roadrunner?

24 A All the business, I had to turn into the business
25 office. Any of the dealerships does -- down payment,

1 cash, checks, whatever I collect on the weekends, I had to
2 drop off in the safety box in the business office. And
3 there was Paola Solorzano, right, so I did it straight
4 with her. She paid me, she paid them, she paid
5 salespeople's bonuses, commissions, and she does
6 everything.

7 Q And who did Paola Solorzano answer to?

8 A Uri.

9 Q Uri who?

10 A Uri Kohen.

11 Q And who was Uri Kohen?

12 A To me, he was the owner.

13 Q And who else was involved in running the
14 dealership?

15 A We have financing and salespeople and another
16 person, Beth Macareo, and some of the people, they come
17 and they go, right, this is just their staff.

18 HEARING OFFICER WILSON: I'm sorry. Could you
19 spell that last person's name? I didn't catch it.

20 MR. CAPELLO: B-E-T-H M-A-C-A-R-E-O.

21 HEARING OFFICER WILSON: Thank you.

22 BY MR. WEISS:

23 Q And who is Beth Macareo?

24 A A salesperson.

25 Q Salesperson. And how many salespeople were

1 there?

2 A Well, I have two.

3 Q Two. Okay.

4 A And then other people that come and go; they work
5 for a short time and they quit.

6 Q Okay. Who signed your payroll check?

7 A Paola.

8 Q And who -- if you know -- if you know, who
9 prepared the payroll?

10 A It is -- I think she was involved in all that. I
11 was not involved in any paperwork or payroll or banks or
12 nothing.

13 Q Do you know who filed the sales tax returns?

14 A No.

15 Q Okay. You are familiar with Ms. Olivia?

16 A Yes.

17 Q And was -- what were your hours of -- what were
18 your working hours?

19 A 9 in the morning to close, some days 10, 11 -- 3
20 in the morning, you never know.

21 Q How many days a week did you work?

22 A I work six days week.

23 Q Was Ms. Olivia -- did you ever see Ms. Olivia on
24 the business premises?

25 A Yes.

1 Q How often?

2 A Maybe -- I don't know. One or two times every
3 two months. She was with the kids, bring the car, that's
4 all.

5 Q Was she there every day?

6 A No.

7 Q Did she -- from what you understand -- your
8 understanding is what I'm interested in. Did she have any
9 authority over what people to pay?

10 A No.

11 Q What creditors to pay?

12 A No.

13 Q Was she involved in auto sales?

14 A No, not at all.

15 Q And in your opinion was she experienced -- did
16 she have any experience in the automotive industry at all?

17 A No.

18 Q So what was your understanding of her
19 relationship with the business?

20 A I don't know. Not much. I think she was an
21 investor, but I don't know for sure.

22 Q And who did you answer to?

23 A To Uri -- Uri Kohen.

24 Q Anybody else you answered to?

25 A No.

1 Q Okay. What about Ms. Solorzano?

2 A She was the business manager -- business office.
3 She was to carry all the paperwork in the office, so the
4 paying, wholesale, auction, inventory, right. She was
5 doing a very good job.

6 Q Okay. Who was Asher Perez?

7 A Asher Perez, he was their help to buy the cars,
8 and also he has an office back there, but it's not much.

9 Q What do you mean he has an office back there?
10 What do you mean by that?

11 A He has a construction business.

12 Q And who was Mr. Frank Campagna?

13 A It's consulting.

14 Q Was he involved in the running of the business?

15 A No.

16 Q And do you know Ela Perlman is?

17 A I think she was a bookkeeper or something.

18 Q Okay.

19 A I never had any contact.

20 Q Okay. Explain to the OTA Panel how does the
21 dealership work? Do you have to have -- do you have to be
22 licensed?

23 A Of course. You have to have a wholesale license
24 and a dealer's license because if not, you can't run the
25 business. Wholesale license to buy the cars at the

1 auction, and then dealer's license to operate the business
2 day by day.

3 Q And from your knowledge, doesn't the -- okay. So
4 somebody who does not have a dealer's license cannot run
5 the business; is that correct?

6 A That is correct.

7 Q Okay. Who had the auction license?

8 A Uri.

9 Q Can you explain -- there's an auction license?

10 A And a dealer's license.

11 Q First, who had the auction license?

12 A Uri Kohen.

13 Q And who had the dealer's license?

14 A Uri Kohen.

15 Q Were you aware of any license in the name of
16 Ms. Olivia?

17 A No.

18 Q And how many years have you been in the
19 automotive industry?

20 A 25 to 27 years.

21 Q And who did you work for prior to Roadrunner?

22 A Nissan, Lexus, Infinity, BMW, and used car lots.

23 Q Did you work for any other used car lots besides
24 Roadrunner?

25 A Yes.

1 Q And same issues on those used car lots?

2 A Same issues -- changed, but the amount of cars
3 you have on the lot.

4 Q When did you see -- when was Ms. Olivia in the
5 business? What time, if you can remember?

6 A I can't tell you that because maybe she show on
7 Sunday with the kids, right, and that's it.

8 Q Was she ever there alone?

9 A No. With the kids.

10 Q To clarify, the only time you saw her in the
11 business premises, which was, I believe, on Sherman Way?

12 A Yes.

13 Q Sherman Way in Van Nuys?

14 A Yes.

15 Q The only time you ever saw her on the business
16 premises, the used car lot, is when she was there with her
17 children?

18 A Yes.

19 Q Did she have an office there?

20 A No.

21 MR. WEISS: I have no further questions for this
22 witness.

23 HEARING OFFICER WILSON: Okay. You can proceed
24 with your next witness.

25 MR. WEISS: Okay. They don't have -- they don't

1 have the right to ask him questions?

2 HEARING OFFICER WILSON: Once you're finished
3 with your presentation.

4 MR. WEISS: Okay. That's how we do it.

5 HEARING OFFICER WILSON: Yes.

6 MR. WEISS: All right. Let me call my next
7 witness, Ms. Olivia. Give me one second. All right.

8
9 DIRECT EXAMINATION

10 BY MR. WEISS:

11 Q Please state your name.

12 A Sivan Wizman Olivia.

13 Q Okay. And where were you born?

14 A Israel.

15 Q Okay. And what is your education?

16 A I finished high school in Israel and then I went
17 to the Army and then I came here to United States.

18 Q And how many years have you been in the United
19 States?

20 A How many years? 18 years.

21 Q Okay. And what is your first language?

22 A Hebrew.

23 Q What is your best -- how well do you understand
24 English?

25 A Sorry. My English is not that good, but I can

1 understand, I just need to sometimes, like, repeat some
2 words if I need any help with that.

3 Q Yes.

4 MR. WEISS: So I'm going to -- her English, she's
5 -- you know, we might have to go slow with her to make
6 sure she understands the questions.

7 BY MR. WEISS:

8 Q Please, if you do not understand a question from
9 myself and the Department, please do not answer it. Have
10 it repeated to make sure you understand the question.
11 Because the question, if you don't understand it, it isn't
12 good for anybody, so do the best you can.

13 A Okay.

14 Q What is your work experience?

15 A Not much. I'm more busy with my kids.

16 Q And currently, what is your occupation?

17 A Currently?

18 Q Yeah.

19 A I'm just helping -- I'm just working part time
20 just helping to do whatever I can do in the office.

21 Q What office?

22 A Construction.

23 Q And would you say you're a -- most of your time
24 is spent being a mother?

25 A Yes.

1 Q How many children do you have?

2 A Four.

3 Q And what are the age groups of your children?

4 A They're very close. I have 9, 11, 10, and 14.

5 Q Okay. And during this time period of October
6 2018 to June 2019, did you have four kids?

7 A Yes. At that time I was very busy with my kids.
8 (Court reporter clarification.)

9 MR. WEISS: The time period I believe is the
10 first quarter of '18 and I believe the first two quarters
11 of '19.

12 BY MR. WEISS:

13 Q And during the time period of October 1, 2018, to
14 June 1, 2019, what was your occupation?

15 A I wasn't -- not -- like, I didn't do anything
16 there. I wasn't there.

17 Q And what do you mean by there?

18 A At the dealer. I wasn't there at that time.

19 Q And how often did you go to the dealership?

20 A Once in a month -- maybe even not that.

21 Q Okay. And how did you become involved with
22 Roadrunner Auto Group Inc?

23 A At that time Uri Kohen and my boyfriend, they
24 told me to do a good investment and they can put my money
25 there and make some income. And I trusted them and they

1 said it would be a good opportunity for me, and they just
2 misled me and I didn't know even what I was going to be
3 going into.

4 Q And how much money did you invest?

5 A 120.

6 Q \$120.00 or what?

7 A No, \$120,000.00.

8 Q Do you mean \$120,000.00?

9 A Yes.

10 Q Okay.

11 MR. WEISS: And can I show the witness an exhibit
12 -- Exhibit 1?

13 HEARING OFFICER WILSON: Yes.

14 MR. WEISS: Okay.

15 BY MR. WEISS:

16 Q Why don't you take a moment to read Exhibit 1 and
17 I'll ask you a couple questions about it.

18 A Okay.

19 Q Okay. Is that -- was April 3rd, 2017, the first
20 time you -- is that when you invested your money?

21 A Yes.

22 Q Okay. And --

23 HEARING OFFICER WILSON: Can I just stop you for
24 a minute. Exhibit 1, just so everybody is on the same
25 page, is the shareholder meeting minutes?

1 MR. WEISS: Minutes of Special Meeting of
2 Shareholder Roadrunner Auto Group Inc.

3 BY MR. WEISS:

4 Q Did you -- have you ever seen this document prior
5 to this -- prior to the -- this case? Have you seen this
6 before?

7 A I don't remember.

8 Q Okay. And who prepared this, if you know?

9 A Maybe Frank. I don't know.

10 Q Well --

11 A I really don't know. Uri probably.

12 Q Okay. And --

13 A Uri because, yeah, that's the time that he put me
14 on the sharing that they can just make sure that my money
15 is there.

16 Q Okay. And what did Uri tell you about the
17 business?

18 A Not much. That there's -- he has -- he knows the
19 business because he has experience for so many years, and
20 that can make money of it.

21 Q Okay. And did you invest any further money in
22 this business?

23 A What do you mean? Sorry. Can you repeat?

24 Q What do -- I mean, did you -- okay. You
25 testified you invested \$120,000.00.

1 A Yes.

2 Q Did you invest any other additional sums of money
3 besides the \$120,000.00?

4 A No.

5 Q Okay. And did you ultimately become 100 percent
6 owner of the company?

7 A Yes.

8 Q Okay. Did you pay -- did Uri ask you for money
9 for the other 20 percent?

10 A No.

11 Q And what -- when you became 100 percent owner,
12 did you have a conversation with Uri Kohen?

13 A Not much. He just -- back then, he just, like --
14 I was trying to see what's going on and he didn't answer
15 my questions. He disappeared, and that's it.

16 Q Okay. Do you have any background in the
17 automotive industry?

18 A No. Nothing.

19 Q So you invested money just on the word of Uri
20 Kohen?

21 A Yes.

22 Q And on the words of your boyfriend?

23 A Yes. I trusted them and that they knew -- know
24 what they're doing, but I guess they didn't.

25 Q Did they tell you why they needed the money?

1 A Just to run the business, that's what I
2 understand, like to --

3 Q Okay. And after you invested in the business,
4 what was your involvement in the business?

5 A After what?

6 Q Okay. Let me try to make it easier. After you
7 invested the money, according to this, on April 2017,
8 after you invested the money, were you involved at all in
9 running the business?

10 A No. Nothing.

11 Q Okay. And how often did you go see the business
12 and check on your investment?

13 A Maybe, like, every month. Sometimes, like, that
14 maybe twice a month just to come see.

15 Q Did you meet with anybody when you came to the
16 business?

17 A No.

18 Q Did you speak to anybody about the business?

19 A Here and there, just was talking to Paola and Uri
20 and salespeople and everyone that was working there.

21 Q Do you know --

22 A I didn't know nothing about what's going on
23 inside.

24 Q And who handled the auto sales of the business,
25 sales of autos? Who handles the sales?

1 A The sales, the gentleman here.

2 Q Okay. And who, to your knowledge, handled the
3 payroll?

4 A Paola.

5 Q And who paid the bills?

6 A Paola.

7 Q And who made the determination when the bills
8 would be paid?

9 A Paola Solorzano.

10 Q And she determined also how much the bills were
11 to be paid?

12 A No, nothing. I didn't know anything about it.

13 Q No, that's not my question. Did Paola Solorzano
14 determine how much each creditor should be paid?

15 A No.

16 Q She didn't?

17 A If she told me?

18 Q No, no. My question is -- well, let me say it
19 another way. Did you ever make any decisions on what
20 creditors to be paid?

21 A No.

22 Q Did you sign the checks?

23 A No.

24 Q You never signed any checks?

25 A Maybe one or two -- something that she told me

1 that needed to be signed, but nothing -- no, I didn't
2 sign.

3 Q And prior to -- did I show you -- I'm not sure.
4 I believe checks were exhibits. I'm not sure if they are
5 or not. But did you -- weren't there checks -- did you
6 review any Roadrunner Auto Group checks?

7 A Review?

8 Q Did I show you -- prior to this hearing today,
9 did I show you Roadrunner Auto checks?

10 A No.

11 Q Okay. So you never reviewed any bank statements?

12 A No.

13 Q Okay. And do you know where the bank statements
14 were even mailed to?

15 A Mailed to?

16 Q Where were they mailing the bank statements?

17 A To the business maybe.

18 Q Okay. And let me show you Exhibit -- I believe,
19 3. Let me show you Exhibit No. 2. Okay.

20 MR. WEISS: Placing it in front of the witness.

21 BY MR. WEISS:

22 Q I believe it's a Statement of Information. Okay.
23 Have you seen this before? Better yet, when was the first
24 time you saw this?

25 A When you showed me.

1 Q Take a minute and read it. Are you familiar with
2 this document?

3 A No.

4 Q Do you know who filed this document?

5 A No.

6 Q Well, it lists --

7 A Uri.

8 Q Okay. Did Uri show you this document before he
9 filed it?

10 A No.

11 Q Did you sign this document?

12 A Not that I remember.

13 Q Well --

14 A 3/11/2018.

15 Q Okay. On the bottom -- okay. Your name is
16 listed here. You didn't fill that out?

17 A No.

18 Q And let's go to Exhibit No. 3, which is entitled
19 Secretary of State Statement of Information. Take a
20 minute and read that document. Do you know who Karan is?

21 A I saw from -- what I understand, this was, like,
22 a few Armenian guys that came to the business and took it
23 over, and that's when I was trying to understand from Uri
24 what was going on. And they just took the business and
25 they were just selling the cars. And so I guess they took

1 me out of it and everyone else. And he told me he just
2 taking over.

3 Q Well, did Uri bring these people in?

4 A Yes, he did.

5 Q Did you know any of these people?

6 A No.

7 Q Were you concerned about your investment?

8 A Of course.

9 Q And what did these people do -- Mr. -- hold on
10 one second. Mr. Geozalian -- Mr. Karan Geozalian.

11 A They sold the cars there and they took the money.

12 Q They sold the cars on the car lot?

13 A Yes.

14 Q And did they pay the money to the business?

15 A No.

16 Q They -- so you are saying to me, you're
17 testifying that they actually stole the money?

18 A That's what I understand, yes.

19 Q What happened to them?

20 A I have no idea.

21 Q Okay. Did you -- okay. Do you remember signing
22 any papers, any minutes for the company making you an
23 officer of the company? Do you understand minutes,
24 corporate minutes?

25 A What is that?

1 Q Did you sign a paper such as Exhibit 1, minutes
2 they call it. Did you sign any papers saying I'm now the
3 president of the company?

4 A That I'm not?

5 Q That you are.

6 A That I am the president.

7 Q Were you aware signing any papers making you an
8 officer of the company?

9 A No. I just know that when I put my money, he
10 told me that I have something -- the business shows that I
11 invested the money there.

12 Q Okay. Did you have meetings with Mr. Kohen?

13 A No.

14 Q Did you meet -- did you have any meetings with
15 other people in the business so they can explain to you
16 how the business was doing?

17 A No.

18 Q Okay. Are you familiar with the term seller's
19 permit?

20 A No.

21 Q Did Mr. Kohen explain to you the business that
22 the auto dealership had to have a seller's permit?

23 A No.

24 Q Okay. Who is Paola Solorzano?

25 A She was running the office, everything there.

1 She was working there.

2 Q Did you communicate with her very often?

3 A No, not really.

4 Q Who did Ms. Solorzano answer to?

5 A Uri Kohen.

6 Q Okay. Anybody else?

7 A No.

8 Q Did Ms. Solorzano ever share any information with
9 you about the business?

10 A No.

11 Q Okay. Do you know who Ela Perlman was?

12 A Yes. Bookkeeping. Outside bookkeeping.

13 Q Okay. Did she communicate with you much?

14 A No. Just when she just recommended me to do what
15 to do, and she was trying to help me to talk to them to
16 see what was --

17 Q Why did you talk to them in June -- one of the --
18 the contentions of the Department was you negotiated --
19 tried to negotiate an agreement with the CDTFA in or
20 around June of 2019 -- so hold on. Don't answer. Let me
21 finish the question.

22 The question is why were you involved in
23 negotiating with them if you had no prior involvement in
24 the business?

25 A Because from my understanding, Ela told me that

1 there is, like, some things, like, that they still need to
2 owe money and it's my name on it and I need to call and
3 try to fix the -- to negotiate with them to see how we can
4 fix it.

5 Q Okay. My question is were you concerned about
6 your investment at that point?

7 A Yes.

8 Q And where was Mr. Kohen?

9 A I don't know. He was, like -- he just said,
10 okay, that's it, I'm done. He's not answering my calls.
11 And I didn't know what to do, and they left me like this.

12 Q Where was Ms. Solorzano?

13 A She left too. She was not there.

14 Q So around June of 2019, was the business even
15 operating at that time?

16 A No. You mean working?

17 Q Were they selling --

18 A No.

19 Q So when -- to the best of your knowledge, when
20 was the business shut down?

21 A That time.

22 Q What do you mean by that time?

23 A Beginning of 2019.

24 Q Beginning of 2019?

25 A Like May -- June, something like that.

1 Q Okay. Did you ever sign any employee's payroll
2 checks?

3 A No. Never.

4 Q Okay. Did you ever file any -- did you direct
5 anybody to file any sales tax returns?

6 A No.

7 Q Did you ever receive any distributions from the
8 company from the \$120,000.00 -- a return on the
9 \$120,000.00 you invested?

10 A Return?

11 Q Do you understand my question?

12 A No.

13 Q Let me rephrase it. You invested \$120,000.00;
14 correct?

15 A Yes.

16 Q Did you ever receive any money back or any profit
17 or return of the \$120,000.00 you invested?

18 A No.

19 Q Did you have a salary with the company?

20 A Yes.

21 Q What was your salary?

22 A I don't know. It was not much.

23 Q And who paid you the salary?

24 A Paola.

25 Q And who determined what the salary should be?

1 A Uri.

2 Q Okay.

3 MR. WEISS: Let me just check. No further
4 questions for this witness.

5 HEARING OFFICER WILSON: Does that conclude your
6 presentation as well?

7 MR. WEISS: Yes, with the exception of,
8 obviously, to reply. Yes. Appellant's direct
9 presentation is completed, yes.

10 HEARING OFFICER WILSON: Okay. Thank you. We
11 will go ahead and take a 5-minute break and come back at
12 2:42. We are off the record.

13 (There was a pause in the proceedings.)

14 HEARING OFFICER WILSON: Back on the record.
15 Okay. We will go over to the Department and see if they
16 have any questions for the witnesses.

17 MS. BEDFORD: No, we don't have any questions.

18 HEARING OFFICER WILSON: Okay. Thank you. And
19 we will have Panel questions now.

20 Judge Kim, do you have any questions?

21 ADMINISTRATIVE LAW JUDGE KIM: Yes, I had some
22 questions.

23 Is it Ms. Olivia or Ms. Wizman?

24 MS. WIZMAN: I changed my name now to Wizman, so
25 -- but I used to be Olivia, yes.

1 ADMINISTRATIVE LAW JUDGE KIM: Okay. What do you
2 like to be called?

3 MS. WIZMAN: Whatever you want, it's fine.

4 ADMINISTRATIVE LAW JUDGE KIM: Okay. Ms. Wizman,
5 so you testified that after you became -- after Uri
6 transferred the remaining 20 percent of the shares, that
7 he disappeared? Is that what you said?

8 MS. WIZMAN: What did you say?

9 ADMINISTRATIVE LAW JUDGE KIM: You said after Uri
10 transferred the remaining 20 percent of his shares, you
11 got 100 percent of the shares, that he disappeared? I
12 just want to understand.

13 MS. WIZMAN: At that time everything was, like --
14 they starting like -- I was trying to see what's going on.
15 How do I get my money back? And then I was trying to
16 reach with -- to try to see how to solve it and he was,
17 like, not really answering my calls and talking to me.

18 ADMINISTRATIVE LAW JUDGE KIM: Okay. What other
19 steps did you take in trying to run the business at that
20 point?

21 MS. WIZMAN: Nothing.

22 ADMINISTRATIVE LAW JUDGE KIM: So who was in
23 charge of the company once Uri transferred his shares over
24 to you?

25 MS. WIZMAN: When he transferred it to me, he

1 still was there, and then he just closed.

2 ADMINISTRATIVE LAW JUDGE KIM: Okay. So earlier
3 you -- I don't know if it was Mr. Weiss who said it or
4 someone said that around June of 2019, you tried to make
5 it right, later on you signed this payment plan with
6 CDTFA? When did you realize that there was tax liability
7 -- unpaid tax liability?

8 MS. WIZMAN: Are you asking me?

9 ADMINISTRATIVE LAW JUDGE KIM: Yeah.

10 MS. WIZMAN: What did you say?

11 ADMINISTRATIVE LAW JUDGE KIM: When did you
12 realize that the business had an unpaid tax liability?

13 MS. WIZMAN: That's when Ela told me there is a
14 few liabilities that need to be paid for the business, and
15 she was trying to help me to call them and see how we can
16 fix it.

17 ADMINISTRATIVE LAW JUDGE KIM: Like around when
18 was that?

19 MS. WIZMAN: When was that? By that time, after
20 the business was closed.

21 ADMINISTRATIVE LAW JUDGE KIM: When was the
22 business closed?

23 MS. WIZMAN: I'm not sure exactly. Like, it was
24 2019 -- like middle of 2019.

25 ADMINISTRATIVE LAW JUDGE KIM: Around that time?

1 MS. WIZMAN: Yes.

2 ADMINISTRATIVE LAW JUDGE KIM: So why did the
3 business continue to make sales after then through 2021, I
4 believe? Mr. Weiss, you can answer too. Anyone can
5 answer. Mr. Capello?

6 MR. WEISS: Well, I think the -- I don't think
7 they were making sales. I think there was an issue of
8 something -- you know, they said they couldn't sell the
9 cars, there was a problem of getting the title and the
10 title was delayed, and that's my understanding. Maybe
11 Mr. Capello can -- I don't know the industry, but it
12 sounds like there was some problem getting the title.

13 MR. CAPELLO: When you buy the car at auction,
14 right, you're flooring the car. You don't pay cash for
15 the car. They ship the car to your dealership and day by
16 day the interest they charge for the time the car you have
17 on the lot and the car will be sold, right, and if three
18 months -- you have to sell the car before three months.
19 So the time the car is paid off is when they send you the
20 pink slip, the title, before you no have it. Did that
21 answer your question?

22 MR. WEISS: Maybe I can help. I don't know the
23 car business. But I believe the business had heavy
24 flooring costs, like a line of credit to buy the car s,
25 and he couldn't deliver title until he dealt with the line

1 of credit, so there was a delay in giving title to the
2 people who bought the car. They couldn't get the DMV
3 clearance. So a lot of that after June 2019, I think
4 it was the time it closed down, after that time
5 period, I believe they were taking care of obligations
6 they had to make -- I don't know exactly when the sales
7 were made, but it was really cleaning up a mess that was
8 previously there is my understanding.

9 MR. CAPELLO: Yes. Because they showed the sales
10 and in one day and then, you know, the dealer, and the
11 title comes two months later.

12 MR. WEISS: Couldn't get a title right away,
13 that's what the delay was. That's what was explained to
14 me. That's my understanding.

15 ADMINISTRATIVE LAW JUDGE KIM: Okay. So the
16 business was continuing to operate?

17 MR. WEISS: I don't think there was any new car
18 sales. I think they were basically trying to complete
19 what they already did. I don't think anything was new.
20 I don't know how much -- it's true, there were sales tax
21 returns reported after that, but very minor amounts.

22 But in essence, I think even in one of the
23 e-mails -- there's an e-mail in one of the Department's
24 exhibits, I believe, where somebody called the business
25 and the guy who answered the phone said Mr. Campagna --

1 somebody answered the phone and said they're no longer
2 there.

3 ADMINISTRATIVE LAW JUDGE KIM: Okay.

4 MR. CAPELLO: Can I say something?

5 ADMINISTRATIVE LAW JUDGE KIM: Yes.

6 MR. CAPELLO: I think the confusion is they have
7 a few in-house deals. Those in-house deals, right, they
8 no pay the taxes up front, they finance it 100 percent.
9 But I think this is business that is shown later on to try
10 to collect all the payments for those in-house deals or
11 take the car back or repo the car, right? This is the
12 part of the business that's complicated. I wasn't there
13 before all this mess.

14 ADMINISTRATIVE LAW JUDGE KIM: So when would you
15 submit a report of sale to the DMV when -- at the time you
16 made the sale?

17 MR. CAPELLO: No. They take more time. If you
18 sell the car at night, you cannot report it.

19 ADMINISTRATIVE LAW JUDGE KIM: So you would
20 report it when -- when would you report the sale?

21 MR. CAPELLO: Maybe month or a year.

22 ADMINISTRATIVE LAW JUDGE KIM: Months or a year
23 after they make the sale because you have to collect down
24 payment, you have to collect some time to put it up front.

25 MR. WEISS: Is the word delivery -- the delivery

1 you could buy the car but they don't deliver it sometimes
2 until a time period later.

3 For example, if you want to buy to Tesla, you
4 have to place your order and you get the car four months
5 later.

6 MR. CAPELLO: You have to send all the paperwork
7 to the DMV to transfer ownership. That takes time.

8 ADMINISTRATIVE LAW JUDGE KIM: So referring to
9 the minutes of special meetings, there's two different
10 ones; right? For the second one dated October 31, 2018.

11 MR. WEISS: Yes, I know which one you are
12 referring to.

13 ADMINISTRATIVE LAW JUDGE KIM: Where it says
14 100 percent equity interest held by Sivan Olivia.

15 MR. WEISS: Yes.

16 ADMINISTRATIVE LAW JUDGE KIM: At that time,
17 Ms. Wizman, was it your understanding that you were the
18 100 percent owner of the business?

19 MS. WIZMAN: If I understand that?

20 ADMINISTRATIVE LAW JUDGE KIM: To your
21 understanding did you?

22 MS. WIZMAN: Yes. I thought it was just keeping
23 my investment there, but I didn't know what it means about
24 it.

25 ADMINISTRATIVE LAW JUDGE KIM: But you're saying

1 that the other people --

2 MS. WIZMAN: The other people came.

3 ADMINISTRATIVE LAW JUDGE KIM: They were acting
4 on behalf of the corporation even though it was yours?

5 MS. WIZMAN: They just took me out. I don't
6 know how.

7 ADMINISTRATIVE LAW JUDGE KIM: Did you take any
8 kind of steps to run the business at all --

9 MS. WIZMAN: No.

10 ADMINISTRATIVE LAW JUDGE KIM: -- to try to
11 figure out what was going on?

12 MS. WIZMAN: I was trying, but...

13 ADMINISTRATIVE LAW JUDGE KIM: Okay. Thank you.

14 MR. WEISS: One point, Mr. Kim -- Judge Kim, one
15 point of clarification. There is a text that I was
16 referring to, 7/10/2019, and it says a field call was made
17 to the business location, 21024 Sherman Way, Canoga Park,
18 and all of the signs of Roadrunner were gone -- and I
19 believe this is a Department's exhibit -- and there were a
20 few signs that stated AutoNation.

21 So there wasn't any cars on the lot as of that
22 time, that's maybe a month later. And the person they
23 spoke to was a salesperson with AutoNation, and they spoke
24 with an Emilio Ernesto. So they were gone at that point.
25 So I believe this was submitted. I got the text. I don't

1 know who -- it's not -- I don't know whose text that is.
2 It's not identified by a name of the person, but that's in
3 their paperwork.

4 ADMINISTRATIVE LAW JUDGE KIM: Okay. Thank you.
5 I don't have any more questions at this time.

6 HEARING OFFICER WILSON: Judge Long, do you have
7 questions for the witness?

8 ADMINISTRATIVE LAW JUDGE LONG: This is Judge
9 Long. Yes, I have some questions.

10 So first, Ms. Wizman, I'm just trying to
11 understand the time line. So April 2017, you paid
12 \$120,000.00 for 80 percent of the business; correct?

13 MS. WIZMAN: Yes.

14 ADMINISTRATIVE LAW JUDGE LONG: And that was at
15 the urging of Uri and your boyfriend at the time?

16 MS. WIZMAN: Yes.

17 ADMINISTRATIVE LAW JUDGE LONG: And what was your
18 relationship with Uri in April 2017 before you invested?

19 MS. WIZMAN: My relationship with him? Friends,
20 like, just know him.

21 ADMINISTRATIVE LAW JUDGE LONG: Okay. Friends.
22 And then what was your boyfriend's relationship to the
23 business?

24 MS. WIZMAN: Him to the business?

25 ADMINISTRATIVE LAW JUDGE LONG: Yes.

1 MS. WIZMAN: He was helping Uri.

2 ADMINISTRATIVE LAW JUDGE LONG: He was helping
3 Uri. Was he at any time an owner of the business?

4 MS. WIZMAN: No.

5 ADMINISTRATIVE LAW JUDGE LONG: Was he an
6 employee of the business then?

7 MS. WIZMAN: No.

8 ADMINISTRATIVE LAW JUDGE LONG: Was he a
9 corporate officer?

10 MS. WIZMAN: What is corporal?

11 ADMINISTRATIVE LAW JUDGE KIM: CEO, chief
12 financial officer, secretary, president?

13 MS. WIZMAN: No.

14 ADMINISTRATIVE LAW JUDGE LONG: All right. And
15 then so you give him the money, and then in October 2018,
16 the remaining portion of the business becomes yours, you
17 become 100 percent owner?

18 MS. WIZMAN: October?

19 ADMINISTRATIVE LAW JUDGE LONG: 2018.

20 MS. WIZMAN: Yes.

21 ADMINISTRATIVE LAW JUDGE LONG: And at some point
22 in there Uri disappeared; right?

23 MS. WIZMAN: No. He was still there.

24 ADMINISTRATIVE LAW JUDGE LONG: Okay. He's still
25 there. Okay. Then he filed the Statement of Information

1 stating you were the CEO?

2 MS. WIZMAN: Yes.

3 ADMINISTRATIVE LAW JUDGE LONG: Okay. And then
4 on April 24, 2019, according to the May 2, 2019 Statement
5 of Information, Mr. Geozalian becomes the CEO of the
6 business according to that Statement of Information; is
7 that --

8 MS. WIZMAN: Yes, yes.

9 ADMINISTRATIVE LAW JUDGE LONG: Okay. But you
10 still owned the business at that time? No one paid you
11 that \$120,000.00 back?

12 MS. WIZMAN: They just took the business over,
13 yes.

14 ADMINISTRATIVE LAW JUDGE LONG: And then you got
15 involved with CDTFA in June of 2019?

16 MS. WIZMAN: Got involved with them?

17 ADMINISTRATIVE LAW JUDGE LONG: Meaning you
18 started working with CDTFA at least to discuss the
19 liability?

20 MS. WIZMAN: Yes, because Ela told me that they
21 are, like, looking to see how we can help too -- there was
22 collecting the money that they need to pay and she
23 recommend me to talk to them to try to see how we can
24 solve it.

25 ADMINISTRATIVE LAW JUDGE LONG: And when did you

1 find out that Roadrunner was not paying its tax?

2 MS. WIZMAN: Just then when I was looking.

3 ADMINISTRATIVE LAW JUDGE LONG: Then? Can you
4 tell me a month?

5 MS. WIZMAN: I don't know exactly the month.

6 ADMINISTRATIVE LAW JUDGE LONG: Can you --

7 MS. WIZMAN: Just when the time that we -- I
8 was --

9 ADMINISTRATIVE LAW JUDGE LONG: May or June?

10 MS. WIZMAN: The time I was trying to talk to
11 them, that's the time.

12 ADMINISTRATIVE LAW JUDGE LONG: Okay.

13 MS. WIZMAN: That's when I just understand
14 something is going on.

15 ADMINISTRATIVE LAW JUDGE LONG: And then in
16 August, the installment agreement gets signed. Did you
17 sign that?

18 MS. WIZMAN: The what?

19 ADMINISTRATIVE LAW JUDGE LONG: The installment
20 agreement. That's the -- to make installment payments to
21 the CDTFA for the outstanding balance.

22 MS. WIZMAN: August you said?

23 ADMINISTRATIVE LAW JUDGE LONG: Yeah. That's the
24 date on it. I just want to verify, did you sign it?

25 MS. WIZMAN: Not that I remember.

1 ADMINISTRATIVE LAW JUDGE LONG: Not that you
2 remember. Okay.

3 MS. WIZMAN: Maybe she -- I remember that Ela was
4 recommend me to talk to them.

5 ADMINISTRATIVE LAW JUDGE LONG: Can you talk into
6 the microphone?

7 MS. WIZMAN: I'm sorry. Ela was trying to see
8 how we can solve it with them to make payment plan and the
9 business can be, like -- but, yes, that's --

10 ADMINISTRATIVE LAW JUDGE LONG: So then are you
11 saying that she used your signature?

12 MS. WIZMAN: I'm not sure. Maybe she told me to
13 sign. I really don't remember.

14 ADMINISTRATIVE LAW JUDGE LONG: Okay. And then I
15 understand you didn't sign -- your position is you didn't
16 sign any checks; is that right?

17 MS. WIZMAN: Yes. Like I told you, maybe few
18 times that Paola told me you need to sign about something,
19 but no.

20 ADMINISTRATIVE LAW JUDGE LONG: Gotcha. But --

21 MS. WIZMAN: I wasn't there. So most of the
22 checks for sure it's not.

23 ADMINISTRATIVE LAW JUDGE LONG: Were you listed
24 then as a -- you must have been listed on the bank account
25 then as an authorized signer?

1 MS. WIZMAN: Yes, but I never signed them. I was
2 never there.

3 ADMINISTRATIVE LAW JUDGE LONG: And then you
4 mentioned earlier that you had been compensated -- were
5 you compensated -- sorry -- you were paid -- you made
6 wages and it wasn't very much. Were you paid the entire
7 time?

8 MS. WIZMAN: Can you repeat it?

9 ADMINISTRATIVE LAW JUDGE LONG: Did Roadrunner
10 pay you from the time you became an owner --

11 ADMINISTRATIVE LAW JUDGE LONG: They paid me a
12 salary -- like, salary, just something small, but nothing
13 more than that.

14 ADMINISTRATIVE LAW JUDGE LONG: Okay. Thank you.

15 I do have a question for Mr. Capello -- a few
16 questions. Mr. Capello, what was your position at
17 Roadrunner again?

18 MR. CAPELLO: General manager.

19 ADMINISTRATIVE LAW JUDGE LONG: Okay. And then
20 you signed the dissolution of the corporation --

21 MR. CAPELLO: Yes.

22 ADMINISTRATIVE LAW JUDGE LONG: -- in 2020?

23 MR. CAPELLO: Yes.

24 ADMINISTRATIVE LAW JUDGE LONG: And then I'm
25 looking at it right now. It states that the undersigned

1 is the sole director or a majority of the directors now in
2 office. Were you a director at the time that you signed
3 that?

4 MR. CAPELLO: I was the sale manager.

5 ADMINISTRATIVE LAW JUDGE LONG: Okay. How did
6 you come to sign this dissolution then?

7 MR. CAPELLO: Because at that time, you know,
8 they asked for help and I said, okay, I can help you this
9 way.

10 ADMINISTRATIVE LAW JUDGE LONG: Who asked for
11 help?

12 MR. CAPELLO: Uri, and, you know, that's all.
13 And I said, okay, I don't mind, but I didn't know at that
14 time I got involved with that situation, so later on, we
15 review and I get out of there.

16 ADMINISTRATIVE LAW JUDGE LONG: Okay. All right.
17 Thank you. I have no further questions at this time.

18 HEARING OFFICER WILSON: I'm going to hold my
19 questions until the Department makes their presentation.
20 So we will go ahead and turn it over to the Department.

21 Ms. Bedford, you asked for 20 minutes; is that
22 still accurate?

23 MS. BEDFORD: Yes.

24 HEARING OFFICER WILSON: Please proceed when
25 you're ready.

1 OPENING STATEMENT

2 MS. BEDFORD: There are three issues in this
3 appeal. The first is whether the Notice of Dual
4 Determination was timely issued. Revenue and Taxation
5 Code Section 6829, Subdivision F, provides a notice of
6 deficiency determination must be served within three years
7 of the last date of the calendar month following the
8 quarterly period of when the Department attains actual
9 knowledge of the business's termination.

10 While it is the Department's position that
11 Roadrunner Auto Group Inc, Roadrunner, continued to make
12 sales until the first quarter of 2021, those sales are not
13 at issue in this appeal, and there's no dispute that
14 Roadrunner's business terminated prior to the issuance of
15 the Dual Determination to Appellant.

16 Appellant contends that the Notice of Dual
17 Determination was not timely. Even if the sales of the
18 Department's July 10, 2019, field visit are disregarded,
19 the evidence shows that the earliest point at which the
20 Department obtained actual knowledge that Roadrunner
21 ceased its business operations was on the July 10, 2019
22 field visit. Exhibit A at Exhibit 1.

23 Under Section 6829, Subdivision F, the Department
24 had until October 31, 2022, to mail the Notice of
25 Deficiency. Appellant's opening brief states that the

1 date upon which Roadrunner ceased business operations was
2 July 10, 2019, and the reply brief states that date to be
3 June 19, 2019. Appellant's opening brief, page 3;
4 Appellant's reply brief, page 2, line 4.

5 Neither brief includes evidence outside
6 Appellant's statement to support that contention that
7 Roadrunner ceased doing business in June. To the
8 contrary, the evidence demonstrates Department did not
9 obtain actual knowledge of the closure until July 10,
10 2019, therefore, the Notice of Dual Determination that was
11 issued of September 30, 2022, Exhibit D, is timely under
12 Section 6829.

13 The second issue is whether Appellant is liable
14 as the responsible person for the unpaid tax, interest,
15 and penalties of Roadrunner for the period of October 1,
16 2018, through June 30, 2019. Appellant is liable as the
17 responsible person pursuant to Section 6829 for the unpaid
18 liabilities of Roadrunner for the liability period.

19 As you are aware, four elements must be met to
20 impose personal liability under Section 6829. One, the
21 corporation's business must be terminated, dissolved or
22 abandoned. Two, the corporation must have collected sale
23 tax reimbursement on its retail sales of tangible personal
24 property, or TPP, and failed to pay it to the Department.

25 Three, the person must have been responsible for

1 the filing of returns for the payment of Sales and Use
2 Tax, or under a duty to act for the corporation in
3 complying with the Sales and Use Tax Law. And four, the
4 person's failure to pay the taxes due from the corporation
5 must have been willful.

6 As to the first element, whether the corporation
7 business was terminated, there's not dispute the
8 Roadrunner ceased business operations prior to the
9 issuance of the Notice of Dual Determination.

10 As to the second element, personal liability can
11 be imposed only to the extent that the corporation
12 collected sales tax reimbursement on its sales of TPP in
13 this state, but failed to remit to the tax department when
14 due. Section 6829(c), Regulation 1702.5(a).

15 The evidence demonstrates that Roadrunner
16 collected sales tax reimbursement of its sales of TPP.
17 First, Roadrunner's Sales and Use Tax Return for the
18 period of 3Q18 to 2Q19, include the line 9 deduction for
19 the sales tax reimbursement included in its sales.
20 Exhibit A at Exhibit 4.

21 This was further confirmed by the Business
22 Operations Questionnaire provided to the Department and
23 Ms. Solorzano, which indicated that Roadrunner collected
24 sales tax reimbursement from its customers. Exhibit A at
25 Exhibit 5.

1 As to the third element, whether Appellant was a
2 responsible person. The evidence shows that Appellant was
3 a corporate officer and owner of Roadrunner who had
4 control, supervision of, and a responsibility for the
5 filing of returns or the payment of tax and had a duty to
6 act for the corporation in complying with the Sales and
7 Use Tax Law during the liability period. Appellant was
8 named Roadrunner CEO, CFO, secretary and director on its
9 Statement of Information dated October 31, 2018. Exhibit
10 A at Exhibit 3, page 1.

11 Appellant signed in her capacity, as all
12 officers, an Automotive Repair Dealer Registration
13 Application with the California Department of Consumer
14 Affairs dated December 19, 2018. Exhibit A at Exhibit 10.
15 Appellant became the sole shareholder of Roadrunner as of
16 October 31, 2018. Exhibit A at Exhibit 12. Appellant's
17 reply brief, page 3, line 17.

18 Ms. Perlman, Roadrunner's authorized
19 representative, informed the Department that Appellant was
20 an officer the corporation on April 18, 2019. Exhibit A
21 at Exhibit 11. Appellant's signed Authorization for
22 Electronic Transmission of Data Form dated August 30,
23 2019, authorizing the transmission of Roadrunner's
24 confidential information via e-mail. Exhibit A at Exhibit
25 7.

1 Appellant signed a payment plan agreement dated
2 August 30, 2019, obligating Roadrunner to make biweekly
3 payments to the Department in satisfaction of its unpaid
4 tax liabilities for the liability period. Exhibit A at
5 Exhibit 8.

6 Appellant signed corporate checks in payment of
7 Roadrunner's business obligations. Exhibit A at
8 Exhibit 9. The Business Operations Questionnaire provided
9 to the Department, Ms. Solorzano identified Appellant as a
10 person who had responsibility for Roadrunner's Sales and
11 Use Tax compliance during the period that Ms. Solorzano
12 worked for Roadrunner. Exhibit A at Exhibit 5.

13 Furthermore, Appellant is the responsible person
14 for Roadrunner because she was an officer -- CEO, CFO, and
15 secretary -- of Roadrunner and demonstrated that she had
16 control of and responsibility for Roadrunner's Sales and
17 Use Tax matter during the liability period.

18 As to the fourth element of personal liability,
19 the evidence shows that Appellant's failure to pay
20 Roadrunner's tax liability was willful. Failure to pay is
21 willful if the person had knowledge the taxes were not
22 being paid and had the authority and ability to pay the
23 taxes but failed to do so. Failure to pay may be willful
24 even without bad purpose or motivation. Regulation 1702.5
25 (b)(2).

1 Here, Roadrunner's taxes at issue became due on
2 the dates its returns were due, meaning on or before the
3 last day of the month following each quarterly period.
4 Those dates were January 31, 2019, for 4Q18; April 30,
5 2019, for 1Q19; and July 31, 2019, for 2Q19. The evidence
6 demonstrates that Appellant was aware of Roadrunner's
7 self-assessed liabilities for the period of 4Q18 to 2Q19
8 as they incurred. Appellant was named as Roadrunner's
9 only corporate officer on its Statement of Information
10 dated October 31, 2018. Exhibit A at Exhibit 3, page 1.

11 Appellant confirmed this position when she signed
12 the Automotive Repair Dealer Registration Application
13 dated December 19, 2018, in her capacity as all officers.
14 Exhibit A at Exhibit 10.

15 Additionally, Appellant became the 100 percent
16 owner and shareholder as of October 31, 2018, as reflected
17 in Roadrunner's corporate minutes. Exhibit A at Exhibit
18 12, page 3.

19 Further, the evidence shows that Appellant was
20 personally involved in Roadrunner's Sales and Use Tax
21 matters. Appellant signed the Authorization for
22 Electronic Transmission of Data Form dated October 30,
23 2019, authorizing transmission of Roadrunner's
24 confidential information via e-mail. Exhibit A at
25 Exhibit 7.

1 Appellant signed a payment plan agreement dated
2 August 30, 2019, obligating Roadrunner to make biweekly
3 payments to Department in satisfaction of its unpaid tax
4 liabilities for a liability period. Exhibit A at
5 Exhibit 8.

6 Appellant also signed corporate checks and
7 payment with Roadrunner's business obligations. Exhibit A
8 at Exhibit 9. Appellant knew that Roadrunner was not
9 meeting its Sales and Use Tax obligations and that the
10 taxes were not being paid for the liability period.

11 As for Appellant's authority to pay taxes or
12 cause them to be paid, beginning October 31, 2018,
13 Appellant was the sole corporate officer and shareholder
14 of Roadrunner and as the CEO and CFO of Roadrunner,
15 Appellant had the authority to direct the financial
16 affairs of the corporation, including the authority to pay
17 taxes.

18 Further, Appellant signed a payment plan
19 agreement dated October 31, 2019, obligating Roadrunner to
20 make biweekly payments of \$3,000.00 to the Department in
21 satisfaction of unpaid tax liabilities for the liability
22 period. Exhibit A at Exhibit 8.

23 Additionally, Appellant was identified by
24 Ms. Solorzano as the person authorized to sign business
25 checks. Exhibit A at Exhibit 5. Therefore, Appellant had

1 the authority to pay Roadrunner's taxes or cause them to
2 be paid. As to the ability to pay the taxes, the evidence
3 also shows that Roadrunner had funds available to pay the
4 taxes but used those funds to pay other creditors instead.

5 The evidence shows that Roadrunner collected
6 sales tax reimbursement during the liability period,
7 therefore, Roadrunner had a sales tax reimbursement it
8 collected from its customers available to pay its taxes
9 but failed to do so. Exhibit A at Exhibit 4.

10 Roadrunner's 1099(k) data shows that it received
11 payments of about 574,000.00 from Wells Fargo Merchant
12 Services, LLC during 2018 and 2019. And about \$329,000.00
13 from WordPlay LLC during 2018. Exhibit A at Exhibit 17.

14 Additionally, Roadrunner has positive account
15 balances at First Bank January 2019 to April 2019; July
16 2019; October 2019; and April 2020. Banc of California,
17 April 2018 and March 2019 to July 2019. And Wells Fargo
18 Bank, April 2018, to January 2019. Exhibit A at
19 Exhibit 15 and 16.

20 Wages were paid to employees of about \$472,000.00
21 during the period 1Q18 to 4Q18. Exhibit A at Exhibit 14.
22 Additionally, Roadrunner made payments to its landlord
23 totaling about \$159,000.00 during the liability period.
24 Exhibit A at Exhibit 13.

25 Thus, the evidence demonstrates that there were

1 available funds to pay Roadrunner's tax liabilities with
2 amounts collected from customers as tax reimbursement were
3 used to pay other creditors. In sum, Roadrunner collected
4 tax reimbursement throughout the liability period,
5 Appellant was responsible person, and Appellant's failure
6 to pay Roadrunner's Sales and Use Tax obligations was
7 willful, meaning Appellant had the actual knowledge taxes
8 were not being paid and had the authority and the ability
9 to pay the taxes but failed to so.

10 Based on all the evidence provided, the
11 Department has met its burden in each of the elements from
12 imposing personal liability. The third issue is whether
13 the late payment and the late filing fees should be
14 abated.

15 The Department imposed penalties of late payment
16 of Roadrunner's 4Q18 and 2Q19 Sales and Use Tax returns
17 pursuant to Section 6591 Subdivision A. The Department
18 imposed two late prepayment penalties for 2Q19 pursuant to
19 Section 6476. The Department also imposed a penalty
20 against Roadrunner for the late filing of its 1Q19 sales
21 and use tax return pursuant to Section 6591 Subdivision B.

22 These penalties are included in the Notice of
23 Determination issued to Appellant as part of Roadrunner's
24 unpaid liabilities in accordance with Section 6829. See
25 Exhibit D.

1 There is no statutory or regulatory authority for
2 relieving the above penalties in Section 6829
3 determination. But Section 6592, Subdivision A, provides
4 that the prescribed penalties may be relieved if
5 Roadrunner's failure to timely pay a return was due to
6 reasonable cause and circumstances beyond its control and
7 occurring notwithstanding the exercise of ordinary care
8 and in the absence of willful neglect.

9 A person seeking relief of these penalties must
10 submit a statement signed under penalty of perjury setting
11 forth the facts on which the basis for relief. Section
12 6592, Subdivision B.

13 Thus, if Appellant were to establish reasonable
14 cause for Roadrunner's failure to file or to timely pay
15 its liabilities, the penalties incurred are Roadrunner
16 would be relieved, and Appellant's derivative liability
17 for the penalties would also be eliminated.

18 Initially, we note that Department does not have
19 a record of Appellant providing the requisite statement
20 signed under penalty of perjury setting forth the facts on
21 which the claim for relief is based as required by
22 Section 6592 Subdivision B.

23 Furthermore, Appellant has not argued and the
24 evidence has not established reasonable cause and
25 circumstances as to why the corporation failed to pay

1 timely for 4Q18 is 2Q19 and timely file for 1Q19.

2 As a result, there is no basis for which to abate
3 the penalties. Accordingly, relief of the penalties is
4 not warranted. In conclusion, the Department has met its
5 burden to impose liability on Appellant pursuant to
6 Section 6829. The Notice of Determination issued to
7 Appellant was timely and there is not basis for relief of
8 penalties, therefore, we ask that this appeal be denied.

9 HEARING OFFICER WILSON: Thank you. Let's have
10 questions from the Panel. Judge Kim?

11 ADMINISTRATIVE LAW JUDGE KIM: I don't have any
12 questions at this time.

13 HEARING OFFICER WILSON: Thank you.

14 And Judge Long?

15 ADMINISTRATIVE LAW JUDGE LONG: Thank you. Just
16 a few questions. What is CDTF's position with respect to
17 earliest that Ms. Wizman would have known that the
18 liability was unpaid.

19 MR. PARKER: Well, in April of -- I believe the
20 exhibit provided today would reveal that Ms. Wizman was 80
21 percent shareholder the CEO prior to this liability
22 period, I believe, April of 2018, when Ms. Wizman became
23 -- took on that position. I believe it also said she was
24 codirector with Mr. Kohen at the time prior to the
25 liability period.

1 ADMINISTRATIVE LAW JUDGE LONG: So CDTFA's
2 position is based, essentially, just on she was an owner?

3 MR. PARKER: She was an owner and she was an
4 officer. The questionnaire sent to the employee indicated
5 that she was charged with the responsibility for reporting
6 the Sales and Use Tax matters. The questionnaire was sent
7 to Ms. Solorzano for that.

8 ADMINISTRATIVE LAW JUDGE LONG: And then I
9 noticed in the decision that the decision discusses that
10 there are three variations of Ms. Wizman's signature. How
11 does OTA come to the determination which one is the
12 correct signature?

13 MR. PARKER: We are not signature experts,
14 however, we note when it comes to the checks, there was,
15 again, corroboration from Ms. Solorzano in her
16 questionnaire that Appellant signed checks. There is --
17 and then some of the evidence Appellant has presented
18 saying that Ms. Solorzano was the signatory of the checks.

19 And we know that the declaration of Mr. Gurrola
20 that was provided today provides an incorrect name even if
21 they were to say that technically someone was signing the
22 checks, they have been arguing that Ms. Solorzano was
23 signing the checks, and this declaration says Salazar.

24 So there is discrepancy in -- like, it's unclear
25 that Mr. Gurrola had the requisite knowledge to provide

1 this because he didn't even provide the correct name for
2 what Appellant's -- who Appellant's indicated had signed
3 the checks.

4 I don't believe -- I believe Appellant
5 acknowledged that she may have signed herself made an
6 admission to signing the installment plan agreement. But
7 we are not handwriting experts. We rely on the other
8 evidence indicated that Appellant had check-signing
9 authority and signed check additionally.

10 ADMINISTRATIVE LAW JUDGE LONG: And then with
11 respect to the knowledge evidence referred to in the dual
12 memorandum, is there any direct evidence other than the
13 payment of -- the installment payment agreement that
14 Ms. Wizman had knowledge? Is there any conversations,
15 anything stored in your notes?

16 MR. PARKER: There are not additional notes
17 besides what's provided. Although, the notes --
18 Ms. Wizman did testify that the discussion with
19 Ms. Perlman that led to the agreement being entered, we
20 would note that the note in the record did include a
21 discussion with Ms. Perlman in, I believe April of 2019,
22 also involves staff informing Ms. Perlman that there are
23 outstanding liabilities for a prior quarter, and so while
24 she's testified that it could have been May or June, that
25 may be April of 2019.

1 ADMINISTRATIVE LAW JUDGE LONG: Right. I have
2 the note -- the work outgoing call notes here from
3 April 18, 2019, and it does indicate that Ms. Wizman is
4 the new corporate officer. And also, you know -- and has
5 some additional notes. Can you show me in there where it
6 actually states that Ms. Wizman is aware of this?

7 MR. PARKER: There's no direct conversation. I
8 was just noting for the fact that that was discussed
9 there. Ms. Wizman -- there was a reference to Ms. Wizman.
10 Ms. Perlman was informed that, and I think that that's
11 possible evidence to tie Ms. Wizman. It is not a direct
12 conversation with Ms. Wizman, but we know that Ms. Perlman
13 spoke with Ms. Wizman about the outstanding liabilities
14 and that's -- the discussion with Ms. Perlman about
15 outstanding liabilities set that point.

16 ADMINISTRATIVE LAW JUDGE LONG: Okay. Thank you.
17 I have no further questions.

18 HEARING OFFICER WILSON: I did have a question in
19 regards to the DMV information, which is Exhibit 19 of the
20 dual memo. That is from -- directly from the DMV that
21 CDTFA obtained; correct?

22 MR. SAMARAWICKREMA: Yes.

23 HEARING OFFICER WILSON: Okay. And how does the
24 DMV know that it's Roadrunner Auto Group?

25 MR. SAMARAWICKREMA: The DMV keeps track of the

1 dealer license number, and also -- yeah, the dealer
2 license number and the dealer license number is written in
3 the Roadrunner Auto Group.

4 HEARING OFFICER WILSON: Thank you. So for the
5 DMV information, would that only include that dealer
6 license number?

7 MR. SAMARAWICKREMA: The sales permit number and
8 also the buyer's information and lending information also.

9 HEARING OFFICER WILSON: Thank you. So the
10 Exhibit 19 shows sales through past the close out date of
11 July of 2019; correct?

12 MR. SAMARAWICKREMA: Yes.

13 MR. PARKER: Just for the record, the closeout
14 date is March 31, 2021, I believe -- the effective
15 closeout date. We were just noting that the Appellant had
16 contended that the Notice of Dual Determination was not
17 timely. Even if OTA, as a panel, were to not accept that
18 Roadrunner continued to make these sales, which is not the
19 Department's position, that the earliest possible time
20 that the Department could have known about the closure
21 would have been the July 2019 visit.

22 That's not the Department's position, it's just
23 noting the dates provided in the Appellant's initial brief
24 as the closeout date, the Department's Notice of Dual
25 Determination still would have been timely with that

1 closeout date, and the records reflect a visit in July of
2 2019, for clearing up the dual determination that we got
3 in timely in either scenario.

4 HEARING OFFICER WILSON: Thank you. So the DMV
5 information shows continued sales; correct?

6 MR. SAMARAWICKREMA: Yes, and the taxpayer never
7 reported the sales --

8 HEARING OFFICER WILSON: Let me get to my.

9 MR. SAMARAWICKREMA: -- from 2019, October.

10 HEARING OFFICER WILSON: Okay. So were any of
11 the transactions from the car sales noted in the bank
12 statements? Or let me rephrase and say, do the bank
13 statements show continued car sales?

14 MR. SAMARAWICKREMA: According to the dual memo,
15 Exhibit 15, it lists Bank of America bank statement, the
16 total credits is \$959,000,00, so it's included.

17 HEARING OFFICER WILSON: Thank you. That was my
18 questions for the Department. We will go ahead and go to
19 Mr. Weiss for closing statement. You have 10 minutes.

20 MR. WEISS: Okay. Couple things. I think the
21 Department has ignored that it was relying on documents
22 which my client has denied -- her signature has not been
23 filed with her name on there. She was unaware of them, I
24 believe she testified.

25 There is the document filed in the same time

1 period, May 1, 2019, filed by Mr. Geozalian, which
2 basically takes her off. So arguably, they have ignored
3 that. If you will go strictly on filed documents, that
4 takes her off and I don't know if you got involved earlier
5 in the year, that's an issue to be consistent must be
6 determined. With respect to Ms. Perlman, I raise it
7 again, they mentioned Ms. Perlman, the affidavit which I
8 think should be used solely for impeachment --

9 HEARING OFFICER WILSON: I think your microphone
10 is not on.

11 MR. WEISS: Sorry. With respect to Ms. Perlman,
12 I think it's an -- if they bring it up, any courtroom
13 anywhere, you are entitled to impeachment -- well, her
14 declaration impeaches it, clearly. This lady was not
15 involved, is not responsible.

16 The evidence does -- if she's -- the documents
17 they're using, she's disputing whether it's her signature.
18 She clearly doesn't have the knowledge. There's not
19 willfulness. Apparently, if she got involved in July 2019
20 or August 2019, that's after the sales were done. I mean,
21 the sales were done. The liability was owed.

22 If you are trying to clean up a mess, why should
23 she be liable for a mess she didn't create? It goes
24 against common sense. And she put \$120,000.00 in there.
25 She lost money. The State lost money. She is a victim

1 like anyone else and she's trying to protect her
2 investment.

3 I think she listened to Ms. Perlman, I guess, and
4 the people who created the mess are no where to be found,
5 and basically, this lady was duped. And really, that's my
6 position with respect to the repair license, I'm not sure
7 -- I don't know if she signed that or not -- if that's her
8 signature, but my clients, I believe, testified said she
9 didn't sign things.

10 And Ms. Solorzano signs things. And the fact
11 that Ms. Solorzano's name is spelled incorrectly, I think
12 it's pretty obviously, Paola or Salazar, I think we are
13 referring to same people. So we have a live witness --
14 two witnesses, two declarations. There is a lot of
15 evidence refuting what they're saying.

16 And, you know, we have documents not signed,
17 incomplete, and we really don't know her involvement other
18 than she invested money and she tried to clean up a mess
19 that somebody else created. I don't know any law that
20 says you are responsible for cleaning up a mess you didn't
21 create. And 6829 doesn't say that.

22 She was not involved in creating the liability.
23 She did not know about the liability. And she came on on
24 later, possibly, you know, to try to -- to try to do the
25 right thing to deal with it and maybe she would get back

1 her money. She, basically, was unaware of the finances,
2 and that is really my position.

3 I've got a lot of evidence and I think a lot of
4 their evidence is incomplete and unanswered. And you
5 know, these documents, you know -- if she disputes her
6 signature or there's no signature, I don't believe it
7 should have much weight.

8 HEARING OFFICER WILSON: Is that your conclusion?

9 MR. WEISS: Well, I conclude No. 1. Let me raise
10 something. You know, the penalty is very tiny compared to
11 the liability. She's not going to be able to pay that
12 either. But, you know, I guess with their permission -- I
13 wasn't really worried about the penalty, but I can submit
14 a declaration afterward to try to abate the penalty.

15 I'd like that opportunity. Question. Is any of
16 this -- is any of this -- is there a post -- can we listen
17 to the transcripts and basically submit after reading the
18 transcripts, any comments or belief or something? Is that
19 your policy? I think I did one prior case and they
20 allowed a belief, so I raise that issue just in case.

21 HEARING OFFICER WILSON: If we do decide to hold
22 the record for you to submit a penalty abatement request,
23 it would only be for that.

24 MR. WEISS: Okay. I will raise that right now.
25 Because that's -- you know, the liability is so large and

1 the penalty is so small. My position is she's not liable.
2 So if she's not liable, there would be no penalty. I do
3 reserve the right to raise that. That's pretty much my
4 position. No further questions to add.

5 HEARING OFFICER WILSON: Okay. Thank you. We
6 will go with final questions. I'll start off.
7 Ms. Wizman, for the salary you received, you said it was
8 not very much and that it was throughout your time as CEO
9 or officer of the business; correct?

10 MS. WIZMAN: Yes.

11 HEARING OFFICER WILSON: Also, when you respond
12 please talk louder.

13 Do you -- would you consider those payments a
14 return of your investment or did you actually work at the
15 business to earn the salary?

16 MS. WIZMAN: No, I didn't work.

17 HEARING OFFICER WILSON: So would you consider
18 payments a return of your investments?

19 MS. WIZMAN: Yes, I guess. Maybe one show me
20 that I can have some back, but it's not really was it was
21 planning to have -- yeah.

22 HEARING OFFICER WILSON: Okay. And so if you --
23 I guess the period is nine months or so, just under a year
24 maybe, how much do you think you would have received back?

25 MS. WIZMAN: What do you mean? Sorry. Can you

1 repeat it? I didn't understand. How much what?

2 HEARING OFFICER WILSON: So if you were receiving
3 a paycheck every two weeks or so, is that when you would
4 receive the pay, or how much total do you think you
5 received from the business?

6 MS. WIZMAN: You mean if I was supposed to get my
7 money back?

8 HEARING OFFICER WILSON: Right. You said you
9 received checks back?

10 MS. WIZMAN: Yes, but it was not much. I need to
11 live and I need money, you know, and so it was not much.
12 Like, I lost my money.

13 HEARING OFFICER WILSON: Okay. During the time
14 that Mr. Karan came in, you said they took over the
15 business -- Mr. Geozalian?

16 MS. WIZMAN: Yes.

17 HEARING OFFICER WILSON: So that Statement of
18 Information is dated May 1st, 2019.

19 MS. WIZMAN: Yes, it was there, like, before
20 that.

21 HEARING OFFICER WILSON: So if Mr. Geozalian was
22 the new corporate officer, why did you participate with
23 the Department for a payment plan when you were not
24 responsible according to --

25 MS. WIZMAN: Because I didn't understand. That's

1 what she told me, there is, like, things that need to take
2 care of because they was looking for me. I don't know
3 why. I was -- that's what they told me. I really didn't
4 understand that. If I knew that, I would not --

5 HEARING OFFICER WILSON: Okay. Mr. Campagna,
6 what was his role during all of this?

7 MS. WIZMAN: What? What did you ask?

8 HEARING OFFICER WILSON: What was his role in the
9 business, Mr. Campagna?

10 MS. WIZMAN: What is -- he's kind of like more
11 like a paralegal, like, helping us.

12 HEARING OFFICER WILSON: A paralegal?

13 MS. WIZMAN: Yeah.

14 HEARING OFFICER WILSON: So I'm not sure if you
15 are aware, but the Department had a field visit in July
16 of 2019 and they spoke with Mr. Campagna. Do you know --
17 Mr. Capello, do you know when you took over?

18 MR. CAPELLO: 2016.

19 HEARING OFFICER WILSON: You took over as the
20 corporate officer?

21 MR. CAPELLO: No, no. I started working for the
22 company in 2018 like a closer.

23 HEARING OFFICER WILSON: Okay. So Mr. Campagna
24 indicated that you were listed as a corporate officer for
25 a short time. Do you recall the length of your terms?

1 MR. CAPELLO: Say that again.

2 HEARING OFFICER WILSON: As a corporate officer
3 do you recall the length of your term, when you started
4 being the corporate officer?

5 MR. CAPELLO: Was maybe one month, maybe.

6 HEARING OFFICER WILSON: Four months?

7 MR. CAPELLO: One month, maybe one and a half
8 months, that's all.

9 HEARING OFFICER WILSON: Okay. Okay.

10 MR. CAPELLO: I have the letter that released my
11 obligation.

12 HEARING OFFICER WILSON: Okay. Do you know why
13 Mr. Campagna would say that you disappeared from the
14 business?

15 MR. CAPELLO: Me?

16 HEARING OFFICER WILSON: According to this field
17 note it says --

18 MR. WEISS: Are you talking about the July 12,
19 2019 tax or the field note?

20 HEARING OFFICER WILSON: Yes. The July 10, 2019
21 conversation with Mr. Campagna.

22 MR. WEISS: Okay.

23 MR. CAPELLO: I quit. I don't disappear; I quit
24 -- it's different.

25 HEARING OFFICER WILSON: Okay. I think that's it

1 for me.

2 Judge Kim, final questions?

3 ADMINISTRATIVE LAW JUDGE KIM: No, thank you.

4 HEARING OFFICER WILSON: Okay. And Judge Long,
5 do you have any final questions?

6 ADMINISTRATIVE LAW JUDGE LONG: I do, I want to
7 follow up on the -- you just mentioned that you quit,
8 Mr. Capello. And this note, July 12, 2019, when did you
9 come back? Because you signed the dissolution in 2020.
10 So what happened between July 12, 2019, when you just said
11 you quit and the date that you signed the dissolution in
12 February of 2020?

13 MR. CAPELLO: Well, that's all I did. I never
14 back to work.

15 ADMINISTRATIVE LAW JUDGE LONG: Can you turn the
16 microphone on?

17 MR. CAPELLO: I never went back to work.

18 ADMINISTRATIVE LAW JUDGE LONG: Respectfully, why
19 did you sign the dissolution?

20 MR. CAPELLO: Why? Because it's not part of my
21 business. It was no part of the business.

22 ADMINISTRATIVE LAW JUDGE LONG: But you weren't
23 working there?

24 MR. CAPELLO: No.

25 ADMINISTRATIVE LAW JUDGE LONG: So how did you

1 come to reconcile with the business that you would help
2 them out by filing this paperwork.

3 MR. CAPELLO: I quit in 2019, June or close to
4 it. After that, I have a call, right, for the attorney --

5 ADMINISTRATIVE LAW JUDGE LONG: When was that?

6 MR. CAPELLO: Maybe -- like you saying, maybe in,
7 like -- I can't remember the exactly the month, but I had
8 to sign the resonation for the corporation or whatever
9 they did.

10 ADMINISTRATIVE LAW JUDGE LONG: The dissolution?

11 MR. CAPELLO: Yes. But I wasn't working there by
12 the time I did the --

13 ADMINISTRATIVE LAW JUDGE LONG: Why did they tell
14 you you had to be the one to sign the dissolution then?

15 MR. CAPELLO: They say that I not part of the
16 business, that's all. I never been a part of the business
17 like a COO or like that.

18 HEARING OFFICER WILSON: All right. All right.
19 Thank you. I don't have any further.

20 MR. CAPELLO: Sorry. I have the letter, right.
21 I have nothing to do anymore.

22 ADMINISTRATIVE LAW JUDGE LONG: Thank you.

23 HEARING OFFICER WILSON: Thank you. That
24 concludes our hearing for today. I will go ahead and give
25 you our final remarks. Thank you, everyone for

1 participating. We appreciate your testimony and being
2 here. The Panel will meet to deliberate and decide your
3 case. We will issue written opinion after we receive the
4 penalty abatement. So we will hold the record open for 30
5 days. Is that sufficient?

6 MR. WEISS: Yes.

7 HEARING OFFICER WILSON: It's online. It's 735.

8 MR. WEISS: Okay. That will save me time, thank
9 you.

10 HEARING OFFICER WILSON: So once you provide that
11 and your explanation for the abatement request, the
12 Department will have 30 days to provide a response, after
13 which we close the briefing and the record. So once
14 that's done, we will issue a decision, a written opinion,
15 within 100 days. So we are off the record and this
16 concludes the hearings for today.

17 (The hearing was concluded at 3:41 p.m.)
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1 HEARING REPORTER'S CERTIFICATE

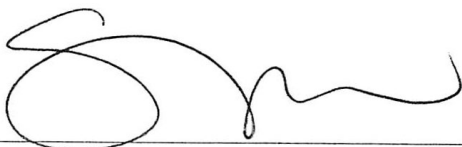
2
3 I, Shelby K. Maaske, Hearing Reporter, in
4 and for the State of California, do hereby certify:

5 That the foregoing transcript of
6 proceedings was taken before me at the time and place set
7 forth, that the testimony and proceedings were reported
8 stenographically by me and later transcribed by
9 computer-aided transcription under my direction and
10 supervision, that the foregoing is a true record of the
11 testimony and proceedings taken at that time.

12 I further certify that I am in no way
13 interested in the outcome of said action.

14 I have hereunto subscribed my name this
15 6th day of July, 2026.

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Shelby Maaske,
Hearing Reporter

	13 68:24	33:6,14 43:20	67:12,19 75:14
\$	14 33:4 68:21	44:14,23,24 48:4, 24 50:3 56:4,15	31st 7:7,12 12:9
\$120,000.00 21:9	15 4:7 68:19 76:15	61:18,21 62:2,3, 10,16 64:20,23	3:41 2:18 86:17
34:7,8 35:25 36:3	15-day 13:9	65:2 66:4,5,23	3Q18 63:18
45:8,9,13,17	16 2:19 4:9 5:1,7 68:19	67:2,19 68:12,15, 16,17,18 73:21,25	3rd 34:19
54:12 56:11 77:24	17 4:10 64:17 68:13	74:3 75:11,21	
\$120.00 34:6	1702 20:13 22:6	76:2,9 77:1,19,20	4
\$159,000.00 68:23	1702.5 65:24	81:18 82:16	4 4:4 9:23,25 11:4 13:10 62:4 63:20 68:9
\$3,000.00 67:20	1702.5(a) 63:14	83:19,20 84:8,10 85:3	4/11 12:7
\$329,000.00 68:12	18 31:20 33:10 64:20 74:3	2020 59:22 68:16 84:9,12	4/11/2018 9:13
\$472,000.00 68:20	19 23:20 24:1 33:11 62:3 64:14 66:13 74:19 75:10	2021 49:3 61:12 75:14	4Q18 66:4,7 68:21 69:16 71:1
\$959,000.00 76:16	1:27 2:17 5:2,8	2022 61:24 62:11	
	1Q18 68:21	2026 2:19 5:1,7	5
(	1Q19 66:5 69:20 71:1	21024 53:17	5 4:5,7 9:22 11:5,8 15:17,18,20 63:25 65:12 67:25
(b)(2) 65:25	1st 16:1,4 81:18	23 4:23	5-minute 46:11
		24 56:4	5/1/2019 9:17
1	2	240415980 2:6 5:7	574,000.00 68:11
1 4:4 9:5,7,9 15:12 21:24 33:13,14 34:12,16,24 42:1 61:22 62:15 64:10 66:10 77:1 79:9	2 4:8 9:11,15 13:10,18 16:2,11 39:19 56:4 62:4	25 29:20	
10 26:19 33:4 61:18,21 62:2,9 64:14 66:14 76:19 83:20	20 4:17 36:9 47:6, 10 60:21	27 29:20	6
100 36:5,11 47:11 51:8 52:14,18 55:17 66:15 86:15	2016 23:20,22 82:18	2:42 46:12	6 4:7 11:10,14 13:10 15:23,24
1099(k) 68:10	2017 9:7 34:19 37:7 54:11,18	2Q19 63:18 66:5,7 69:16,18 71:1	61 4:18
11 4:6 6:25 7:11 26:19 33:4 64:21	2018 6:25 7:11,12 33:6,13 52:10 55:15,19 62:16 64:9,14,16 66:10, 13,16 67:12 68:12,13,17,18 71:22 82:22	3 4:8 9:16,19 16:6, 11 26:19 39:19 40:18 62:3 64:10, 17 66:10,18	6476 69:19
11th 13:19 16:3,8	2019 7:13 16:1,4 21:14,24 23:20,22	3/11/2018 40:14	6591 69:17,21
12 64:16 66:18 83:18 84:8,10		30 18:18 62:11,16 64:22 65:2 66:4, 22 67:2 86:4,12	6592 70:3,12,22
120 34:5		300 2:16	6829 20:13 21:6 22:6 23:7 61:5,23 62:12,17,20 69:24 70:2 71:6 78:21
12900 2:16		31 4:24 52:10 61:24 64:9,16 66:4,5,10,16	6829(c) 63:14
			7
			7 4:5 11:22 13:10

64:25 66:25
7/10/2019 53:16
735 86:7

8

8 65:5 67:5,22
80 54:12 71:20

9

9 4:4 26:19 33:4
63:18 65:8 67:8

A

A-E 4:10
abandoned 62:22
abate 71:2 79:14
abated 6:8 69:14
abatement 79:22 86:4,11
ability 65:22 68:2 69:8
absence 70:8
accept 75:17
accordance 69:24
account 58:24 68:14
accurate 60:22
acknowledged 73:5
act 63:2 64:6
acting 53:3
actual 61:8,20 62:9 69:7
add 80:4
additional 36:2 73:16 74:5

additionally 66:15 67:23 68:14,22 73:9
address 14:16
ADMINISTRATIO
N 3:9
Administrative 5:10 46:21 47:1,4, 9,18,22 48:2,9,11, 17,21,25 49:2 50:15 51:3,5,14, 19,22 52:8,13,16, 20,25 53:3,7,10, 13 54:4,8,14,17, 21,25 55:2,5,8,11, 14,19,21,24 56:3, 9,14,17,25 57:3,6, 9,12,15,19,23 58:1,5,10,14,20, 23 59:3,9,11,14, 19,22,24 60:5,10, 16 71:11,15 72:1, 8 73:10 74:1,16 84:3,6,15,18,22, 25 85:5,10,13,22
admissibility 16:16 17:2
admissible 17:1
admission 73:6
admissions 13:12
admit 8:8 17:7,13
admitted 15:19 16:9
affairs 64:14 67:16
affidavit 77:7
afterward 79:14
age 33:3
agreement 43:19 57:16,20 65:1 67:1,19 73:6,13, 19
ahead 5:15 13:5 15:3 18:18 46:11

60:20 76:18 85:24
ALJ 3:4
allowed 79:20
America 76:15
amount 30:2
amounts 50:21 69:2
answering 44:10 47:17
anymore 85:21
apologies 7:16
Apparently 21:24 77:19
appeal 2:5 5:6,14 6:4 14:22 61:3,13 71:8
appeals 2:1 16:25
APPEARANCES 3:1
Appellant 2:7 3:5 5:16 6:5,9 16:15 61:15,16 62:13,16 64:1,2,7,11,15,19 65:1,6,9,13 66:6, 8,11,15,19,21 67:1,6,8,13,15,18, 23,25 69:5,7,23 70:13,19,23 71:5, 7 72:16,17 73:4,8 75:15
appellant's 4:4,5, 7,8 46:8 61:25 62:3,4,6 64:16,21 65:19 67:11 69:5 70:16 73:2 75:23
Application 64:13 66:12
apply 16:24 22:7
approach 12:25
April 6:25 7:11,13 9:7 13:19 16:3,8 34:19 37:7 54:11, 18 56:4 64:20 66:4 68:15,16,17,

18 71:19,22 73:21,25 74:3
arguably 77:2
argued 70:23
arguing 72:22
argument 19:23 20:1
Armenian 40:22
Army 31:17
Asher 28:6,7
assume 11:5
attains 61:8
attorney 5:17,22 85:4
auction 28:4 29:1, 7,9,11 49:13
August 57:16,22 64:22 65:2 67:2 77:20
authority 20:15, 16 27:9 65:22 67:11,15,16 68:1 69:8 70:1 73:9
Authorization 64:21 66:21
authorized 58:25 64:18 67:24
authorizing 64:23 66:23
auto 6:7,13 9:6,12 22:19 23:21 24:9 27:13 33:22 35:2 37:24 39:6,9 42:22 61:11 74:24 75:3
automotive 27:16 29:19 36:17 64:12 66:12
Autonation 53:20,23
autos 37:25
aware 29:15 42:7

62:19 66:6 74:6
82:15

B

B-E-T-H 25:20

back 8:21,24 13:4,
17 28:8,9 36:13
45:16 46:11,14
47:15 51:11 56:11
78:25 80:20,24
81:7,9 84:9,14,17

background 24:8
36:16

bad 65:24

balance 57:21

balances 68:15

Banc 68:16

bank 39:11,13,16
58:24 68:15,18
76:11,12,15

banks 24:12,14
26:11

based 13:8 17:2
23:4 69:10 70:21
72:2

basically 7:23
21:12 22:2,16
50:18 77:2 78:5
79:1,17

basis 70:11 71:2,7

Bedford 3:10
4:18 5:22 10:13
16:13,14 46:17
60:21,23 61:2

beginning 5:16
23:20 24:1 44:23,
24 67:12

behalf 53:4

belief 79:18,20

Beth 25:16,23

bias 22:14

biased 22:16

big 24:17

bills 20:15 38:5,7,
10

bit 14:6

biweekly 65:2
67:2,20

BMW 29:22

bonuses 25:5

bookkeeper
28:17

bookkeeping
43:12

born 31:13

bottom 40:15

bought 50:2

box 25:2

boyfriend 21:10
33:23 36:22 54:15

boyfriend's
54:22

break 24:18 46:11

briefing 86:13

bring 14:20 27:3
41:3 77:12

Brown 12:13,14

bunch 22:3

burden 69:11
71:5

burdensome
17:3

business 21:25
22:17,19 23:24
24:9,10,20,24
25:2 26:24 27:19
28:2,11,14,25
29:1,5 30:5,11,15
35:17,19,22 37:1,
3,4,9,11,16,18,24
39:17 40:22,24
41:14 42:10,15,
16,21 43:9,24
44:14,20 47:19

48:12,14,20,22
49:3,23 50:16,24
51:9,12 52:18
53:8,17 54:12,23,
24 55:3,6,16 56:6,
10,12 58:9 61:14,
21 62:1,7,21 63:7,
8,21 65:7,8 67:7,
24 80:9,15 81:5,
15 82:9 83:14
84:21 85:1,16

business's 61:9

busy 32:15 33:7

buy 28:7,25 49:13,
24 52:1,3

buyer's 75:8

C

calendar 61:7

California 2:2,17
3:8 5:1,9 17:4
64:13 68:16

call 8:4 17:17
19:22 23:10 31:6
42:2 44:2 48:15
53:16 74:2 85:4

called 19:9,16
47:2 50:24

calls 22:9 44:10
47:17

Campagna 11:6
15:15 28:12 50:25
82:5,9,16,23
83:13,21

Canoga 53:17

capacity 64:11
66:13

Capello 4:23
5:18,19 9:24 10:4
18:3 19:12,15,22
20:25 23:9,10,14,
15 25:20 49:5,11,
13 50:9 51:4,6,17,
21 52:6 59:15,16,
18,21,23 60:4,7,

12 82:17,18,21
83:1,5,7,10,15,23
84:8,13,17,20,24
85:3,6,11,15,20

car 22:19 24:11
27:3 29:22,23
30:1,16 41:12
49:13,14,15,16,
17,18,19,23,24
50:2,17 51:11,18
52:1,4 76:11,13

care 20:23 50:5
70:7 82:2

carry 28:3

cars 24:15 28:7,25
30:2 40:25 41:11,
12 49:9 53:21

Cary 3:10 5:23

case 5:6 18:12
20:14 35:5 79:19,
20 86:3

cash 25:1 49:14

catch 25:19

CDTFA 6:1 16:12
21:15 43:19 48:6
56:15,18 57:21
74:21

CDTFA's 6:15
17:13 20:12 71:16
72:1

ceased 61:21
62:1,7 63:8

CEO 7:15 55:11
56:1,5 64:8 65:14
67:14 71:21 80:8

Cerritos 2:16 5:1,
8

CFO 7:16 64:8
65:14 67:14

chance 18:23

changed 30:2
46:24

charge 24:21
47:23 49:16

charged 72:5	co-panelists 5:10	86:16	copies 6:16 7:5,8, 14 8:11 12:13,15, 16
check 26:6 37:12 46:3 73:9	Code 16:24 20:13 61:5	concluding 2:18	copy 7:4 10:18
check-signing 73:8	codirector 71:24	conclusion 71:4 79:8	corporal 55:10
checks 20:20 22:12 25:1 38:22, 24 39:4,5,6,9 45:2 58:16,22 65:6 67:6,25 72:14,16, 18,22,23 73:3 81:9	collect 25:1 51:10,23,24	conducting 5:12	corporate 41:24 55:9 64:3 65:6 66:9,17 67:6,13 74:4 81:22 82:20, 24 83:2,4
chief 55:11	collected 21:3,7 62:22 63:12,16,23 68:5,8 69:2,3	confidential 64:24 66:24	corporation 53:4 59:20 62:22 63:2, 4,6,11 64:6,20 67:16 70:25 85:8
children 30:17 33:1,3	collecting 56:22	confirmed 63:21 66:11	corporation's 62:21
circumstances 70:6,25	commencing 2:17	confused 7:7,17	correct 16:13,14 29:5,6 45:14 54:12 72:12 73:1 74:21 75:11 76:5 80:9
Civil 16:24	comments 79:18	confusion 51:6	corroboration 72:15
claim 70:21	commissions 25:5	consistent 77:5	costs 49:24
clarification 33:8 53:15	common 77:24	construction 28:11 32:22	couple 7:8 10:17 21:18,21 34:17 76:20
clarify 30:10	communicate 43:2,13	consulting 28:13	court 33:8
clean 77:22 78:18	company 36:6 41:22,23 42:3,8 45:8,19 47:23 82:22	Consumer 64:13	courtroom 14:9 77:12
cleaning 50:7 78:20	company's 24:21	contact 16:19 28:19	cover 24:15,16
clearance 50:3	compared 79:10	contained 16:23	create 77:23 78:21
clearing 76:2	compensated 59:4,5	contended 75:16	created 78:4,19
client 76:22	complete 50:18	contends 61:16	creating 78:22
clients 78:8	completed 46:9	contention 62:6	credit 24:12 49:24 50:1
close 18:10 26:19 33:4 75:10 85:3 86:13	compliance 65:11	contentions 43:18	creditor 38:14
closed 48:1,20,22 50:4	complicated 51:12	continue 11:3 49:3	creditors 20:15 27:11 38:20 68:4 69:3
closeout 75:13, 15,24 76:1	complying 63:3 64:6	continued 10:17 61:11 75:18 76:5, 13	credits 76:16
closer 82:22	concerned 41:7 44:5	continuing 50:16	
closing 18:19 24:7,14 76:19	conclude 46:5 79:9	contrary 62:8	
closure 62:9 75:20	concluded 86:17	control 21:4 24:6 64:4 65:16 70:6	
	concludes 85:24	conversation 36:12 74:7,12 83:21	
		conversations 73:14	
		COO 85:17	

cross 4:22 18:13**customer** 24:13**customers** 24:12
63:24 68:8 69:2**cut** 18:8

D

data 64:22 66:22
68:10**date** 5:7 57:24
61:7 62:1,2 75:10,
14,15,24 76:1
84:11**dated** 7:11 9:7
52:10 64:9,14,22
65:1 66:10,13,22
67:1,19 81:18**dates** 66:2,4
75:23**day** 20:25 24:5,14
27:5 29:2 49:15,
16 50:10 66:3**days** 26:19,21,22
86:5,12,15**deadline** 13:10
14:3**deadlines** 14:24**deal** 78:25**dealer** 33:18
50:10 64:12 66:12
75:1,2,5**dealer's** 22:18,20,
22 28:24 29:1,4,
10,13**dealership** 24:17
25:14 28:21 33:19
42:22 49:15**dealerships**
24:25**dealing** 22:19**deals** 51:7,10**dealt** 49:25**debts** 23:7**December** 64:14
66:13**decide** 79:21 86:2**decided** 6:4**decision** 72:9
86:14**decisions** 38:19**declaration** 8:6,7
9:23 11:2,5,10,18,
20 13:15 14:7
15:4,14,21 72:19,
23 77:14 79:14**declarations**
7:24 8:5,12 13:13
21:1 23:5 78:14**deduction** 63:18**deem** 17:7,8**deficiency** 61:6,
25**deflect** 22:10**delay** 50:1,13**delayed** 49:10**deliberate** 86:2**deliberating** 5:13**deliver** 49:25 52:1**delivery** 51:25**demonstrated**
65:15**demonstrates**
62:8 63:15 66:6
68:25**denied** 71:8 76:22**department** 3:8
5:21 10:2 13:6
14:16 18:22 22:7
32:9 43:18 46:15
60:19,20 61:8,20,
23 62:8,24 63:13,
22 64:13,19 65:3,
9 67:3,20 69:11,
15,17,19 70:1871:4 75:20 76:18,
21 81:23 82:15
86:12**department's**
4:10 5:23 18:24
20:11 50:23 53:19
61:10,18 75:19,
22,24**depends** 18:11,
13**derivative** 70:16**describe** 24:9**determination**
6:5 38:7 61:4,6,
15,17 62:10 63:9
69:23 70:3 71:6
72:11 75:16,25
76:2**determine** 20:15
38:14**determined**
38:10 45:25 77:6**determining** 5:13**direct** 4:22 23:12
31:9 45:4 46:8
67:15 73:12 74:7,
11**direction** 20:20
21:9,10**directly** 14:17
22:24 74:20**director** 60:1,2
64:8**directors** 9:18
60:1**disappear** 83:23**disappeared**
21:12 36:15 47:7,
11 55:22 83:13**discrepancy**
72:24**discuss** 56:18**discussed** 74:8**discusses** 72:9**discussion**
73:18,21 74:14**dispute** 61:13
63:7**disputes** 79:5**disputing** 77:17**disregarded**
61:18**dissolution**
59:20 60:6 84:9,
11,19 85:10,14**dissolved** 62:21**distributions**
45:7**DMV** 50:2 51:15
52:7 74:19,20,24,
25 75:5 76:4**document** 7:9,24
11:17 16:9 35:4
40:2,4,8,11,20
76:25**documentation**
7:20**documents** 8:17
76:21 77:3,16
78:16 79:5**Drive** 2:16**drop** 25:2**dual** 6:5 61:3,15,
16 62:10 63:9
73:11 74:20
75:16,24 76:2,14**due** 63:4,14 66:1,2
70:5**duly** 19:9,16**duped** 78:5**duties** 24:4,5**duty** 63:2 64:5

E

e-mail 50:23
64:24 66:24

e-mails 50:23

earlier 48:2 59:4
77:4

earliest 61:19
71:17 75:19

earn 80:15

easier 37:6

edition 5:24

education 31:15

effective 9:7
75:14

efficiency 20:7

Ela 11:10 28:16
43:11,25 48:13
56:20 58:3,7

Electronic 64:22
66:22

element 63:6,10
64:1 65:18

elements 62:19
69:11

eliminated 70:17

Emilio 53:24

employed 24:22

employee 55:6
72:4

employee's 45:1

employees 68:20

employment
23:25

English 31:24,25
32:4

entered 73:19

entire 59:6

entitled 40:18

77:13

equal 5:12

equity 52:14

Ernesto 53:24

error 13:20

ESQ 3:6

essence 50:22

essentially
21:12,15,20 22:3
72:2

establish 70:13

established
70:24

estimate 18:6

evidence 4:7,8,10
15:20,24 16:10,
11,23,24,25 17:2,
4,5,11,14 22:7
23:4 61:19 62:5,8
63:15 64:2 65:19
66:5,19 68:2,5,25
69:10 70:24 72:17
73:8,11,12 74:11
77:16 78:15 79:3,
4

EXAMINATION
23:12 31:9

examined 19:10,
17

exception 46:7

exercise 70:7

exhibit 4:7 6:10,
11,23 7:12 9:5,9,
11,15,16,19,23,25
11:5,8,14,22
15:12,13,14,15,
18,20,22,24 16:2,
6 21:18 34:11,12,
16,24 39:18,19
40:18 42:1 53:19
61:22 62:11
63:20,24,25 64:9,
10,14,16,20,21,24
65:4,5,7,8,12
66:10,14,17,24,25

67:4,5,7,8,22,25
68:9,13,18,19,21,
24 69:25 71:20
74:19 75:10 76:15

exhibits 4:4,5,8,
10 6:9,10 7:20
8:25 9:1 13:7,8,10
16:9,11,12 17:13,
14 39:4 50:24

expenses 24:15,
16,17

experience 27:16
32:14 35:19

experienced
27:15

experts 72:13
73:7

explain 13:12
28:20 29:9 42:15,
21

explained 50:13

explanation
86:11

extent 63:11

extra 7:4

F

fact 13:9 74:8
78:10

facts 70:11,20

failed 62:24 63:13
65:23 68:9 69:9
70:25

fails 21:6

failure 63:4 65:19,
20,23 69:5 70:5,
14

fairness 10:10
14:8

familiar 26:15
40:1 42:18

Fargo 68:11,17

February 84:12

FEE 3:9

fees 69:13

field 53:16 61:18,
22 82:15 83:16,19

figure 53:11

file 45:4,5 70:14
71:1

filed 6:24 7:6 9:12,
17 21:23 22:1
26:13 40:4,9
55:25 76:23,25
77:1,3

filing 20:17 63:1
64:5 69:13,20
85:2

fill 40:16

final 80:6 84:2,5
85:25

finance 51:8

finances 21:8
24:22 79:1

financial 55:12
67:15

financing 25:15

find 6:14 7:2 8:10
12:9 57:1

fine 6:22 10:18
14:19 47:3

finish 43:21

finished 31:2,16

fix 24:13 44:3,4
48:16

floor 24:6

flooring 49:14,24

focus 18:14

follow 84:7

forgot 15:14

Form 64:22 66:22

found 22:15 78:4

foundation 15:9
16:19

fourth 65:18

Frank 11:6 15:15
28:12 35:9

Friends 54:19,21

front 8:15 39:20
51:8,24

full 23:14

full-time 20:22

funds 22:4 68:3,4
69:1

G

gather 8:17

gave 8:15 12:12,
15

General 23:17
59:18

Generally 16:22

gentleman 38:1

gentlemen 21:18,
21

Geozalian 21:23
41:10 56:5 77:1
81:15,21

give 7:3 12:11
15:5 17:6,8 24:8
31:7 55:15 85:24

giving 50:1

good 7:22 28:5
31:25 32:12 33:24
34:1

Gotcha 58:20

Group 6:7,13 9:6,
12 23:21 24:9
33:22 35:2 39:6
61:11 74:24 75:3

groups 33:3

guarantee 24:19

guess 14:5 24:1
36:24 40:25 78:3
79:12 80:19,23

guidance 17:4

Guillermo 4:23
5:19 9:24 18:3
19:15 23:10,15

Gurrola 8:6 11:18
15:22 21:2 72:19,
25

Gurrola's 15:4

guy 50:25

guys 7:5 40:22

H

half 83:7

hand 19:6,13

handed 11:18
12:19

handle 21:8

handled 37:24
38:2

handles 37:25

handwriting 73:7

happened 41:19
84:10

happy 7:14

health 11:6

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

25:18,21 30:23
31:2,5 34:13,23
39:8 46:5,10,14,
18 54:6 60:18,24
71:9,13 74:18,23
75:4,9 76:4,8,10,
17 77:9 79:8,21
80:5,11,17,22
81:2,8,13,17,21
82:5,8,12,14,19,
23 83:2,6,9,12,16,
20,25 84:4 85:18,
23,24 86:7,10,17

hearings 10:11
86:16

hearsay 15:8,10
16:18

heavy 49:23

Hebrew 31:22

held 5:8 23:6
52:14

helping 32:19,20
55:1,2 82:11

high 31:16

highlights 20:5

hit 20:5

HO 3:3

hold 11:20 12:8,9
41:9 43:20 60:18
79:21 86:4

honest 18:9

hours 18:10,11,16
26:17,18

housewife 20:22

Huxall 5:23

HUXSOLL 3:10

I

idea 41:20

identification
4:4,6 9:9,15,19,25
11:8,14,22

identified 54:2
65:9 67:23

identify 9:2

identifying 6:10

Ill 5:22

impeaches 77:14

impeachment
8:9 11:13 14:8
77:8,13

impose 62:20
71:5

imposed 63:11
69:15,18,19

imposing 69:12

in-house 51:7,10

include 63:18
73:20 75:5

included 63:19
69:22 76:16

includes 62:5

including 67:16

income 33:25

incomplete 78:17
79:4

incorrect 72:20

incorrectly 78:11

incurred 66:8
70:15

index 6:10,11

indicating 12:17

industry 27:16
29:19 36:17 49:11

Infinity 29:22

information 6:24
7:6 9:12,17 12:2
14:24 16:1 21:20,
24 22:1 39:22
40:19 43:8 55:25
56:5,6 64:9,24
66:9,24 74:19
75:5,8 76:5 81:18

informed 64:19
74:10

informing 73:22

initial 75:23

Initially 70:18

inside 37:23

installment
57:16,19,20 73:6,
13

intending 12:21

interest 49:16
52:14 62:14

interested 27:8

introduce 5:15
8:1

introduced 8:5

inventory 28:4

invest 34:4 35:21
36:2

invested 21:9
34:20 35:25 36:19
37:3,7,8 42:11
45:9,13,17 54:18
78:18

investment
21:14,16 33:24
37:12 41:7 44:6
52:23 78:2 80:14

investments
80:18

investor 21:9
27:21

invited 21:25

involved 21:14,19
22:23 24:13 25:13
26:10,11 27:13
28:14 33:21 37:8
43:22 56:15,16
60:14 66:20 77:4,
15,19 78:22

involvement
21:8 37:4 43:23
78:17

involves 73:22

Israel 31:14,16

issuance 61:14
63:9

issue 49:7 61:13
62:13 66:1 69:12
77:5 79:20 86:3,
14

issued 6:5 61:4
62:11 69:23 71:6

issues 6:3 24:12
30:1,2 61:2

items 17:3

J

January 66:4
68:15,18

JASON 3:11

job 7:22 28:5

Jorge 4:23 8:6
11:18 15:21 23:15

Judge 46:20,21
47:1,4,9,18,22
48:2,9,11,17,21,
25 49:2 50:15
51:3,5,14,19,22
52:8,13,16,20,25
53:3,7,10,13,14
54:4,6,8,14,17,21,
25 55:2,5,8,11,14,
19,21,24 56:3,9,
14,17,25 57:3,6,9,
12,15,19,23 58:1,
5,10,14,20,23
59:3,9,11,14,19,
22,24 60:5,10,16
71:10,11,14,15
72:1,8 73:10 74:1,
16 84:2,3,4,6,15,
18,22,25 85:5,10,
13,22

Judges 5:10

July 61:18,21
62:2,9 66:5 68:15,
17 75:11,21 76:1

77:19 82:15
83:18,20 84:8,10

June 2:19 5:1,7
21:14 33:6,14
43:17,20 44:14,25
48:4 50:3 56:15
57:9 62:3,7,16
73:24 85:3

jurisdiction
16:21

K

Karan 21:23
40:20 41:10 81:14

keeping 52:22

Keith 3:4 5:10

kids 20:22,23 27:3
30:7,9 32:15 33:6,
7

Kim 3:3,4 5:9,11
46:20,21 47:1,4,9,
18,22 48:2,9,11,
17,21,25 49:2
50:15 51:3,5,14,
19,22 52:8,13,16,
20,25 53:3,7,10,
13,14 54:4 55:11
71:10,11 84:2,3

kind 53:8 82:10

knew 36:23 67:8
82:4

knowledge 29:3
38:2 44:19 61:9,
20 62:9 65:21
69:7 72:25 73:11,
14 77:18

Kohen 21:10,11,
25 22:17,18,24
25:10,11 27:23
29:12,14 33:23
36:12,20 42:12,21
43:5 44:8 71:24

Kohen's 22:21

KOUROSH 3:6

L

label 8:3

Lack 15:9

lacks 16:19

lady 23:1 77:14
78:5

landlord 68:22

language 31:21

large 24:17 79:25

lasting 14:23

late 8:8 11:12
13:6,12,16 21:14
69:13,15,18,20

law 5:10 46:21
47:1,4,9,18,22
48:2,9,11,17,21,
25 49:2 50:15
51:3,5,14,19,22
52:8,13,16,20,25
53:3,7,10,13 54:4,
8,14,17,21,25
55:2,5,8,11,14,19,
21,24 56:3,9,14,
17,25 57:3,6,9,12,
15,19,23 58:1,5,
10,14,20,23 59:3,
9,11,14,19,22,24
60:5,10,16 63:3
64:7 71:11,15
72:1,8 73:10 74:1,
16 78:19 84:3,6,
15,18,22,25 85:5,
10,13,22

lead 3:3 5:11

leave 23:24

led 73:19

left 44:11,13

legal 5:24

lending 75:8

length 82:25 83:3

letter 83:10 85:20

Lexus 29:22**liabilities** 48:1462:18 65:4 66:7
67:4,21 69:1,24
70:15 73:23
74:13,15**liability** 6:6 48:6,7,12 56:19 62:18,
20 63:10 64:7
65:4,17,18,20
67:4,10,21 68:6,
23 69:4,12 70:16
71:5,18,21,25
77:21 78:22,23
79:11,25**liable** 20:12 23:662:13,16 77:23
80:1,2**license** 22:18,20,22 28:23,24,25
29:1,4,7,9,10,11,
13,15 75:1,2,6
78:6**licensed** 28:22**lieu** 8:7**list** 13:24**listed** 6:11 22:240:16 58:23,24
82:24**listen** 15:1 79:16**listened** 78:3**lists** 7:15 9:13

40:6 76:15

live 10:3,7 78:13

81:11

LLC 68:12,13**location** 53:17**long** 3:4 5:1018:12 54:6,8,9,14,
17,21,25 55:2,5,8,
14,19,21,24 56:3,
9,14,17,25 57:3,6,
9,12,15,19,23
58:1,5,10,14,20,
23 59:3,9,11,14,19,22,24 60:5,10,
16 71:14,15 72:1,
8 73:10 74:1,16
84:4,6,15,18,22,
25 85:5,10,13,22**longer** 51:1**lost** 77:25 81:12**lot** 22:4,25 24:11,15 30:3,16 41:12
49:17 50:3 53:21
78:14 79:3**lots** 29:22,23 30:1**louder** 80:12

M

M-A-C-A-R-E-O

25:20

Maaske 2:19**Macareo** 25:16,23**made** 38:7 50:751:16 53:16 59:5
68:22 73:5**mail** 61:24**mailed** 39:14,15**mailing** 39:16**main** 22:7**majority** 60:1**make** 21:17 24:1832:5,10 33:25
35:14,20 37:6
38:19 48:4 49:3
50:6 51:23 57:20
58:8 61:11 65:2
67:2,20 75:18**makes** 16:21

60:19

making 41:22

42:7 49:7

manager 23:17,22 24:3 28:2
59:18 60:4**March** 68:17

75:14

mark 7:24,25**marked** 4:4,5 9:9,
15,19,25 11:8,14,
22**matter** 2:5 65:17**matters** 21:17

66:21 72:6

meaning 56:17

66:2 69:7

means 52:23**mechanics** 24:13**meet** 37:15 42:14

86:2

meeting 6:12 9:615:13 34:25 35:1
67:9**meetings** 42:12,

14 52:9

Members 3:4**memo** 74:20

76:14

memorandum

73:12

mentioned 59:4

77:7 84:7

Merchant 68:11**mess** 50:7 51:1377:22,23 78:4,18,
20**met** 62:19 69:11

71:4

microphone 9:21

58:6 77:9 84:16

microphones

8:22

middle 48:24**mind** 60:13**minor** 50:21**minute** 34:24

40:1,20

minutes 6:3,127:19,23,25 8:17,
21 15:12 18:18
34:25 35:1 41:22,
23,24 42:1 52:9
60:21 66:17 76:19**misled** 34:2**mistake** 13:20**moment** 34:16**money** 21:3,7,11,12,16 22:21 33:24
34:4,20 35:14,20,
21 36:2,8,19,25
37:7,8 41:11,14,
17 42:9,11 44:2
45:16 47:15 55:15
56:22 77:25 78:18
79:1 81:7,11,12**month** 33:2037:13,14 51:21
53:22 57:4,5 61:7
66:3 83:5,7 85:7**months** 27:349:18 50:11 51:22
52:4 80:23 83:6,8**morning** 26:19,20**mother** 32:24**motivation** 65:24**move** 6:9 18:24**moved** 16:21

N

Nalan 5:25**named** 14:10

20:17 64:8 66:8

names 21:19,22**narrative** 18:21**needed** 36:25

39:1

neglect 70:8**negotiate** 21:15

43:19 44:3

negotiated 43:18**negotiating**
43:23**niece** 20:22**night** 11:12 14:7
51:18**Nissan** 29:22**note** 70:18 72:14
73:20 74:2 83:17,
19 84:8**noted** 76:11**notes** 73:15,16,17
74:2,5**notice** 6:4 61:3,5,
16,24 62:10 63:9
69:22 71:6 75:16,
24**noticed** 72:9**noting** 74:8 75:15,
23**notwithstanding**
70:7**number** 15:14,15
20:14,19 75:1,2,6,
7**numerically** 7:20
8:3**Nuys** 30:13

O

object 6:20 13:8
14:25 15:7 16:17,
18**objected** 15:9**objection** 17:10**objections** 13:6
15:7 16:16 17:1**obligating** 65:2
67:2,19**obligation** 83:11**obligations** 50:5
65:7 67:7,9 69:6**obtain** 62:9**obtained** 61:20
74:21**occupation**
23:16 32:16 33:14**occurring** 70:7**October** 7:7,11,
12 12:9 33:5,13
52:10 55:15,18
61:24 62:15 64:9,
16 66:10,16,22
67:12,19 68:16
76:9**office** 2:1 20:21,
24 24:25 25:2
28:2,3,8,9 30:19
32:20,21 42:25
60:2**office's** 13:20**officer** 5:5,9,20
6:2,17,22 7:9,18
8:2,14,16,20,24
9:4,10,20 10:5,9,
13,19,22,24 11:3,
9,15,17,23 12:1,4,
7,12,17,20,24
13:1,3,5,11,23
14:2,12,15,22
15:3,11,18,21,25
16:5,7,12,15,22
17:9,12,15,18,20,
24 18:1,4,14,17
19:3,5,12,19,24
20:4,7,17 23:8
25:18,21 30:23
31:2,5 34:13,23
41:23 42:8 46:5,
10,14,18 54:6
55:9,12 60:18,24
64:3,20 65:14
66:9 67:13 71:9,
13 72:4 74:4,18,
23 75:4,9 76:4,8,
10,17 77:9 79:8,
21 80:5,9,11,17,
22 81:2,8,13,17,
21,22 82:5,8,12,14,19,20,23,24
83:2,4,6,9,12,16,
20,25 84:4 85:18,
23 86:7,10**officers** 9:14,17
64:12 66:13**Olivia** 2:6 3:5 4:24
5:6,18 7:15 17:23,
25 19:6,8 20:12
22:2,11,13,21
23:6 26:15,23
29:16 30:4 31:7,
12 46:23,25 52:14**online** 86:7**open** 86:4**opening** 18:18,20
19:23 20:1,10
61:1,25 62:3**operate** 29:1
50:16**operating** 44:15**operations** 61:21
62:1 63:8,22 65:8**opinion** 27:15
86:3,14**opportunity** 34:1
79:15**order** 22:18 52:4**Orders** 6:3 7:19**ordinary** 70:7**OTA** 2:6 5:6 16:25
17:1,3 28:20
72:11 75:17**outcome** 5:13**outgoing** 74:2**outstanding**
57:21 73:23
74:13,15**owe** 44:2**owed** 77:21**owned** 56:10**owner** 25:12 36:6,11 52:18 55:3,17
59:10 64:3 66:16
72:2,3**ownership** 52:7

P

p.m. 2:17,18 5:2,8
86:17**paid** 20:16 25:4
38:5,8,11,14,20
45:23 48:14 49:19
54:11 56:10 59:5,
6,11 65:22 67:10,
12 68:2,20 69:8**panel** 3:3,4 18:23
24:8 28:20 46:19
71:10 75:17 86:2**Paola** 22:8 25:3,7
26:7 37:19 38:4,6,
9,13 42:24 45:24
58:18 78:12**paper** 42:1**papers** 14:1,11,19
15:9 41:22 42:2,7**paperwork** 26:11
28:3 52:6 54:3
85:2**paralegal** 82:11,
12**Park** 2:16 53:17**PARKER** 3:11
8:11 10:15 13:8
71:19 72:3,13
73:16 74:7 75:13**part** 32:19 51:12
69:23 84:20,21
85:15,16**participants** 5:13**participate** 81:22**participating**
86:1**parties** 5:15 18:19**passive** 21:9

past 75:10	63:18 64:7 65:4, 11,17 66:3,7 67:4, 10,22 68:6,21,23 69:4 71:22,25 77:1 80:23	61:19 74:15	Procedure 16:24
pause 8:23 46:13		policy 79:19	proceed 19:20,25 30:23 60:24
pay 20:15 21:4 22:5 27:9,11 36:8 41:14 49:14 51:8 56:22 59:10 62:24 63:4 65:19,20,22, 23 67:11,16 68:1, 2,3,4,8 69:1,3,6,9 70:5,14,25 79:11 81:4	perjury 70:10,20	portion 55:16	proceedings 2:15 8:23 46:13
paycheck 81:3	Perlman 11:11 13:16,24 14:10 28:16 43:11 64:18 73:19,21,22 74:10,12,14 77:6, 7,11 78:3	position 14:11,19 20:11,12 58:15 59:16 61:10 66:11 71:16,23 72:2 75:19,22 78:6 79:2 80:1,4	profit 24:7 45:16
paying 28:4 57:1	permission 79:12	positive 68:14	pronounce 17:22 21:18
payment 24:6,25 48:5 51:24 58:8 63:1 64:5 65:1,6 67:1,7,18 69:13, 15 73:13 81:23	permit 17:1 42:19, 22 75:7	possibly 20:20 78:24	property 24:14 62:24
payments 51:10 57:20 65:3 67:3, 20 68:11,22 80:13,18	person 6:6 25:16 53:22 54:2 62:14, 17,25 64:2 65:10, 13,21 67:24 69:5 70:9	post 79:16	proposed 6:11,23 16:12
payroll 23:2 26:6, 9,11 38:3 45:1	person's 25:19 63:4	pre-trial 10:11	protect 78:1
penalized 13:21	personal 62:20, 23 63:10 65:18 69:12	premises 26:24 30:11,16	provide 7:19 14:3,24 23:5 72:25 73:1 86:10, 12
penalties 62:15 69:15,18,22 70:2, 4,9,15,17 71:3,8	personally 23:6 66:20	prepared 26:9 35:8	provided 8:11 13:9,18 14:6 63:22 65:8 69:10 71:20 72:20 73:17 75:23
penalty 6:7 69:19 70:10,20 79:10, 13,14,22 80:1,2 86:4	phone 22:9 50:25 51:1	prepayment 69:18	providing 12:4 70:19
people 15:8 22:22,25 24:6 25:16 26:4 27:9 41:3,5,9 42:15 50:2 53:1,2 78:4, 13	piece 22:7	prescribed 70:4	public 13:21 16:8
percent 36:5,9,11 47:6,10,11 51:8 52:14,18 54:12 55:17 66:15 71:21	pink 49:20	presentation 4:15 18:15,20,22, 25 31:3 46:6,9 60:19	purpose 5:11 65:24
Perez 28:6,7	place 52:4	presentations 18:19	purposes 11:13
period 24:22 33:5, 9,13 50:5 52:2 61:8 62:15,18	Placing 39:20	presented 72:17	pursuant 62:17 69:17,18,21 71:5
	plan 48:5 58:8 65:1 67:1,18 73:6 81:23	preserve 21:13	put 8:6 21:11 33:24 35:13 42:9 51:24 77:24
	planning 80:21	president 42:3,6 55:12	
	Plaza 2:16	pretty 24:7 78:12 80:3	Q
	pocket 21:11	previously 10:17 50:8	quarter 33:10 61:12 73:23
	pocketed 22:3	prior 10:11 29:21 35:4,5 39:3,8 43:23 61:14 63:8 71:21,24 73:23 79:19	quarterly 61:8 66:3
	point 44:6 47:20 53:14,15,24 55:21	problem 15:2 16:21 49:9,12	quarters 33:10
			question 19:1,2 32:8,10,11 38:13,

18 43:21,22 44:5 45:11 49:21 59:15 74:18 79:15	16:11 17:14 68:10 80:7,24 81:5,9	released 83:10	required 70:21
questionnaire 22:8,16 63:22 65:8 72:4,6,16	receiving 81:2	relevant 16:25 17:2	requisite 70:19 72:25
questions 18:22, 23,24 30:21 31:1 32:6 34:17 36:15 46:4,16,17,19,20, 22 54:5,7,9 59:16 60:17,19 71:10, 12,16 74:17 76:18 80:4,6 84:2,5	recess 8:17,22	relief 70:9,11,21 71:3,7	reserve 80:3
quick 19:1	recommend 56:23 58:4	relieved 70:4,16	resonation 85:8
quit 26:5 83:23 84:7,11 85:3	recommended 43:14	relieving 70:2	respect 71:16 73:11 77:6,11 78:6
quoted 14:1	reconcile 85:1	rely 73:7	Respectfully 84:18
	record 5:6,16 6:25 8:21,24 13:21 46:12,14 70:19 73:20 75:13 79:22 86:4,13,15	relying 76:21	respond 80:11
R	records 76:1	remaining 47:6, 10 55:16	Respondent 3:8
	RECROSS 4:22	remarks 85:25	response 86:12
RAHMANIAN 3:6	REDIRECT 4:22	remember 24:1 30:5 35:7 40:12 41:21 57:25 58:2, 3,13 85:7	responsibility 21:5 22:11 23:1 64:4 65:10,16 72:5
raise 19:6,13 77:6 79:9,20,24 80:3	refer 6:17 14:20	reminder 8:21	responsible 6:6 62:14,17,25 64:2 65:13 69:5 77:15 78:20 81:24
ran 22:17,25	reference 74:9	remit 63:13	result 71:2
reach 14:5 47:16	referred 73:11	remove 14:18	retail 62:23
reached 14:5	referring 52:8,12 53:16 78:13	repair 64:12 66:12 78:6	return 22:9 45:8, 10,17 63:17 69:21 70:5 80:14,18
read 20:4 34:16 40:1,20	reflect 76:1	repeat 32:1 35:23 59:8 81:1	returns 26:13 45:5 50:21 63:1 64:5 66:2 69:16
reading 79:17	reflected 66:16	repeated 32:10	reveal 71:20
ready 17:18 19:21 23:9 60:25	refuting 78:15	rephrase 45:13 76:12	Revenue 20:13 61:4
realize 48:6,12	regard 21:6	reply 46:8 62:2,4 64:17	review 39:6,7 60:15
reasonable 70:6, 13,24	Registration 64:12 66:12	repo 51:11	reviewed 39:11
reasons 11:7 22:4	Regulation 20:13 22:6 63:14 65:24	report 51:15,18, 20	revise 18:5
recall 13:23 82:25 83:3	regulations 17:1	reported 2:19 50:21 76:7	Rico 7:15
receive 45:7,16 81:4 86:3	regulatory 70:1	reporter 2:20 33:8	Roadrunner 6:7, 12 9:6,12 23:21 24:9,23 29:21,24 33:22 35:2 39:6,9 53:18 57:1 59:9,
received 4:7,8,10 13:14 15:20,24	reimbursement 62:23 63:12,16, 19,24 68:6,7 69:2, 4	reporting 72:5	
	relabel 7:20	representative 6:1 64:19	
	relating 16:23	request 79:22 86:11	
	relationship 27:19 54:18,19,22		

17 61:11,20 62:1, 7,15,18 63:8,15, 23 64:3,8,15 65:2, 12,14,15 67:2,8, 14,19 68:3,5,7,14, 22 69:3,20 70:15 74:24 75:3,18	25:15,25 37:20	shareholders 6:12 15:13	signing 41:21 42:7 72:21,23 73:6
Roadrunner's 61:14 63:17 64:18,23 65:7,10, 16,20 66:1,6,8,17, 20,23 67:7 68:1, 10 69:1,6,16,23 70:5,14	salespeople's 25:5	shares 47:6,10, 11,23	signs 53:18,20 78:10
role 82:6,8	salesperson 25:24,25 53:23	sharing 35:14	sitting 19:2
rules 14:9 16:22 17:4,11	Samarawickrem a 5:25 74:22,25 75:7,12 76:6,9,14	Shelby 2:19	situation 60:14
run 7:8 22:19 28:24 29:4 37:1 47:19 53:8	satisfaction 65:3 67:3,21	Sherman 30:11, 13 53:17	Sivan 3:5 4:24 5:17 7:15 17:25 19:8 31:12 52:14
running 25:13 28:14 37:9 42:25	save 21:15 86:8	ship 49:15	slip 49:20
S	scenario 76:3	short 8:18 26:5 82:25	slow 32:5
safety 25:2	school 31:16	show 7:5 12:23 30:6 34:11 39:3,8, 9,18,19 40:8 74:5 76:13 80:19	small 59:12 80:1
salary 45:19,21, 23,25 59:12 80:7, 15	secretary 6:24 7:15 9:13 16:1,8 40:19 55:12 64:8 65:15	showed 39:25 50:9	sold 41:11,12 49:17
Salazar 72:23 78:12	Section 61:5,23 62:12,17,20 63:14 69:17,19,21,24 70:2,3,11,22 71:6	shown 51:9	sole 60:1 64:15 67:13
sale 51:15,16,20, 23 60:4 62:22	seeking 70:9	shows 42:10 61:19 64:2 65:19 66:19 68:3,5,10 75:10 76:5	solely 77:8
sales 6:6 21:4 23:21 24:3,6 26:13 27:13 37:24,25 38:1 45:5 49:3,7 50:6, 9,18,20 61:12,17 62:23 63:1,3,12, 16,17,19,24 64:6 65:10,16 66:20 67:9 68:6,7 69:6, 16,20 72:6 75:7, 10,18 76:5,7,11, 13 77:20,21	self-assessed 66:7	shut 44:20	Solorzano 16:20 22:8,9,13,24 25:3, 7 28:1 38:9,13 42:24 43:4,8 44:12 63:23 65:9, 11 67:24 72:7,15, 18,22 78:10
salespeople	sell 24:15 49:8,18 51:18	sign 20:18 38:22 39:2 40:11 42:1,2 45:1 57:17,24 58:13,15,16,18 60:6 67:24 78:9 84:19 85:8,14	Solorzano's 16:17 78:11
	seller's 42:18,22	signatory 72:18	solve 47:16 56:24 58:8
	selling 40:25 44:17	signature 58:11 72:10,12,13 76:22 77:17 78:8 79:6	sorted 8:25
	send 49:19 52:6	signatures 22:12	sounds 49:12
	sense 77:24	signed 20:19 22:8,10,12 26:6 38:24 39:1 48:5 57:16 59:1,20 60:2 64:11,21 65:1,6 66:11,21 67:1,6,18 70:10, 20 72:16 73:2,5,9 78:7,16 84:9,11	speak 37:18
	September 62:11	signer 58:25	special 6:12 7:25 9:5 35:1 52:9
	served 61:6		spell 25:19
	service 24:13		spelled 78:11
	Services 68:12		spent 32:24
	set 74:15		spoke 53:23 74:13 82:16
	setting 70:10,20		staff 25:17 73:22
	share 43:8		staffed 8:19
	shareholder 9:6 34:25 35:2 64:15 66:16 67:13 71:21		

stand 17:10	79:13,17,22	Taxation 20:13 61:4	11,15 55:3 56:10 57:7,10,11 59:7, 10 60:2,7,14,17 71:12,24 75:19 76:25 80:8 81:13 82:25 85:12 86:8
start 80:6	submitted 7:2,13 8:5 10:1,3,6,17,20 11:11 14:7 21:2, 17,20 53:25	taxes 23:2 51:8 63:4 65:21,23 66:1 67:10,11,17 68:1,2,4,8 69:7,9	timeliness 14:15 17:2
started 56:18 82:21 83:3	submitting 6:10, 20	taxpayer 76:6	timely 6:5 61:4,17 62:11 70:5,14 71:1,7 75:17,25 76:3
starting 47:14	success 24:19	technically 72:21	times 27:2 58:18
state 2:2 3:8 6:24 9:13 16:8,21 31:11 40:19 63:13 77:25	sufficient 86:5	term 42:18 83:3	tiny 79:10
stated 6:3 53:20	Suite 2:16	terminate 23:25	title 49:9,10,12,20, 25 50:1,11,12
statement 6:24 7:6 9:11,16 12:2 16:1 20:10 21:20, 23 22:1 39:22 40:19 55:25 56:4, 6 61:1 62:6 64:9 66:9 70:10,19 76:15,19 81:17	sum 69:3	terminated 61:14 62:21 63:7	titular 20:17
statements 39:11,13,16 76:12,13	sums 36:2	termination 61:9	today 5:19 8:5 11:11 12:5 17:22 23:5 39:8 71:20 72:20 85:24 86:16
states 31:17,19 59:25 61:25 62:2 74:6	Sunday 30:7	terms 82:25	told 23:3 33:24 38:17,25 41:1 42:10 43:25 48:13 56:20 58:12,17,18 82:1,3
stating 56:1	supercede 11:1	Tesla 52:3	total 76:16 81:4
statutory 70:1	supervision 64:4	testified 19:10,17 35:25 47:5 73:24 76:24 78:8	totaling 68:23
steps 47:19 53:8	support 21:2 62:6	testify 5:19 8:6 10:3 11:6,24 13:15 18:21 21:1 73:18	tough 14:6
Steven 3:4 5:11	supposed 81:6	testifying 41:17	TPP 62:24 63:12, 16
stipulate 15:1	surprise 13:22	testimony 8:7 10:25 11:1 86:1	track 74:25
stole 41:17	sworn 19:9,16	text 53:15,25 54:1	transactions 76:11
stop 34:23	T	thing 22:10 78:25	TRANSCRIPT 2:15
stored 73:15	takes 52:7 77:2,4	things 44:1 76:20 78:9,10 82:1	transcripts 79:17,18
straight 25:3	taking 20:23 41:2 50:5	thought 7:2 13:14,18 52:22	transfer 52:7
strictly 77:3	talk 43:15,17 56:23 57:10 58:4, 5 80:12	tie 74:11	transferred 47:6, 10,23,25
stuck 21:13 23:1	talking 37:19 47:17 83:18	time 5:7 14:4,8 18:5,8 20:8 23:17, 18,19 24:22 26:5 30:5,10,15 32:19, 23 33:5,7,9,13,18, 23 34:20 35:13 39:24 44:15,21,22 47:13 48:19,25 49:16,19 50:4 51:15,17,24 52:2, 7,16 53:22 54:5,	transmission 64:22,23 66:22,23
Subdivision 61:5,23 69:17,21 70:3,12,22	tangible 62:23		
submission 6:15, 20	tax 2:1 3:8 6:6 21:4 26:13 45:5 48:6,7,12 50:20 57:1 62:14,23 63:2,3,12,13,16, 17,19,24 64:5,7 65:4,11,17,20 66:20 67:3,9,21 68:6,7 69:1,2,4,6, 16,21 72:6 83:19		
submit 10:11,16 20:2 51:15 70:10			

true 50:20**trusted** 33:25
36:23**Tuesday** 2:18 5:1**turn** 8:22 24:24
60:20 84:15**type** 24:9

U

ultimately 36:5**unable** 11:6**unanswered**
79:4**unavailable**
16:20**unaware** 20:18
76:23 79:1**unclear** 72:24**undersigned**
59:25**understand**
16:20 27:7 31:23
32:1,8,10,11 37:2
40:21,23 41:18,23
45:11 47:12 52:19
54:11 57:13 58:15
81:1,25 82:4**understanding**
27:8,18 43:25
49:10 50:8,14
52:17,21**understands**
32:6**unduly** 17:3**United** 31:17,18**unpaid** 6:6 48:7,
12 62:14,17 65:3
67:3,21 69:24
71:18**unsigned** 9:8**urging** 54:15**Uri** 21:10 22:17
25:8,9,10,11
27:23 29:8,12,14
33:23 35:11,13,16
36:8,12,19 37:19
40:7,8,23 41:3
43:5 46:1 47:5,9,
23 54:15,18 55:1,
3,22 60:12

V

Van 30:13**Vanessa** 3:10
5:22**variations** 72:10**vehicles** 22:3**verify** 57:24**victim** 77:25**visit** 61:18,22
75:21 76:1 82:15

W

wages 59:6 68:20**Walter** 3:6 5:17**warranted** 71:4**ways** 24:19**week** 26:21,22**weekends** 20:24
25:1**weeks** 81:3**weigh** 17:7**weighing** 17:5**weight** 15:6 17:6,
8 79:7**Weiss** 3:6 4:17
5:17 6:14,16,19
7:1,10,21 8:4,13,
15,18,25 9:1,5,11,
16,20,22 10:1,6,
10,16,21,23 11:1,
4,10,16,19,2412:3,6,8,15,19,22,
25 13:2,4,11,13,
25 14:4,14,18,25
15:7,17,23 16:3,6,
17 17:6,10,17,19
18:3,7,16 19:1,4,
20,22 20:1,6,11
23:9,13 25:22
30:21,25 31:4,6,
10 32:4,7 33:9,12
34:11,14,15 35:1,
3 39:20,21 46:3,7
48:3 49:4,6,22
50:12,17 51:25
52:11,15 53:14
76:19,20 77:11
79:9,24 83:18,22
86:6,8**Wells** 68:11,17**wholesale** 28:4,
23,25**willful** 63:5 65:20,
21,23 69:7 70:8**willfulness** 21:3,
6,7 77:19**Wilson** 3:3 5:5,9,
20 6:2,17,22 7:9,
18 8:2,14,16,20,
24 9:4,10,20 10:5,
9,13,19,22,24
11:3,9,15,17,23
12:1,4,7,12,17,20,
24 13:1,3,5,11,23
14:2,12,15,22
15:3,11,18,21,25
16:5,7,12,15,22
17:9,12,15,18,20,
24 18:1,4,14,17
19:3,5,12,19,24
20:4,7 23:8 25:18,
21 30:23 31:2,5
34:13,23 46:5,10,
14,18 54:6 60:18,
24 71:9,13 74:18,
23 75:4,9 76:4,8,
10,17 77:9 79:8,
21 80:5,11,17,22
81:2,8,13,17,21
82:5,8,12,14,19,
23 83:2,6,9,12,16,
20,25 84:4 85:18,

23 86:7,10

witnesses 4:22
8:9 13:15,24
16:23 17:16,21
18:5,9,21 23:3
46:16 78:14**Wizman** 4:24
17:25 19:6,8
22:13 31:12
46:23,24 47:3,4,8,
13,21,25 48:8,10,
13,19,23 49:1
52:17,19,22 53:2,
5,9,12 54:10,13,
16,19,24 55:1,4,7,
10,13,18,20,23
56:2,8,12,16,20
57:2,5,7,10,13,18,
22,25 58:3,7,12,
17,21 59:1,8
71:17,20,22
73:14,18 74:3,6,9,
11,12,13 80:7,10,
16,19,25 81:6,10,
16,19,25 82:7,10,
13**Wizman's** 72:10**word** 36:19 51:25**Wordplay** 68:13**words** 32:2 36:22**work** 11:25 26:4,
21,22 28:21
29:21,23 32:14
74:2 80:14,16
84:14,17**worked** 22:16
23:21 65:12**working** 26:18
32:19 37:20 43:1
44:16 56:18 82:21
84:23 85:11**worried** 79:13**worse** 21:17**written** 75:2 86:3,
14

Y

year 23:22 51:21,
22 77:5 80:23

years 14:23
29:18,20 31:18,20
35:19 61:6

yell 9:22

yesterday 14:5