BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
T. MAGGIORE,) OTA NO. 240917539
)
APPELLANT.)
)
_________________________________)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, June 24, 2026

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Electronic Proceedings, taken in the State of California, commencing at 9:09 a.m. and concluding at 10:38 a.m. on Wednesday, June 24, 2026, reported by Ernalyn M. Alonzo, Hearing Reporter, in and for the State of California.

APPEARANCES:

Panel Lead:	ALJ SUZANNE B. BROWN
Panel Members:	ALJ STEVEN KIM HEARING OFFICER KIM WILSON
For the Appellant:	T. MAGGIORE CARLOS MEZA MITCHELL SMITH
For the Respondent:	STATE OF CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION SUNNY PALEY CARY HUXSOLL JASON PARKER

I N D E X

E X H I B I T S

(Appellant's Exhibits 1-5 were received into evidence at page 8.)

(Appellant's Exhibit 6 was received into evidence at page 64.)

(Appellant's Exhibit 6 was removed from evidence at page 65.)

(Department's Exhibits A-N were received into evidence at page 9.)

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California; Wednesday, June 24, 2026

9:09 a.m.

JUDGE BROWN: We will go on the record.

And we are on the record for the Appeal of Maggiore. This is OTA Case No. 240917539. Today is Wednesday, June 24th, 2026. It's approximately 9:09 a.m. We are holding this hearing electronically over Zoom with the agreement of all parties.

I will start by asking each of the participants to state their names for the record, starting for with the representatives for the Department of Tax and Fee Administration.

MS. PALEY: Sunny Paley, attorney-client with CDTFA.

MR. HUXSOLL: Cary Huxsoll, supervising attorney with CDTFA.

MR. PARKER: Jason Parker, Chief of Headquarters Operations Bureau with CDTFA.

JUDGE BROWN: Thank you.

And next, I will ask Appellant's attorney and Appellant to identify themselves.

MR. MEZA: Good morning, Your Honor. Carlos Meza for taxpayer, Tommaso Maggiore.

MR. MAGGIORE: And Tommaso Maggiore of taxpayer.

JUDGE BROWN: Thank you.

And if I can have Appellant's witness identify himself.

MR. SMITH: Sure. Mitchell Smith.

JUDGE BROWN: Thank you very much, everyone.

I'm Administrative Law Judge Suzanne Brown, and I'm the lead panel member for this case. My co-panelists today are Hearing Officer Kim Wilson and Administrative Law Judge Steven Kim. Although I am the lead for purposes of conducting this hearing, all three panel members are co-equal decision makers in this process and are free to ask questions or otherwise, speak up at any time.

This hearing is before the Office of Tax Appeals or OTA. OTA is not a court but is an independent appeals body. OTA is staffed by tax experts and is independent from the state's tax agencies, including from CDTFA. Because the Office of Tax Appeals is a separate agency from CDTFA, arguments and evidence that were previously presented to CDTFA are not necessarily part of the record before OTA, unless they've been specifically submitted to OTA.

OTA's written opinion for this appeal will be based upon the briefs the parties have submitted to OTA, the exhibits that will be admitted into evidence, and the arguments presented at the hearing today. As a reminder, the panel does not engage in what's called ex parte communications, meaning that the panel members don't speak to one party without the other party present.

We had a prehearing conference in this matter back in May on May 27th, and afterwards I issued prehearing conference minutes and orders that summarized what we discussed. And at the prehearing conference, we confirmed that there are two issues to be decided in this appeal. And the first issue is whether the Notice of Dual Determination was timely issued to Appellant for the unpaid sales and use tax liabilities of Coastal Public and Ale House, Inc. And the second issue is whether interest relief is warranted for the period October 2016 to October 2020.

Let me stop and confirm first with Appellant.

Is that an accurate statement of the two issues for hearing?

MR. MEZA: Yes, Your Honor.

JUDGE BROWN: Thank you.

And let me ask CDTFA.

Is that also CDTFA's understanding of the issues for hearing?

MS. PALEY: Yes, thank you.

JUDGE BROWN: Okay. Thank you.

Next, let's address the exhibits. The 15-day deadline for submitting exhibits was June 9th. Both parties timely submitted exhibits, and neither party raised any objection to the other party's exhibits being admitted into evidence.

First, I'll address Appellant's exhibits, which are numbered 1 though 5. And we did -- I'll just confirm with Appellant -- well, let Appellant know that we did receive Appellant's Exhibit 3 that I requested a copy of. We received that timely. And I will confirm with CDTFA that there's no objection to admitting Appellant's Exhibits 1 through 5.

MS. PALEY: Correct.

JUDGE BROWN: Okay. Then Appellant's Exhibits 1 through 5 are admitted.

(Appellant's Exhibits 1-5 were received into evidence by the Administrative Law Judge.)

JUDGE BROWN: Next, I'll move on to CDTFA's exhibits, which are marked A through N, and CDTFA timely submitted those exhibits. Appellant did not raise any objection to those exhibits being admitted into evidence. I'll just confirm with Appellant's representative that there's no objection to CDTFA's Exhibits A through N being admitted into evidence.

Mr. Meza?

MR. MEZA: No objection.

JUDGE BROWN: Thank you.

CDTFA's Exhibits A through N are admitted into evidence.

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

JUDGE BROWN: And next, I will move onto confirming the witnesses. We have two witnesses identified to testify today, Mr. Maggiore and Mitchell Smith, and both witnesses are present; and CDTFA did not raise any objection to either witness testifying.

So, I will just move on and confirm the timeline of the hearing. I anticipate Appellant's presentation will take approximately 40 minutes.

And is that correct, Mr. Meza?

MR. MEZA: That is correct, Your Honor.

JUDGE BROWN: Okay. And we also have five minutes for a rebuttal scheduled for you at the end.

And CDTFA's presentation will take approximately 30 minutes.

Is that correct, CDTFA?

MS. PALEY: Yes. Thank you.

JUDGE BROWN: Thank you.

And as you know the panel may have questions for any party or any witness at any time. If at some point anyone needs a short break, please speak up and say so.

I am going to swear in the witnesses in a moment. I'll swear them both in at the same time. Does anyone have any questions or anything else to mention before I swear in the witnesses; if there's anything I've forgotten or any questions that you have?

If not, I will move on, and I will ask both witnesses if you can please unmute your microphones, if they are muted. And if you can please each raise your right hand.

T. MAGGIORE,

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

M. SMITH,

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

JUDGE BROWN: Thank you, both.

Then we can begin with Appellant's presentation.

Mr. Meza, you can begin whenever you are ready.

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PRESENTATION

MR. MEZA: Good morning. I'd like to thank in advance the panel for their time today and their just consideration of the Appellants in Mr. Maggiore's case today.

As mentioned, today we will address two critical points in issue. One is whether the CDTFA lacked authority to personally assess Mr. Thomas Maggiore on June 24 of 2022 for sales tax owed by Coastal Public and Ale House, Inc. It is our position that they lack the authority to do so on the date because of the statute of limitations had passed. The second crucial issue today is whether the CDTFA acted unreasonably in failing to collect a significant amount of funds that sat in escrow for a period of spanning four years; a period in which a copious amount of interest accrued against Coastal Public and Ale House, Inc. Mr. Maggiore took honest measures and good faith to pay the liability, and sold his business location to help pay the tax owed. However, the CDTFA repeatedly denied the funds. They would not accept the funds. Ultimately, CDTFA collected the funds in 2020, at which point, the liability had nearly doubled.

Today we'll look at a case in which the CDTFA failed to act reasonably, failed to keep adequate records, and failed to adhere to their own rules, procedures, regulations, and the law. The CDTFA attempts to hide their failures and punish Mr. Maggiore with a liability largely composed of interest. Denying Mr. Maggiore's request for relief of interest unjustly burdens and punishes Mr. Maggiore, a taxpayer who attempted to pay the CDTFA in good faith.

The CDTFA was wrongfully -- sorry. The CDTFA wrongfully issued a dual determination against Mr. Maggiore for the liability owed by Coasted Public and Ale House, Inc., and they currently lack authority to do so. They lacked authority to do so at the time when they issued the Notice of Dual Determination on June 24, 2022 -- sorry -- sorry -- to personally asses Mr. Maggiore for the unpaid and sales use tax interest and penalties owed by Coastal Public & Ale Houses for periods October 1, 2021, spanning to December 231, 2017.

For Revenue & Taxation Code section 6829 and Regulation 1702.5 subsection (c)(2)(a), the CDTFA has three years after the last day of the calendar month following the quarterly period in which the Board obtains actual knowledge through its audit or compliance activities or by written communication by the business or its representatives of the determination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company.

It is Mr. Maggiore's position that CDTFA had a clear and actual knowledge that Mr. Maggiore had closed the business entity Coastal Public & Ale Houses, Inc. There were multiple events that alerted the CDTFA of the closure more than three years after the last day of the calendar month following the quarterly period in which the CDTFA obtained actual knowledge of Coastal Public & Ale Houses termination had passed. At the time, the CDTFA attempted to issue the Notice of Dual Determination against Mr. Maggiore.

Coastal Public & Ale Houses formally operate two restaurant bar locations, the Encinitas Ale House and the Public House. These locations were operated by its former president Mr. Tommaso Maggiore. The Public House location was closed and sold on October of 2016. The location was sold for financial reasons, primarily to help pay the CDTFA's outstanding taxes owed. Mr. Maggiore's intention has been to pay the CDTFA and any tax liability rightfully owed. $202,443.08 were assigned in escrow to be paid to the CDTFA, funds which the CDTFA unreasonably failed to accept for four years up until 2020.

For four years these funds sat in escrow ready for the CDTFA to be -- to accept. These funds were not assessable by Mr. Maggiore. Mr. Maggiore did not have --

as mentioned, did not have access to the funds. He did not have these funds for his personal use or gain. They sat there in escrow basically ready for the CDTFA to take any moment. Multiple attempts were made for the funds to be delivered to escrow -- through escrow, but escrow refused -- oh, sorry -- but the CDTFA refused the funds from escrow on those multiple occasions.

In 2017, Mr. Maggiore filed the last return for Coastal Public and Ale House and closed the remainder of the business operations for Coastal Public & Ale Houses, Inc. They ceased operations at the end of 2017 because of licensing issues, which Mr. Maggiore will later elaborate little more as to why he was forced to close Coastal Public down. They ceased operation at the end of 2017 because of a license issue, you know, in which a three-tier system prohibits one from being a manufacturer, wholesaler, and a retailer of alcohol. Coastal Public & Ale Houses had held retail licenses. Mr. Maggiore closed this entity and continues to operates other entity Acoustic Ales established in May of 2012.

Acoustic Ales was set up as a small brewery manufacturer. Coastal Public and Ale Houses' closure was part of the process Mr. Maggiore initiated to transition into just a manufacturer and wholesaler. Mr. Maggiore has operated Acoustic Ales as a manufacturer and wholesaler by operating a brewery and tasting room. By the end of 2017, Mr. Maggiore had been in communication with the CDTFA for a while regarding this matter.

Throughout 2017, there were attempts by Mr. Maggiore and Heritage Escrow to pay the liability owed. Throughout this period, the issue of the business closing was brought up in these conversations. The CDTFA claims they gained knowledge of the closure on May 17th of 2019. This claim is incorrect. They gained knowledge of the closure prior to this date. The CDTFA was actively attempting to collect from Mr. Maggiore throughout 2016, '17, and '18. This evidence from a department notice in which multiple CDTFA representatives attempted to contact or did contact Mr. Maggiore about Coastal Public & Ale Houses compliance issues. You may refer to Department's Exhibit F's Exhibit 3 which identifies multiple instances of communication with Mr. Maggiore.

Since 2016, Mr. Maggiore has attempted to address the liability at various times, including the sale of the Public House and attempts to use the sale proceeds to pay the CDTFA. The sales tax returns filed on May 18th, 2018, for the corporation was for 2017 quarter 4 sales taxes, the last quarter of the corporation operated. In a conversation between the CDTFA and Mr. Maggiore dated May 17, 2018, the issue delinquent quarter '17 quarter 4 return was addressed. Mr. Maggiore, at this time, communicated that he believed he had paid all the sales taxes for the corporation's final operating quarter. He requested information to verify the liability of the corporation's final operating quarter, which was 2017 quarter 4. This instance was previously noted in petitioner's response to Department's response dated May 16, 2024.

The Department's Exhibit F or our Exhibit 5, actually, also provides information regarding the closure of the business. The bus -- FTB's information provides that the business end date was March 1, 2018, after it was suspended. This information has been readily available on the California Secretary of State site. In effort to collect -- or the audit process, a competent CDTFA representative would have seen this information in their investigation or ordinary course of business. Throughout the audit process and subsequent appeal and collection process, it is reasonable to conclude Department would have obtained and did obtain knowledge of the business closure on more than one occasion prior to May 2019 through its audit and compliance actions. In efforts to collect the liability owed, the Department would have looked at multiple ways to collect for Mr. Maggiore, including looking up the online status of the business.

Our firm was retained on March 2018 by Mr. Maggiore to present him and Coastal Public & Ale Houses regarding the sales and use liability and related compliance issues for Coastal Public. Since then our firm has been in open communication with CDTFA. These communications have included discussions of the business being closed down, and the CDTFA's failure to accept the funds from escrow.

Mr. Mitchell Smith, a former associate of our firm worked on Mr. Maggiore and Coastal Public & Ale Houses case. His work dates to the inception of our representation. Mr. Smith communicated to the CDTFA that the business was closed on multiple occasions between the start of our representation up until the date the CDTFA claims they allegedly gained knowledge of the closure. It is our position the CDTFA's records are inaccurate and incomplete. They are relying on incomplete note entries to support the claim. Exhibit F's Exhibit 3 communicates with Tommaso Maggiore. There are several entries showing multiple CDTFA represent attempting to communicate with Mr. Maggiore. These attempts span from a period prior to representation and during our representation.

What I find particular of interest is the numerous attempts of actual communications with Mr. Maggiore after our POA was filed with the CDTFA. For

March 14th, 2018, through May 17, 2019, at least four entries were noted by the CDTFA regarding attempts to contact or actual contact with Mr. Maggiore, completely ignoring the fact that a POA was on file for -- for us to represent Mr. Maggiore. Interestingly enough, the CDTFA does not record any note of any communication with Mitchell Smith or from between March 14, 2018, the date the POA is registered on their records, and July 17, 2019. Please refer to Exhibit 5, page 29.

However, the CDTFA does try to communicate directly with Mr. Maggiore despite knowing the existence of a POA during this time on multiple occasions.
Mr. Smith had been in ongoing communications with Juanita Chandler, the auditor, and Esther Perez, a collector. We strongly question the accuracy and completeness of the records kept by the CDTFA, and their lack of current testimony with respect to this matter. The subject of the closure was raised throughout the years 2018 and onward after our firm was retained on March 2018. This effectively sets the date of statute of limitations for dual determination, per section 6829; at the earliest on July 31st, 2021, three years and one month from 2018 quarter 2, and no later than April 30, 2022, three years and one month from 2019 quarter 1.

The CDTFA's claimed statute date of

July 31, 2022, is erroneously based on events during 2019 quarter 2. These events were preceded by over a year of open communication with CDTFA, including an audit and collections matter in which the subject of the closure was mentioned. As previously stated, Mr. Maggiore's intention has been to pay the true liability owed. At the time he sold the Public House in 2016, the sale proceeds would have paid most of the liability owed back then. However, the CDTFA's unreasonable delays caused the penalties and interest to accrue and double the liability owed.

The CDTFA's actions result in a grossly inequitable unjust financial burden on Mr. Maggiore. The funds that sat in escrow were never accessible to Mr. Maggiore, and they sat there ready for the CDTFA to collect. On multiple occasions, Mr. Maggiore expresses to CDTFA and -- we have expressed to the CDTFA that Mr. Maggiore would be the one to pay the true and just remain tax interest owed by Coastal Public Ale Houses had the payment been accepted back in October of 2016 or during any of the multiple attempts to send the funds throughout 2017. The CDTFA had reasonably delayed the payment on money they knew was -- they sat -- that sat in escrow with their name on it. They attempt to hide their unreasonable delay behind the bureaucratic process and convoluted technicalities that yield a grossly inequitable results that run afoul of common sense.

Even the CDTFA had trouble following their own rules and procedures. In our response to Department's Exhibit 4, we point out that the CDTFA failed to adhere to compliance policy and procedure manual section 650.023 subsection (k). On October 4, 2016, the Department sent an email to Heritage Escrow stating, "This account will be audited," a statement that expresses intent to audit, not that the account was being audited or that it was selected for audit. If the account was not being audited, then section 650.023 did not apply to the Department, and they should accept the money from escrow.

Alternatively, if the account was already in audit or selected for audit at the time of October 4, 2016, the Department's email to Heritage Escrow, please refer to Exhibit A, page 16, this email did not constitute a valid letter or a communication conforming to the requirements. Furthermore, the email failed to provide the information required to be provided in a valid letter per section 650.023. This is another instance in which the CDTFA failed to comply to policy and procedure. We understand interest accruing and subject Mr. Maggiore to pay interest if he purposely chose not to pay the CDTFA. However, Mr. Maggiore did not choose to ignore a liability. He attempted to pay it.

For my first testimony, I will call Mitchell Smith.

MR. SMITH: Yes.

DIRECT EXAMINATION

BY MR. MEZA:

Q Hi, Mitchell. How are you doing today? Can you please state your full name?

A Mitchell Smith.

Q Thank you, Mitchell, Mitchell, what is your current profession?

A I'm an attorney.

Q Attorney. How long have you practiced as an attorney?

A I was sworn in December of 2015.

Q Okay. Were you formally employed by Richard Carpenter Law Office?

A Yes, I was.

Q Okay. During your time of employment, what was your role at the Richard Carpenter Law Office during 2018 and '19?

A So, I was a tax attorney. I represented businesses and individuals against various taxing agencies.

Q Okay. Do you recall when Mr. Maggiore retained our firm to represent him?

A Yes. I believe it was around March 2018.

Q Did you personally work on Mr. Maggiore's case?

A Yes. I spent a substantial amount of time working on his case.

Q Okay. What was the scope of Mr. Maggiore's case?

A Well, his business was being audited and additionally, there was a collection matter; and like you mentioned, the escrow issue as well.

Q Okay. During this time, did you contact the CDTFA regarding Mr. Maggiore's case?

A Yes, many times.

Q Do you recall who you contacted from the CDTFA?

A Yes, there were several individuals that I contacted. I recall contacting Juanita Chandler, Esther Perez, additionally, Ms. Corpus; those three individuals. There was likely more, but this was some years ago.

Q Okay. Do you recall what these conversations were about with, for example, Ms. Juanita Chandler and Esther Perez?

A Yes. They were regarding the audit and regarding the collection issues. There was numerous conversations with collections, and they were well aware that the business was closed during these discussions. It came up explicitly numerous times.

Q Okay. So, you would say you had multiple conversations between the period of March 2018 and May 2019 with the CDTFA?

A Yes, numerous conversations.

Q During these conversations, did you inform the CDTFA over the business closure and termination?

A I did. Yes.

Q Okay. Would you say that it was repeat -- it was more than one instance that you provided this information?

A Many instances.

Q Okay. Did you inform them prior to the closure -- sorry. Did you inform them of the closure prior to May 17, 2019?

A Yes, I did.

MR. MEZA: Okay. Thank you.

Next testimony from Mr. Tommaso Maggiore.

DIRECT EXAMINATION

BY MR. MEZA:

Q Hi, Mr. Maggiore. Can you please say your full name?

A It's Tommaso Maggiore.

Q What is your current profession, Mr. Maggiore?

A I currently operate restaurant brewery wholesale sales.

Q Okay. How long have you operated breweries?
A Since 2012.
Q Okay. Did you formally own and operate Coastal Public and Ale Houses?
A Yes.
Q For what periods did you operate Coastal Public and Ale Houses?
A I think it was approximately 2010 to 2017.
Q Okay. How many locations did you operate under Coastal Public and Ale Houses, Inc.?
A There was two locations.
Q When did you close the Public House?
A The Public House was sold, I believe, in October of 2016. It's still operating to this day, so it was technically never closed.
Q But it was closed for your purposes?
A For my purposes, yes.
Q Okay.
A It was sold to another operator.
Q Okay. Why did you do this with Public House?
A It was to, essentially, generate revenue to take care of the liabilities that we had at the time and work on a future brewery wholesale business.
Q Was it -- what was your intention with the funds from the sale of Public House?

A The funds were set in escrow, and it was under my impression that they would be utilized to pay for the liability that was outstanding at the time.

Q Okay. Was there an issue with the escrow funds that were designated to the CDTFA?

A I mean, other than the fact that they were never applied to the liability, despite multiple occasions of talking to Mitchell Smith and multiple people at the BOE slash CDTFA.

Q Okay. Did you close down the corporation Coastal Public & Ale Houses, Inc.?

A Yeah.

Q When did you close the entity?

A That was closed at the end of 2017.

Q Okay. Why did you close down this corporation?

A So, that was done in an effort to open the wholesale distribution side of things for the brewery. And in order to do that, we were no longer able to hold retail licensing through the ABC so that we didn't violate any sort of three-tier system.

Q Okay. Between March 2018 and May 2019, did you have multiple communications with the CDTFA?

A I believe so, yes. So, it was multiple emails between escrow, CDTFA, people at the -- I believe it was Juanita Chandler at the audit department. So, there was definitely several communications.

Q What were the subject of these conversations with the CDTFA?

A I mean, it was more or less trying to close out the liability and figure out why the funds were being essentially held hostage in escrow for as long as they were.

Q At any point, did you discuss the closure -- termination of Coastal Public and Ale Houses with the CDTFA?

A On multiple occasions with Juanita Chandler, specifically. She was the one that was doing the audit. I think there was some issues with some filings at the beginning of 2018 that were filed improperly with the CDTFA under the incorrect account, and those were rectified. So, upon having the conversation with her, I specifically asked about -- I believe it was either email or phone, about that account being closed, and that there no longer being any sort of liabilities associated with that account moving forward.

Q Okay. Did you inform them of the closure and termination prior to May 17, 2019?

A I mean, on multiple occasions.

Q Okay. I understand you also wanted to provide a narrative of what happened. So, I want to give you some time to present some information.

A   Yeah. I mean, I just put together a statement.

So, good morning, and thank you the panel for the opportunity to be heard. My name is Tommaso Augustino Maggiore. I'm currently a restaurant and brewery operator, and have spanned approximately 20 years owning and operating bars, restaurants, breweries, and hospitality businesses in California. I'm here today because this matter has been a part of my life for nearly a decade. I believe the circumstances surrounding this case warrants serious consideration. I want to be very clear. I'm not here seeking special treatment. What I am seeking is fairness, accountability, and a resolution that reflects what actually occurred.

I formally owned and operated Coastal Public and Ale Houses, Inc., which operated two locations. I operated Coastal Public Ale Houses for -- from approximately 2010 through the end of 2017. One of those locations was the Public House located in La Jolla. In 2016, I sold the Public House to another operator and remains open and operating to this day under the -- the new operators. Primary reason for selling the business was to generate funds to address and satisfy outstanding BOE liabilities was absolutely my intention that the proceeds from the sales be used to pay for those obligations. For nearly 10 years, I've lived with the financial, professional, and personal consequences of a matter that I believe should have been revolved years ago. During that time, businesses were built, businesses were sold, records became more difficult to obtain. Yet, this issue remained unresolved.

I'm a hard-working honest small business owner that has dedicated years of effort to building businesses, creating jobs, serving customers, and contributing to my community. Like many small businesses, I've endured extraordinary challenges over the past years. In 2017, as this process was unfolding, I was caring for my father during his battle of cancer and helping care for my mother during that difficult time, which he ultimately succumbed to. In the years that followed, I faced government mandated shutdowns, economic uncertainty, labor shortages, inflation, and dramatic increase of cost of doing business.

But despite those challenges, I continually worked diligently to meet my obligations and navigate the many difficulties that small business owners have faced. Carrying the burden of this unresolved matter for nearly a decade while simultaneously dealing with those challenges, has imposed a tremendous amount of stress and uncertainty. This is particularly troubling to me that I specifically sold one of my businesses in an effort to address this obligation. Funds were made available through escrow as early as late 2016 for the purpose of satisfying the outstanding liability. Those funds remained available for years. Yet, the State did not ultimately collect the remaining escrow proceeds until approximately 2020. That reality raises a simple and important question. If the money was there, why was it not applied to the liability sooner?

Between approximately January 17th and May 2019, there were numerous communications involving escrow representatives, BOE, CDTFA, auditors, and personnel, and legal counsel regarding the status of the escrow, the closure, and termination of the business, and why the escrow had not been finalized despite funds being available to satisfy the outstanding liability. Throughout that period, efforts were made to answer -- to obtain answers regarding the unresolved escrow process and the disposition of funds that had been specifically set aside for the payment of the BOE, CDTFA liability. From my perspective, these communications provided the agency with multiple opportunities to address the matter, clarify any outstanding issues, and bring the process to a timely conclusion.

To this day, I've still never been provided with a clear explanation as to why funds were specifically designated and available through escrow were not applied sooner. I had multiple communications involving escrow, BOE, CDTFA, auditor Juanita Chandler, and other personnel, and legal counsel regarding the status of those funds and the unresolved escrow process, but I was never given a satisfactory explanation for the delay.

I also want the panel to understand that Coastal Public and Ale Houses ceased the operation, and it was closed at the end of 2017. The corporation was closed as part of operational changes in ABC licensing conflicts associated with brewery operations. Importantly, prior to May 17, 2019, there are multiple communications regarding the closure and termination of the business. I communicated with Juanita Chandler who was involved in the audit process, and there were numerous communications through my attorney, at the time, Mitchell Smith. From my perspective, BOE, CDTFA was informed of the closures and terminations of the business on multiple occasions well before May 17th, 2019.

In addition, the second location was transitioned into a brewery operations due to ABC licensing requirements and operational conflicts. These changes were not hidden. They were discussed and communicated as part of the ongoing interactions concerning the business, the closure of the corporation, and the unresolved escrow process. What makes this especially difficult to understand is that, from my perspective, the delays appear to have resulted from administrative failures, oversight issues, or bureaucratic inefficiencies within the system, not from any action by me as the taxpayer.

Having spent years operating businesses and interacting with various state agencies, including numerous conversations with representatives from the Taxpayer Right Advocate Office and other departments within the BOE, CDTFA, my understanding has always been that the agency generally acts promptly when funds are available to satisfy outstanding liabilities. That's why the situation has never made sense to me. So, the funds were made available to escrow in late 2016. Yet, the remaining escrow proceeds were not collected until approximately 2020. During that same period, interest continued to accrue and the financial burden continued to increase. Whatever the reason for the delay, the consequences were borne by me, not by the agency.

As a taxpayer, I believe it's reasonable to ask why the funds were available years earlier were not applied sooner, and why a matter that could have been resolved in such a much shorter period of time was allowed to remain unresolved for nearly four years while the associated liability continued to grow. In my view, the timelines involved in the matter were simply unacceptable. No taxpayer should be forced to spend a better part of a decade obtaining the -- attempting to obtain finality and resolution. Regardless of the outcome, I believe the record demonstrates an extraordinary delay has had real and lasting consequences. I've devoted significant time, resources, and expense attempting to resolve this matter in good faith.

I participated in the administrative process, responded to requests, produced documents, retained counsel, and continue to pursue a resolution through the proper channels. I would also ask the panel to carefully consider the reliability and credibility of this timeline that CDTFA now presents and whether the conduct that occurred over the course of nearly a decade reflects the level of diligence, oversight, and accountability the taxpayers are entitled to expect from a government agency.

What cannot be disputed is the extraordinary passage of time. We're now approaching 10 years since many of the events that first occurred. During that period, the agency itself underwent a transition from the former BOE, Board of Equalization, to the CDTFA, the California Department of Tax and Fee Administration, personnel changed, records were transferred, institutional knowledge involved, and many of the individuals directly involved in these events may no longer even be employed by the agency. As time passes, memory fades, records become more difficult to locate, and the accuracy of reconstructing timelines becomes increasingly difficult to verify. Yet, despite these realities, I'm being asked to accept the agency's version of events years after the fact, while bearing the financial consequences of delays that were outside of my control.

From my perspective, the timelines associated with this matter are extraordinary. Nearly a decade of uncertainty, delay, and unresolved issues is not what a taxpayer should experience when attempting to obtain finality and -- and resolution. The length of time involved raises serious question regarding the adequacy of oversight, case management, and administrative diligence throughout this process. I'm not asking the panel to make exceptions. I'm asking the panel to look at the facts and the chronology. The record reflects years of delay between key events, years during which liabilities continue to grow, and years during the opportunities to exist to bring the matter to a resolution. In my view, the cumulative effect of those delays reflect a process that lack the level of administrative oversight necessary to ensure a fair and timely outcome. At the minimum, the record demonstrates a pattern of delay that is difficult to reconcile with the principles of fairness, efficiency, and accountability that should govern governmental action.

This matter has imposed a substantial burden on me for a significant portion of my professional life. I respectfully submit that the extraordinary delay is present, and the case should be given substantial weight when evaluating both the timelines of the dual determination, and whether relief for interest is warranted. From my perspective, the delays that had began when funds were available through escrow in 2016 did not simply affect a discreet period of time, the consequences of those delays have continued to compound ever since.

Had this matter been addressed and resolved in a timely manner when funds were available, much of the interest, expense, uncertainty, and hardship that followed could potentially have been avoided. For that reason, I respectfully request the panel to consider a full impact of those delays and the continued consequences that flowed from then, from 2016, through the present day.

So, I thank you for your time and consideration on this matter.

MR. MEZA: Thank you, Mr. Maggiore.

JUDGE BROWN: All right. Does that -- oh, I'm sorry. Go ahead.

MR. MEZA: All right. Sorry.

After our testimonies, I'd just like to stress out the fact of the inaccuracy in the records. As I mentioned before and provided -- given with Mr. Mitchell Smith's testimony, there were multiple occasions in which the CDTFA was contacted. Yet, those entries aren't logged by CDTFA in their communication notes that they provide in the exhibit. I just want to stress that fact. Today we had Mr. Smith testifying in regards to the accuracy of this. And just to reiterate the point, the CDTFA had been advise -- had been informed of the closure at earlier dates that would have started throughout 2018 up until the claim date they have of May 7 -- of May 2019.

Thank you.

JUDGE BROWN: Thank you very much.

Excuse me. We will now have the opportunity for questions.

First, CDTFA do you have any questions for either witness?

MS. PALEY: No, thank you.

JUDGE BROWN: Okay. Thank you.

Next, I will turn to my co-panelists. We may have questions from the panel at this time or the panel members may choose to hold their questions until after they've heard both presentations.

First I will ask if, Judge Kim, do you have any questions for Appellant or Appellant's witnesses at this time?

JUDGE KIM: I just had one question at this time. Appellant testified that he contacted CDTFA multiple times to inform them of the closure of Coastal's business. Were all of those communications by phone, or were there any letters submitted or emails?

MR. MAGGIORE: I believe it was through Juanita Chandler directly. She was the auditor that was handling the audit at that time. I would have to look back through my emails. I -- there may be some emailed correspondence back and forth from her, but I do recall specifically asking about 2017 being the end of that business and trying to confirm with her that there were no future liabilities associated with that account. And as I mentioned before, there was a -- I believe in 2018 I had filed under the incorrect account, which those were, I believe, pulled back and filed correctly after the fact.

JUDGE KIM: What was filed?

MR. MAGGIORE: So, for the brewery portion of the business was accidently filed in 2018 at the beginning of 2018 under the Coastal Public & Ale Houses account. Those were since rescinded and filed under the appropriate account. And that was done through, I believe, either the office here or through Juanita Chandler directly.

JUDGE KIM: You mean their tax returns -- sales and use tax returns?

MR. MAGGIORE: Yes.

JUDGE KIM: Okay. Thank you. I'll reserve any questions until later.

JUDGE BROWN: Thank you.

And I will next turn to Hearing Officer Wilson.

Do you have any questions for Appellant or Appellant's witnesses at this time?

HEARING OFFICER WILSON: I just had a question. I can't recall. When did the Encinitas Ale House close?

MR. MAGGIORE: It's still operating.

HEARING OFFICER WILSON: Well, when did it stop being under the corporation?

MR. MAGGIORE: At the end of 2017. It was then transferred over to brewer operations for ABC licensing issues.

HEARING OFFICER WILSON: Okay. Thank you.

JUDGE BROWN: Okay. Thank you.

I will -- I'll start with this question to Mr. Meza, and then if either witness can add anything, I will let them do so.

Mr. Meza, is there any page in the exhibits, yours or CDTFA's, that you want to point us to that indicates any kind of writing? Because I'm assuming you would have looked through any written notice to CDTFA of the closure, not of Coastal Public House, but the second closure of Encinitas Ale House; meaning, as we just discussed, when the corporation stopped operating Encinitas Ale House, and the corporation had terminated business operations. Is there any page that you want us to look at that indicates communication of that fact to CDTFA?

MR. MEZA: It would go back to the -- it would actually not be in the exhibits I presented right now, but it would go back to the -- if I recall, there was a communication back during the appeals process. And I believe it was to Counsel Ms. Dillon, in which she was given a sheet; or we have a log of our activity of basically, it's been redacted to hide billable sensitive information regarding Mr. Maggiore's representation. But they do note instances that had dates of communications between Mr. Smith and CDTFA reps.

I do want to note out that there was a gap. I mean, there is a significant gap of almost a year where they're not -- they have no notes of any communications with us, but they were trying to collect; and they were still trying to contact Mr. Maggiore about this process. But there is a -- I recall that information was shared with Ms. Dillon, if I'm pronouncing her name. Let me see if I can pull up the name real fast. It would be Ms. -- I don't want to butcher her first name. It's --

JUDGE BROWN: I -- I know. I understand your referring to the appeals conference holder --

MR. MEZA: Yes.

JUDGE BROWN: -- Puneet Dillon.

MR. MEZA: Correct.

JUDGE BROWN: All right. You're certain that page you're referring to is not in our exhibits, either yours or CDTFA's.

MR. MEZA: Correct.

JUDGE BROWN: Okay. But it's a timeline that you created?

MR. MEZA: It's a timeline that was -- it was kept in our records basically for billing purposes for the client. It just outlines what activity worked on for -- on our behalf for the client.

JUDGE BROWN: Is there a reason you didn't submit it in your evidence to the panel?

MR. MEZA: I believe that was -- I was never going to use it, but it was already there, I believe, since it was part of the appeals process that was being challenged by CDTFA.

JUDGE BROWN: Okay. Is it something that would be useful to the panel as evidence of written communication about the closure of the quart -- the closure of the second location and thus, determination of --

MR. MEZA: Of the actual --

JUDGE BROWN: -- business operations?

MR. MEZA: Of the actual communication test -- of actual communication, the detail in the closure, no. Of actual communication from our office the CDTFA, yes. That's the distinction. It doesn't -- the writing itself is basically just out -- it's a log in a way, if you want to see it, that just says these are instances where we communicated with CDTFA, and these aren't there on their records. But it wouldn't be as to specifically show an actual communication, because most of these communications were over the phone.

JUDGE BROWN: All right. So, it doesn't indicate -- it's was just billing. It doesn't indicate that -- that your office informed CDTFA that the corporation had terminated business operations?

MR. MEZA: No. And like I said, there's no -- it's just basically most of the communications were over the phone.

JUDGE BROWN: Okay. All right. And then I guess I want to turn to Mr. Smith.

MR. SMITH: Sure.

JUDGE BROWN: I want to ask, when you said that you communicated with CDTFA employees on multiple occasions about --

MR. SMITH: Yeah.

JUDGE BROWN: -- the closure, were you talking about the closure specific to the Public House or the closure of both locations?

MR. SMITH: Both locations.

JUDGE BROWN: But again, there was nothing -- you don't have anything in writing --

MR. SMITH: No.

JUDGE BROWN: -- conveying this issue?

MR. SMITH: The majority of my correspondence between myself and Ms. Chandler and Esther Perez was via telephone.

JUDGE BROWN: Okay. Thank you.

I think that's all that I have for Appellant right now. As I said, we may have additional questions after we've heard CDTFA's presentation. Therefore, if no one has anything further, we can go ahead and proceed to CDTFA's presentation.

Ms. Paley, whenever you are ready, I believe you asked for 30 minutes.

MS. PALEY: Yes. Thank you.

PRESENTATION

MS. PALEY: Mr. Maggiore Appellant was the sole corporate officer of Coastal Public & Ale Houses, Inc., and operated two bar restaurants, Encinitas Ale House in Encinitas and the Public House in La Jolla. At issue for this hearing is whether the Department's Notice of Dual Determination issued to Appellant on June 27th, 2022, Exhibit E, was timely; and whether interest relief is warranted for the period October 2016 to October 2020.

Revenue & Taxation Code section 6829(a) provides that upon termination, dissolution, or abandonment of a corporation's business, anyone having control, or supervision of, or who was charged with the responsibility for filing of returns or the payment of tax, or who was under a duty to act for the corporation in complying with the sales and use tax law, is personally liable for the corporation's unpaid tax, interest, and penalties if the person willfully failed to pay or cause to be paid any taxes due from the corporation.

Appellant does not dispute that the Department has met its burden on each element necessary to impose liability under section 6829. Appellant argues that the Department did not time issue the Notice of Dual Determination to him for the unpaid liabilities of the corporation and therefore, the Notice of Dual

Determination is barred by the statute of limitations.

A determination under section 6829 must be mailed within three years after the last day of the calendar month following the quarterly period in which the Department obtains actual knowledge through its audit or compliance activities or by written communications by the business or its representative of the termination, dissolution, or abandonment of the business of the corporation; Revenue & Taxation Code section (f).

Termination is the discontinuance or cessation of all business activities for which the corporation was required to hold a seller's permit; Regulation 1702.5(b)(3). Appellant asserts that the Department had knowledge of the corporation's termination prior to May 17, 2019, the Department's actual date of knowledge of the corporation's termination. Appellant claims that in October of 2016, he and Heritage Escrow notified the Department of the sale of the Public House, and that in 2017 he filed the corporation's last sales and use tax return and ceased all business operations.

However, the June 24th, 2022, Notice of Dual Determination is, in fact, timely because the evidence shows that the Department obtained actual knowledge that the corporation terminated all of its business operations on May 17th, 2019, via a telephone conversation memorialized in the activity notes, AA6. And therefore, under the statute of limitations, had until July 31st, 2022, to timely issue a Notice of Dual Determination to Appellant. As a business practice, the Department keeps a log of contacts pertaining to each account. In October 2016 the escrow for the sale of the Public House is noted and contacts pertaining to the sale are accounted for.

However, the Encinitas Ale House continued to operate under the corporation seller's permit. The corporation had the two separate business locations, Encinitas Ale House and the Public House. The corporation's termination only occurred upon cessation of all business activities for which it was required to hold the seller's permit, which included its business activities for both locations. As demonstrated in Exhibit A-6, the activity note from May 17th, 2019, memorializing a telephone call with Appellant, he stated that the business was still open but under a new entity but with the same officers. On that day, in that call, Appellant notified the Department that Coastal Public and Ale Houses, Inc., as an entity closed January 2017. He also refused to give new entity info.

Appellant continued to file sales and use tax returns as Coastal Public & Ale Houses, Inc., until

May 18th, 2018; Exhibit A-11. Additionally, as shown in Exhibit A-10, on March 31st, 2017, the Department staff member completed an account update information form, which indicated that the business was still operating. As shown in Exhibit A-8, the activity not on July 17th, 2019, memorializing the telephone call with Mitchel Smith, attorney for Appellant as of March 2018, it verifies that Appellant was filing returns as Coastal Public & Ale Houses, Inc., instead of newly formed Acoustic Ales Brewing Experiment, Inc. Mr. Smith also reported that Coastal Public & Ale Houses, Inc., closed as of December 31st, 2017. There is no evidence that the Department received Notice of Determination of Coastal Public & Ale Houses, Inc., prior to the May 17th, 2019, telephone call with Appellant. And therefore, the Notice of Dual Determination is timely.

Regarding the imposition of interest, it is mandatory, and the law provides for relief of interest only under very narrow circumstances, including a public disaster or unreasonable error or delay by a CDTFA employee in their official capacity; Revenue & Taxation Code sections 6593 and 6593.5 subdivision (a)(1). Where a taxpayer request interest relief due to an unreasonable error or delay by a CDTFA employee, relief is appropriate only when no significant aspect of the error or delay can be attributed to an act or failure to act by the taxpayer; Revenue & Taxation Code section 6593.5 subdivision(b).

On April 12th, 2024, Appellant submitted a CDTFA Form 735, request for relief from penalty, collection cost, recovery fee, and/or interest, Exhibit B, seeking relief of interest on the basis that Heritage Escrow attempted to remit funds held in escrow to the Department for the corporation sales and use tax obligations, but that the Department unreasonably refused to accept any such funds. Appellant claims that if the Department had accepted the funds, then Appellant would not have incurred unnecessary accumulated interest charges.

However, the Compliance Policy Procedures Manual, CPPM, section 650.010 states, "A tax clearance should not be issued until all tax and fees noted above, collection cost recovery fees and associated penalties and interest of the seller have been determined and paid, including any potential audit liability, or an amount determined by this Department has been posted as outlined in CPPM section 650.023(k)." From 2016 through 2017, the corporation was under audit for the period October 1st, 2012, through September 30th, 2015. Heritage Escrow initially submitted a request for a sale and use tax clearance certificate on October 3rd, 2016, months after the business had sold in May of 2016.

On October 4th, 2016, the Department replied that the account will be audited, Exhibit A-1, and the business was sent an audit engagement letter on January 27, 2016, and was under audit at the time of notice of the escrow, Exhibit C-1. As a result of the audit, the Department issued three Notices of Determination to Coastal Public & Ale Houses, Inc., on April 19th, 2016, April 14th, 2017, and May 4th, 2017, Exhibits L-1 through L-3, and the corporation petitioned, starting the appeals process. On May 8th, 2017, the escrow company submitted an updated request to the Department for a sales and use tax clearance certificate for the Public House.

In a letter to Heritage Escrow dated July 7th, 2017, Exhibit A-2, the Department informed Heritage Escrow that the Department could not process its request for a sales and use tax clearance certificate because the corporation's account was under audit, not final at that time, and requesting sales percentages information. In the same July 7th, 2017, letter, again A-2, the Department advised Heritage Escrow to resubmit its request and to further request a 2B deposit if it wished to expedite the process. Heritage Escrow did not do so. On August 15th, 2017, Heritage Escrow emailed indicating that they had not been able to get ahold of the seller to get the sales percentages needed, Exhibit A-3.

On August 17th, 2017, Heritage Escrow emailed Appellant that this security deposit amount would be greater than the funds in escrow, and because the funds were insufficient, the escrow company would wait until the audit was completed, Exhibit C, page 39.

An appeals conference was held on August 9th, 2019, for which Coastal and Public, for which Coastal Public & Ale Houses, Inc., did not appear. On February 11th, 2020, the Appeals Bureau issued a decision for Coastal Public & Ale Houses, Inc.'s, appeals, Exhibit I, finding that no adjustments were warranted. On July 8th, 2020, Heritage Escrow submitted an updated request for a sales and use tax clearance certificate for the Public House to the Department. On August 12th, 2020, the Department closed Coastal Public & Ale Houses, Inc.'s, appeals, and a Notice of Redetermination was issued; Exhibit J.

On September 4th, 2020, the Department informed Heritage Escrow that the buyer of the Public House needed to register for a seller's permit before the Department could process its request for a sales and use tax clearance certificate, A-4. The permit they had provided had closed. On the 8th, the Department asked for the correct buyer's name, and on September 9th Heritage Escrow submitted updated escrow documentation for the sale of the

Public House. On October 13th, 2020, the Department received authorization from Coastal Public & Ale Houses, Inc., to apply escrow funds to its account, Exhibit A-6. And on October 14th, 2020, the Department sent Heritage Escrow a Notice of Levy, Exhibit B, and Heritage Escrow sent payment of $206,433.08. On October 28th, 2020, the Department processed and applied the payment, the $206,000 payment.

As held in the OTA precedential opinion Appeal of TFCG, Inc., 2019-OTA-389P, unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. Here, the evidence shows that the Department was responsive to the escrow company and attempted to process the request for sales and use tax clearance certificates for the Public House. Once the audit was complete and the appeals closed, the responses and information from the escrow company were deficient, such as the buyer and escrow instructions did not reflect the same information in CDTFA's records.

Appellant has not presented any evidence showing that there was an unreasonable error or delay by any CDTFA staff member but rather, the evidence indicates that there were potential errors from Heritage Escrow, and that the funds held were insufficient to cover a deposit; and that does not justify interest relief under Revenue & Taxation

Code section 6593.5 subdivision (b). Based on the evidence and the law, we submit that this appeal should be denied and that interest relief is not warranted.

Thank you.

JUDGE BROWN: Thank you.

Now, I will turn to my co-panelists and allow them the opportunity to ask questions of either party.

Hearing Officer Wilson, do you have any questions?

HEARING OFFICER WILSON: I do. I'm not sure who will answer this one, but do we know what prompted Heritage Escrow to submit an updated partial request for the tax clearance certificate on the Public House on July 8th, 2020?

MS. PALEY: I would defer to Mr. Parker for that response.

MR. PARKER: Yeah. I'm not sure exactly why they requested a clearance certificate at that point. Because probably because the audit had finally finished through the appeals process and was going to be final, and so they requested the clearance at that time.

HEARING OFFICER WILSON: Okay. So, to follow up, the Department would have sent something to the escrow company notifying them that the case was through appeal?

MR. PARKER: I'm not certain if we sent something to the escrow company, but that is when the appeal was final; and information was sent to the taxpayer and representatives. I can check the -- the files to see if there was anything including Heritage at that time.

HEARING OFFICER WILSON: Okay. Mr. Meza, are you aware of why Heritage Escrow submitted the partial request for the tax clearance on that July 8th, 2020?

MR. MEZA: It would likely -- I mean, I wasn't working specifically on the case during 2020 on that matter, but I would assume it's something tied to the end of the appeal. But other than that, I mean, I believe when I spoke to -- I briefly spoke to the Heritage Escrow people. They were kind of holding off on providing -- or trying to recall the information what happened back then. But they mentioned they had received, at some point, a collection notice with a -- basically, like, a garnishment levy order for them to collect the funds then.

But apart from that, I mean, why did the CDTFA did those actions during that -- that specific point in time? It's really, really something they would know specifically know more about.

HEARING OFFICER WILSON: Okay. Thank you. I might have same questions later on, but that's it for now. Thank you.

JUDGE BROWN: All right. Thank you.

Judge Kim, do you have any questions for either party at this time?

JUDGE KIM: Yes. So, after the first tax clearance request in October 2016, did CDTFA issue a letter to Coastal or the escrow company?

MR. HUXSOLL: Yes. CDTFA did issue a letter on November 23rd, 2016, that is similar in format to the July 7th letter that's in the record. The letter indicates the seller is currently in audit and to notify the box is checked in that particular section. If OTA would like a copy presented -- put into the evidence file, one can be provided by CDTFA. But a letter did go out on November 23rd, 2016, and I have it open right now.

JUDGE KIM: Okay. And then it looks like the same as the July 7th --

MR. HUXSOLL: It looks the same as the July 7th letter. The -- there's not an other box checked. The only box checked is, "The seller's currently in audit. Please notify the Board if you would like to expedite the process by requesting a to be deposit for the audit is completed." So, that box is checked on the letter that went out November 23rd, 2016.

JUDGE BROWN: I --

JUDGE KIM: Okay. So -- sorry. Go ahead.

JUDGE BROWN: Oh, I'm sorry, I was going to interrupt and say I think we would like to see that letter, but we'll -- we'll address that at the end. Sorry to interrupt.

Go ahead, Judge Kim.

JUDGE KIM: Oh, no problem. Okay. So, after the escrow company, they emailed on August 15th, 2017, saying they have not been able to get the sales percentage, but can you do a security deposit letter, was there any response after that request?

MR. HUXSOLL: The evidence indicates there was response based on the communication from the escrow agent to Appellant stating that the security deposit letter would be for $208,000. I do not have the format of the response. But that information was provided based on the evidence in the record that being the communication between the escrow agent and Appellant.

JUDGE KIM: Okay. And --

MR. HUXSOLL: That same -- sorry. I apologize. But that same communication indicates since there weren't sufficient funds, that the escrow company wait until the audit is complete.

JUDGE KIM: And where in the record is that communication documented?

MR. HUXSOLL: It is Exhibit C, page 39. It's an August 17th, 2017, email from Debbie Howe to Appellant.

JUDGE KIM: Okay.

MR. PARKER: Judge Kim? Sorry. This is Jason Parker. I did note that I think Mr. Huxsoll said Exhibit C. I show it is Exhibit B, which is the request for relief of interest.

MR. HUXSOLL: Oh, my apologies. My apologies.

MR. PARKER: I just wanted to clarify that real quick.

JUDGE KIM: Okay. The file is just kind of large. So, I'm just trying to find it. You said Exhibit D?

MR. PARKER: B, as in boy.

JUDGE KIM: Oh, okay. Okay. Thank you.

JUDGE BROWN: Okay. Then if my co-panelists don't have any other questions, I'm -- hold on just a second I want to look at my --

HEARING OFFICER WILSON: Judge Brown, is it all right if I ask a question?

JUDGE BROWN: Yes. Yes. Go ahead. I was looking for a document. Go ahead, please.

HEARING OFFICER WILSON: I did have a question for the Department. In response to the security not being sufficient, the $208,000 demand, I guess, is that why the payment was rejected because of the -- of that?

MR. HUXSOLL: There was not a payment rejected.

The Department informed the -- the escrow officer what the deposit amount would be, and the escrow officer decided not to submit a deposit. And it did -- it's not the case that CDTFA rejecting an attempted payment.

HEARING OFFICER WILSON: Okay. So, if the escrow company had submitted an amount less than the $208,000, CDTFA would have accepted that?

MR. HUXSOLL: The CDTFA would not have issued a clearance -- a tax clearance based on that amount being provided. But the request was for a tax clearance, and so CDTFA was unable -- we were unable to provide a tax clearance without a payment -- a deposit of that amount. And the escrow office did not pay it and decided to wait until the audit process was complete.

HEARING OFFICER WILSON: Okay. So, it was the escrow company that failed to remit the payment based on the funds not meeting the security deposit amount?

MR. HUXSOLL: Yes. And the audit was currently in the appeals process, so there was not a collection action that could be taken by CDTFA at that time. But it --

HEARING OFFICER WILSON: Okay. Thank you.

JUDGE BROWN: I think I do have a question I wanted to ask CDTFA. Regarding the CPPM section that was applicable at the time that -- in 2016 and 2017, do we know approximately what the normal processing time for issuance of a letter for those escrow procedures would be? Like, how long would you anticipate it would normally take for CDTFA to issue the letter in response to the request for tax clearance?

MS. PALEY: We -- I can tell you in this case we issued that letter on November 23rd, and so the request was received in October. So, approximately within that month we issued that letter.

JUDGE BROWN: Wasn't there a request in July of 2016?

MS. PALEY: No. We received October -- the July was 2020.

JUDGE BROWN: All right. Let me lookup the page. I had -- I believe it was attached to the request for interest relief. Wasn't there a letter dated July 15th, 2016? Let's see if I can find it.

MS. PALEY: Are you referring to the Form 735?

JUDGE BROWN: It was -- I'm referring to an attachment. No. It may have been attached to the appeals decision. Sorry. Hold on. There's a -- I have, like, a thousand pages in my binder. So, there's a lot of pages to go through. I'm sorry for the delay. Okay. Hold on. I can't find the page right now, but I recall seeing a letter dated July 15th. Oh, hold on.

I guess my question is -- relevant to this is, in Regulation 1702 subdivision (c), which concerns successor's liability under Revenue & Taxation Code section 6811 and 6812, different than section 6829? I understand it does contain this timeline that a purchaser shall be released from successor's liability if he makes a written request to the Board within 60 days after the Board receives their request for certificate. I'm wondering if that is relevant to the timeline that we're looking at here in terms of the processing time for providing a letter and request for a tax clearance certificate.

MS. PALEY: Well, other than this is not a successor liability case --

JUDGE BROWN: And I under -- I certainly understand that.

MS. PALEY: But each time that we received from Heritage Escrow a request for a certificate, we responded timely, certainly within 60 days. We seem to respond within days. And on Exhibit B, page 60, we have a July 25th, 2016, letter, if that's perhaps what you're speaking to.

JUDGE BROWN: It might be. Hold on. Sorry. Exhibit B -- sorry. Exhibit B, which page?

MS. PALEY: Six, zero, 60.

JUDGE BROWN: Sixty. Okay.

MS. PALEY: And that's an escrow document, if that is what you're meaning.

JUDGE BROWN: All right. Well, I understand that is your -- so, your answer is that all of the respond -- that CDTFA responded within 60 days for all -- for all of these requests?

MS. PALEY: Yes.

JUDGE BROWN: Okay.

MR. PARKER: Judge Brown?

JUDGE BROWN: Yes.

MR. PARKER: This is Jason parker. Also, in the -- those pages near there, it looked like they had updated their request October 3rd. So, they may have --

JUDGE BROWN: I --

MR. PARKER: -- gone back and forth between -- maybe it wasn't a sufficient request initially, and so then they updated the request. So, that started the -- the new submission for the request for a tax clearance, October.

JUDGE BROWN: Okay. Thank you.

And thank you for your patience, everyone, as I'm sorting through the many pages of documents here.

All right. I think those are all of my questions right now, which means that if my co-panelists don't have any additional questions, then I will -- we will turn back to Appellant, and Appellant's representative can provide closing remarks.

Mr. Meza, you don't have to repeat your earlier presentation, but if there's anything you that want to address since you -- since you made your presentation that have been raised here, please -- please do so. And you indicated that you would take about five minutes whenever you are ready.

MR. MEZA: Yes.

CLOSING STATEMENT

MR. MEZA: So, I'd like to just point that when you're talking about the security deposit and 200 -- the $208,000, prior to that there was a communication in the emails that were for -- that were sent between the -- was it Ms. Debbie Howe. And there was an issue with it saying that to -- the CDTFA had issue with levy order that depleted the funds available in escrow. That levy order was for $26,038. That depleted the funds available, and brought it below $208,000. And therefore, the CDTFA would have -- the fund were sufficient for the sufficient -- for the security deposit of $208,000. So, the $202,000 was left over after the CDTFA had levied the funds from the escrow account. That was for a separate period of balances owed.

Also, the letter they mentioned, the one that the escrow we have per the exhibits that the Department provided is dated July 7, 2017, where they notify the -- that's exhibit, I believe, Exhibit 2. It's Exhibit 2 on -- sorry. Let me just make sure I get it right here. It is Exhibit C for the Department. There's a -- in subsection Exhibit 2 on the records. And that's the letter dated July 7, 2017, several months way after the escrow funds were already available in 2016.

Also, I just want to reiterate the fact that, from the inception of our POA being on file and recorded by CDTFA, there was a gap of over year of no recorded communications with Mr. Smith, which seems really odd. Because either they're in incomplete, or they just chose -- chose to ignore the matter for over a year and a half, which doesn't seem to be the case because they were still trying to communicate with Mr. Maggiore; notwithstanding the fact that POA was already registered with them. So, I do want to point that out, that there were several communications that were over the phone.

The -- the CDTFA is relying on a phone conversation dated May 2019 that they recorded as -- as -- as their -- as their source for as to when they allegedly received notice of the closure -- of the termination. So, for that purpose, I mean, there were several other phone conversations that had the usual, I guess, M.O. for these -- for the CDTFA, so over -- over the phone, you know.

So, I mean, that's where we're at with that. I mean, so I believe there was a significant gap that they aren't -- that they just completely forgot to log in, or they're incomplete for some reason. But I do want to stress the fact that there is over a year and a half of no recorded communications on their end with our counsel, despite still trying to communicate with Mr. Maggiore.

I also want to point out that in the interest of -- of equitable relief or just what's just to see is that Mr. Maggiore has never tried to avoid paying the liability. I mean, to him to come to grips of reality of having to just close a business to sell it off, a location, with the intention of paying back the CDTFA, that's actions in good faith. He didn't have a quarter-of-million dollars laying around extra to pay the CDTFA at that time. So, he had to close -- so, he closed -- he sold a location. He said, "You know what? I have to do what I have to do. I have to own responsibility." And he did so by selling the location and had those funds there for them.

This isn't -- like I mentioned, this -- these were not funds that he used them for his own enrichment or joy. Had he had extra funds, he could -- I mean, he would have gladly paid them despite the funds were sitting in escrow and eventually try to get the money out of escrow back. But, I mean, the money was there for them, and he didn't have extra funds.

As he stated, he's dealt with several adversities over the years, including personal family crises regarding his father's health issues and also the closures of a business through the COVID pandemic, but he's persevered, and he's still here; and he's just trying to get a just result on this matter.

Thank you.

JUDGE BROWN: Okay. Thank you. A couple of things before we close the record. One, as I mentioned, I would like to receive the letter that CDTFA mentioned from November 23rd, 2016.

MS. PALEY: Should we submit that as Exhibit O?

JUDGE BROWN: That would be fine. And I will do the usual process of hold the record open for 30 days, and then I'll give Appellant 30 days to respond.

And I'll also ask co-panelists, do have any additional questions for either party?

Judge Kim, anything further?

JUDGE KIM: No, not at this time. Thank you.

JUDGE BROWN: Okay. And, Hearing Officer Wilson, anything further?

HEARING OFFICER WILSON: No further questions. Thank you.

JUDGE BROWN: Okay. Excuse me. I'm a little bit concerned that I might have documents that were attached to Appellant's opening brief that were not admitted into evidence.

I'm going to say, Mr. Meza, do you recall if all of your documents that you submitted attached to your opening brief were admitted into evidence? Like, did you go through and incorporate them into Exhibits 1 through 5 -- oh, sorry. Yeah, 1 through 5?

And you're muted. So, if you're talking, I can't hear you.

MR. MEZA: I need to look back. They should have been attached. But in the event they were not, may I have the opportunity to rectify that matter?

JUDGE BROWN: Sure. Because I'm -- one second. One option is that you can just attach them to your response.

Actually, what I think I will do is say, CDTFA, do you have any objection if I just mark Appellant's opening brief as an exhibit with the attachments and admit that into evidence?

MR. HUXSOLL: The brief itself with its exhibits?

JUDGE BROWN: Right.

MR. HUXSOLL: No. We don't object to that.

JUDGE BROWN: Okay. Then I'll mark that as Appellant's Exhibit 6, which is admitted into evidence.

(Appellant's Exhibit 6 was received into evidence by the Administrative Law Judge.)

JUDGE BROWN: One second. I just think that -- I'm going through the documents. Hold on.

MS. PALEY: To clarify, I have Appellant's opening brief as having 47 pages total, the PDF. I just want to make sure that we're looking at the same document.

You're muted.

JUDGE BROWN: Yes. Correct. Thank you. That's fine. Okay. Thank you.

All right. Then --

MR. HUXSOLL: And can I --

JUDGE BROWN: -- Appellant's exhibit.

MR. HUXSOLL: Pardon me. Sorry.

JUDGE BROWN: Yes. Go ahead.

MR. HUXSOLL: I believe Appellant's Exhibit 1 is the Appellant's request for appeal of Appeals Bureau decision dated September 20th, 2024 --

JUDGE BROWN: So, it would be admitted.

MR. HUXSOLL: -- listed as 46 pages. So, I believe it's already admitted.

JUDGE BROWN: It is admitted. All right. Then disregard. I don't need to admit Appellant's Exhibit 6. It already is.

(Appellant's Exhibit 6 was removed from evidence by the Administrative Law Judge.)

JUDGE BROWN: Then I will say that we -- I believe then we will have every -- we've taken care of everything. The record is left open for 30 days just for the submission of that letter November 23rd, 2016, that we referred to. Appellant will have 30 days to respond. And I think then that I've covered everything.

Does anyone have anything further before we wrap up the hearing for today?

MS. PALEY: No, thank you.

JUDGE BROWN: If not -- okay. Thank you.

Then if not, then I will say thank you, everyone. We leave the record open for submission of the document that we discussed, and then Appellant's response.

The Judges will meet and decide the case based on the evidence, argument, and applicable law. And we will mail both parties our written decision no later than 100 days from the date the record closes.

And we're done with the hearing for today.

Thank you.

(Proceedings concluded at 10:38 a.m.)

HEARING REPORTER'S CERTIFICATE

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

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

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

I have hereunto subscribed my name this 20th day of July, 2026.

____
ERNALYN M. ALONZO
HEARING REPORTER