BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,	)	
	)	
NAPA VALLEY LIMONCELLO COMPANY, LLC,	)	OTA NO. 250419240
	)	
APPELLANT.	)	
	)	
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TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Tuesday, May 12, 2026

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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IN THE MATTER OF THE APPEAL OF,)
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LLC,)
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Transcript of Proceedings, taken at 12900 Park Plaza Drive, Suite 300, Cerritos, California, 90703, commencing at 1:09 p.m. and concluding at 1:41 p.m. on Tuesday, May 12, 2026, reported by Ernalyn M. Alonzo, Hearing Reporter, in and for the State of California.

APPEARANCES:

Panel Lead:	ALJ TERESA A. STANLEY
Panel Members:	ALJ ANDREW WONG ALJ JOSH ALDRICH
For the Appellant:	ARTHUR HAROUTIOUNIAN
For the Respondent:	STATE OF CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION RAVINDER SHARMA JARRETT NOBLE JASON PARKER

I N D E X

E X H I B I T S

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

OPENING STATEMENT

CLOSING STATEMENT

Cerritos, California; Tuesday, May 12, 2026

1:09 p.m.

JUDGE STANLEY: So, we're going on the record in the Appeal of Napa Valley Limoncello Company, LLC, OTA Case No. 250419240. The date is May 12, 2026, and the time is 1:09 p.m. The hearing is being held in Cerritos, California.

Just as a reminder before I do introductions of the parties, the Office of Tax Appeals is not a court. It's an independent appeals body, and it's staffed by its own subject matter experts. OTA is independent of any tax agency, including the California Department of Tax and Fee Administration or CDTFA.

So, I am going to ask the parties to identify themselves, starting with Appellant, please.

MR. HAROUTIOUNIAN: Arthur Haroutiounian.

JUDGE STANLEY: And CDTFA.

MR. SHARMA: Ravinder Sharma, hearing representative for CDTFA.

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

MR. NOBLE: Jarrett with CDTFA's legal division.

JUDGE STANLEY: Okay. Thank you.

And as I said, I'm Judge Teresa Stanley, and my co-panelists Judges Wong and Aldrich and I are equal participants in deliberating and deciding this appeal. I'm only lead for the purposes of conducting the hearing.

As stated in the Minutes and Orders, we have three issues to be decided in this appeal. The first one is whether Appellant established that adjustments to the measure of unreported taxable sales are warranted; Number two is whether Appellant establish that adjustments to the unremitted tax are warranted; and third, we have, did CDTFA properly impose the penalty for collected but unremitted sales tax.

Mr. Haroutiounian, do you agree that these are the issues?

MR. HAROUTIOUNIAN: Yes, I do.

JUDGE STANLEY: And, Mr. Sharma, do you agree?

MR. SHARMA: Yes. Department agrees. Thank you.

JUDGE STANLEY: Okay. As we discussed at the prehearing conference, Appellant submitted two exhibits during briefing, and both of those are included in CDTFA's exhibits.

And, Mr. Haroutiounian, I take it you were unable to come up with an extraction of the POS data as you had wanted to do?

MR. HAROUTIOUNIAN: Yes, I was unable to obtain any additional information due to the losses from the fire. Our computer systems and a lot of documents are gone. So I --

JUDGE STANLEY: Okay. So CDTFA submitted Exhibits A through D. Appellant did not object to the admissibility of those exhibits, and they are now admitted into evidence.

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

JUDGE STANLEY: And then, Mr. Haroutiounian, you said you'll be testifying as a witness so that we can accept what you say under oath or affirmation as evidence.

MR. HAROUTIOUNIAN: Sure. Yeah.

JUDGE STANLEY: So, will you please raise your right hand.

A. HAROUTIOUNIAN,

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

JUDGE STANLEY: Okay. And you requested 15 minutes for your presentation, and you can just start in when you're ready.

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PRESENTATION

MR. HAROUTIOUNIAN: Well, Your Honor, I don't have too much of a presentation. I'm -- I'm here today really, so that I don't disrespect this Board and other members who are here today. I -- I -- I never been to one of these hearings so I don't know what's expected of me, but I'm here to answer any questions. And I don't know if it would serve any purpose to further elaborate on the state of Napa Valley Distillery after the fires. But because of those fires, we have been unable to properly answer some of these -- you know, some of the things that CDTFA had asked. We're unable to provide certain documentation, unable to verify many things that they had brought forward. And for the last two years, we're been out of business because the fires and the -- we don't own the business -- or excuse me. We don't own the building that we're occupying. Our landlord is still working on the repairs.

So, being out of business for the last two years have really caused a great financial strain on our company, as you can imagine. We've -- we've lost millions of dollars in revenue. So, I don't have much to add, other than I'm kind of at the mercy at everybody's decision here. I -- I -- do think that some of the fees and the -- the penalties and interest are excessive to the point where I don't know really how we're going to get out of it. But my hope is that we'll be able to find some sort of resolution to keep us in business. I'm -- I'm -- it's a lot. It's the end times for us, so whatever happens, happens at this point.

JUDGE STANLEY: Okay. And since you are under oath or affirmation, you can, if you know off the top of your head, if there are any certain pieces of their audit with which you disagree and why you think that they're wrong. Or you can address --

MR. HAROUTIOUNIAN: Sure.

JUDGE STANLEY: -- whether or not you think the penalty should be relieved for some purpose --

MR. HAROUTIOUNIAN: Sure.

JUDGE STANLEY: -- for some reason. So, you can -- you can go ahead and address those with your personal knowledge --

MR. HAROUTIOUNIAN: Okay.

JUDGE STANLEY: -- if you'd like to.

MR. HAROUTIOUNIAN: The audit period was during a time of great confusion. It was during the COVID years, and that was the time where we were struggling to even stay -- stay in business as a hospitality company. And our accountant at the time misfiled some of the products that we were selling as taxable, and we charged sales tax on items, like food items that we weren't supposed to charge sales tax on. We -- we collected it, but then she didn't report it to the CDTFA as taxable.

So, a good amount of that, the fee are taxes that are we mistakenly charged. It's our fault. We did it, but it was at a time where our accounting was not as clear as it had been since 2009 when we started. I -- I tried to demonstrate some of the figures that we -- -- well -- well, the person I was I working with at the CDTFA prior, I tried to demonstrate why that happened and whether or not we had an option to just refund the -- the people that we had to overcharge, and we weren't able to do that. And on top of that, we had to pay fees and interest on top of that, and that's what makes it almost impossible to come out of.

I don't know. I'm -- it's been such a tough two years. I -- I'm trying to keep my head straight. I'm trying to figure a way out of this, to be honest with you. But I don't -- I don't know. Our -- our problems are way more than just the CDTFA fees and penalties, we're -- I'm an owner of a company that's on its way out due to a fire that was caused by a negligent driver who was uninsured. And I'm an owner of a company that's like many, fallen victim to the rising cost of doing business. Insurance cost went from $20,000 a year to $185,000 a year; all during a time that we're under audit with the CDTFA, and we're -- we were just not able to properly dissect the information that they were bringing forward, verify it, and then counter it. And so it just snowballed into this.

So, my hope is that, some point in time, somebody at the CDTFA -- CDTFA will hopefully reduce some of the penalties and interest because we've been through four wildfires, COVID, and now a fire caused by a negligent driver, that would allow us to at least stay in business. That's my hope. It's -- I -- I can't prove otherwise regarding the -- the amounts that they brought forward, the amounts we should have collected, or amounts that we underreported, or sales tax that we collected when we shouldn't have. I have no argument for that. I have no way to prove that they're incorrect. But I -- I hope that there's some consideration, given our financial conditions for things that happened that were outside our control that maybe there's some relief on the penalty and the interest that allows us to get out of this.

I think that's it. I'm -- I don't want to -- I didn't come here to come up with ex -- you know, just constantly give excuses. This is where we're at, and we're trying to find a way out of it.

JUDGE STANLEY: Okay. And perhaps when CDTFA either concludes their presentation when the appeal is concluded, they can let you know what kind of programs and options they have available, if you're in financial -- if you lose the appeal, and you're in financial hardship.

MR. HAROUTIOUNIAN: Sure. Okay. Thank you.

JUDGE STANLEY: Mr. Sharma, do you have any questions for Mr. Haroutiounian?

MR. SHARMA: Department has no questions. Thank you, Judge.

MR. HAROUTIOUNIAN: Thank you.

JUDGE STANLEY: Judge Wong, do you?

JUDGE WONG: Yeah. I did have one question. You had mentioned that your accountant, through some mistake, had collected -- mistakenly collected sales tax reimbursement. And then you said you had sought a way to refund it, but that didn't happen. Could you go into that a little bit more. Did you attempt to refund it, or what -- what happened there?

MR. HAROUTIOUNIAN: Sure. We had a meeting at my new accountant's office, not the one that was in charge of our books during the audit period, but afterwards. She's very competent. We had a meeting there with the -- the auditor. And I'm going by memory, but I think it was approximately 50 or $60,000 of sales taxes that we had collected on food items that we weren't supposed to because our accountant had in our POS system added those products as taxable. So, we collected sales tax, but when she went to report to CDTFA, they -- in her reports, they come up as untaxable food items, so she never reported it, and we -- we didn't catch it.

So when that happened my -- I questioned the auditor, I said, well, it's -- we can -- we know who we charged. We have their names and credit cards on our POS. To avoid the penalty and interest, can we just refund them? And his answer was, no. You can't. You have -- you actually have to pay that to us, even though it's nontaxable, plus penalty and interest. That's what I was referring to.

JUDGE WONG: So that was at -- sorry. Were there two accountants? There's a new --

MR. HAROUTIOUNIAN: Yes.

JUDGE WONG: Okay. So the prior accountant was the one that mistakenly charged --

MR. HAROUTIOUNIAN: Correct.

JUDGE WONG: -- the sales tax reimbursement. And the new accountant was seeking to explore ways with CDTFA to return it to your customers, but then the auditor said no, you have to remit it to us; is that correct?

MR. HAROUTIOUNIAN: Correct.

JUDGE WONG: Okay. So what happened then to that $50,000 or $60,000 amount of reimbursement that you guys collected?

MR. HAROUTIOUNIAN: Well, we held on to the funds. We were still working through the audit. We -- we didn't refund it.

JUDGE WONG: Okay.

MR. HAROUTIOUNIAN: Or didn't remit it to the CDTFA.

JUDGE WONG: Okay. Thank you. That's all the questions I had.

MR. HAROUTIOUNIAN: Sure.

JUDGE STANLEY: Okay. Judge Aldrich, do you have any questions?

JUDGE ALDRICH: I do have a few questions.

So, when you started the business in 2009, what kind of a point of sale system or register were you using?

MR. HAROUTIOUNIAN: Well, we weren't using the POS system at the time. In 2009 when we started, we were manufacturing and wholesaling primarily, and we did that until 2013.

JUDGE ALDRICH: So, were you using, like, paper invoices --

MR. HAROUTIOUNIAN: Yeah.

JUDGE ALDRICH: -- or go to digital invoices?

MR. HAROUTIOUNIAN: We were --

THE HEARING REPORTER: Can I have you both wait for each other to finish before asking and answering. Thank you.

MR. HAROUTIOUNIAN: I'm sorry.

Yes, we were using paper invoices. We're not a very large company. And in 2009, we were a very tiny company. So, we were manufacturing different craft spirits and small amounts of wine, and then wholesaling it to wholesalers and restaurants and retailers, and I would handle the accounting because it wasn't that much.

JUDGE ALDRICH: And then, at some point, you implemented a POS system?

MR. HAROUTIOUNIAN: That's correct. In 2013, we opened up our first tasting room, which was actually the first tasting room of crafts -- for craft spirits in the State of California in Napa. And that's when we implemented a POS system. We were using a company called ShopKeep at that time.

JUDGE ALDRICH: ShopKeep?

MR. HAROUTIOUNIAN: Right.

JUDGE ALDRICH: Do you happen to know if ShopKeep offered cloud services?

MR. HAROUTIOUNIAN: Yes.

JUDGE ALDRICH: And did your company engage in those cloud services that ShopKeep offered?

MR. HAROUTIOUNIAN: I don't think so. I mean, when we needed to pull data, we would pull data from our -- the back office that the POS system offered. And we -- I mean, we used ShopKeep until about 2016, when we switched over to a company called WineDirect, which is very -- it's a prominent POS system in wine country. A lot of wineries use it. And so, we switched over to WineDirect at that -- at that time, and we were able to access any, you know, past sales records from ShopKeep. So we --

JUDGE ALDRICH: Okay.

MR. HAROUTIOUNIAN: I -- I don't know if it was through the cloud, or we just -- the back office. We would pull from there.

JUDGE ALDRICH: And, previously, you had indicated that when you were working with the second bookkeeper and an auditor was involved, you had desired to refund the collected sales tax reimbursement?

MR. HAROUTIOUNIAN: That's correct.

JUDGE ALDRICH: And you had the identities of who those individuals or persons were that had overpaid?

MR. HAROUTIOUNIAN: Approximately 80 percent of them. Because when we -- when a customer would come in to purchase a product -- you have to understand that we weren't operating quite like a grocery store or something. It was -- we operated a tasting room, an educational craft spirits experience that offered craft spirits experience and a tasting area. We also did tours and the tastings.

So, when people would visit our -- our tasting room, they would either make a reservation, so we have their data. We'd capture their data. Or when they paid, we would capture their data through email. And many, many times we had their phone numbers and their addresses because people would sign up for newsletters. So, we had a good amount of, like, clear information on who we may have overcharged or charged taxes -- sales tax that we shouldn't have.

JUDGE ALDRICH: Okay.

MR. HAROUTIOUNIAN: We -- we would have, at the very least, their first and last name, along with a credit card information from our processor.

JUDGE ALDRICH: And so that -- that conversation that happened, was that -- with the auditor and the second bookkeeper, was that before or after the fire?

MR. HAROUTIOUNIAN: That was before.

JUDGE ALDRICH: Okay. And you had indicated that certain items were mis-keyed as taxable in the food category. Could you tell me what -- what food items were mis-keyed as taxable?

MR. HAROUTIOUNIAN: Sure. We operated within the tasting room, what we call the bar shop. So it was cocktail essentials, like garnishes, cherries, syrups, bitters, which are technically a -- a food additive, a flavoring -- food flavoring. Those items should not have been taxable. It was things that were related to cocktail making that were not -- that are -- that are also food items, simply syrups and -- and garnishes. We certainly charged sales tax for the -- the alcoholic beverages and gift item that we -- that we sold.

JUDGE ALDRICH: Okay. Thank you. No further questions.

JUDGE STANLEY: Okay. Thank you.

Mr. Sharma, the Department requested 25 minutes for your presentation, and you can proceed when you're ready.

MR. SHARMA: Sure. Thank you, Judge.

PRESENTATION

MR. SHARMA: Appellant operates a bar and distillery at three locations in Napa Valley, California, since April 2009. The Department performed an audit examination for the period April 1, 2019, to March 31, 2022. Appellant reported total sales of around $6 million and claimed deductions of $3.6 million, resulting in reported taxable sales of $2.4 million for the audit period; Exhibit A, page 14. Claimed deductions consisted of sales for resale nontaxable food products, and others.

During the audit, Appellant provided federal income tax returns for 2019 and 2020, and point of sale sales reports, and bank statements for the audit period. The Department also obtained 1099-K data showing Appellant's payments from credit card processes for the audit period. The Department used Appellant's point of sale sales reports and determined unremitted collected sales tax reimbursement of around of $134,000 for the audit period; Exhibit A, page 22. In addition, the Department used Appellant's point of sale sales reports and determined additional taxable event fees of around $100,000, alcohol tasting fees of $229,000, recorded other taxable sales of $49,000, and taxable bar sales of $99,000 for a total of measure of unreported taxable sales of $477,000 for the audit period; Exhibit A, page 29.

Further, the Department verified that these additional taxable sales amounts were not included in the assessment for unremitted sales tax reimbursement collected. Based on the stated audit procedures, the Department determined unremitted collected sales tax reimbursement of around $134,000, and unreported taxable sales of $477,000 for the audit period; Exhibit A, page 20.

As you know, California imposes sales tax on a retailer's retail sales in this state of tangible personal property measured by the retailer's gross receipts, unless the sale is specifically exempt or excluded from taxation by statute. All of the retailer's gross receipts are presumed subject to tax, unless the retailer can prove otherwise. As set forth in Regulation section 30219, where the Department's determination is reasonable, the burden of proof is upon Appellant to prove all issues of fact by a preponderance of the evidence. Appellant must establish, by documentation or other evidence, that the circumstances it asserts are more likely than not to be correct.

Here, the measures determined by the Department is based on Appellant's own point of sales system data showing that it underreported its taxable sales during the liability period and failed to remit sales tax reimbursement it collected according to its own records. An actual basis comparison of reported versus recorded taxable sales is considered one of the most reliable audit technicals. Therefore, the Department's audit determination is reasonable, and the burden is placed on Appellant to establish that adjustments are warranted.

Appellant has failed to provide any documentation establishing that his point of sales systems were inaccurate, or that any other adjustments are warranted to the measure of tax. The Department also assessed a 40 percent penalty, under Revenue & Taxation Code 6597, based on a finding that Appellant failed to timely remit sales tax reimbursement of $138,000 it knowingly collected for second quarter 2019 to fourth quarter 2021. The 40 percent penalty is imposed when a taxpayer knowingly collects and fails to remit sales tax reimbursement averaging more than $1,000 a month and exceeding 5 percent of the total amount of tax liability for which the tax was collected, or for the period in which the tax was due. Here, there's no dispute that Appellant knowingly collected sales tax reimbursement as the point of sales sales reports included charges for tax reimbursement on all sales.

Moreover, during the periods at issue, the percentage of unremitted tax reimbursement to collected tax reimbursement averaged more than $1,000 each month and exceeded 5 percent of the total tax due; Exhibit D, page 162. While a person may be relieved of the unremitted tax collected penalty if the person's failure to make a timely remittance of sales tax reimbursement or use tax is due to reasonable cause or circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care, and in the absence of willful neglect. Appellant has not provided any evidence that this was the case. Therefore, there's no basis for relief of the 40 percent penalty.

In conclusion, the Department has fully explained the basis for deficiency and proved that the determination was reasonable based on the available books and records. Further, the Department has used approved audit methods to determine the deficiency. Therefore, based on the evidence presented, the Department request that the Appellant's appeal be denied.

This concludes my presentation, and I'm available to answer any question you may have. Thank you.

JUDGE STANLEY: Thank you, Mr. Sharma.

Judge Wong, do you have any questions for the Department?

JUDGE WONG: I do not. Thank you.

JUDGE STANLEY: Judge Aldrich, do you have any questions?

JUDGE ALDRICH: I do not, but I do have question for Appellant. I don't know if you'd like me to reserve that until later?

JUDGE STANLEY: Why don't you go ahead and ask it now, because then he can address whatever he needs to in his rebuttal and closing.

JUDGE ALDRICH: Okay. So, you don't have the audit work papers or any of the exhibits in front of you. But for reference, I'm looking at a document titled "Unremitted Tax Collected, Table of Quarterly Unremitted Tax." And it's something that I believe the Department prepared, and it's included in the evidence now. But there's a few different periods, and it begins June 30th, 2019, and it goes through March 31st, 2022. And I guess I'm looking at the percentage of the unremitted tax collected, and it seems to vary significantly throughout that time. So, some, for example, the range goes from 21.44 percent all the way up to 81.97 percent, being the difference of what was reported and remitted versus collected and retained. And, I guess, I'm wondering wouldn't I expect that to be more constant if it was attributable to a mis-entry on a POS system?

MR. HAROUTIOUNIAN: Well, during the period of 2019 through 2020, our business was operating very different than it had previously operated. We were obviously shut down during the COVID period, and we pivoted from selling distilled spirits and operating a tasting room to making and selling hand sanitizers. And we did that for about 10 months to keep our lights on. So, perhaps some of that variation has -- has to do with adjustment in business practice.

And then furthermore, in late 2020, we opened up a cocktail bar inside the distillery location, which was scheduled actually to open March 2020, but we couldn't for obvious reasons during that period of time. So, our revenues increased. And so maybe that is also a contributing factor that we were also -- we started operating in another location.

The gentleman said that we've been operating three locations since 2009, but I'd like to correct. That's not the case. We've only had one location from 2009 to 2013. Then we had two locations from 2013 through 2022. In 2022, we opened up a third location. So I -- I don't -- I don't know, without having the data in front of me, but our business during that period of time was quite -- situation was very fluid.

JUDGE ALDRICH: Thank you.

JUDGE STANLEY: Can I just ask you a follow-up question to that. Hopefully our hearing reporter caught it, but when you said that you made changes you said you pivoted to sales of what?

MR. HAROUTIOUNIAN: Hand sanitizer.

JUDGE STANLEY: Hand sanitizer?

MR. HAROUTIOUNIAN: And during the first months -- actually the first year of COVID and the shutdowns, I don't know if you recall, but there was a shortage in hand sanitizer. And we realized that we have all the ingredients we need to make hand sanitizer being a distillery. So, we started making hand sanitizer, and actually just giving it away to the community because we thought we'd be able to open soon. But we found out that it's something that's -- we have to keep doing because we couldn't open our -- our tasting rooms due to the COVID requirement -- COVID restrictions.

And so we started making it through the end of the year, actually, and sold it to Bank of America, post office, everyone who needed hand sanitizer to reopen their businesses. So, we were -- we became the hand sanitizer supplier. We have since gone back to our core business but --

JUDGE STANLEY: Okay. That was my only question. So I left you an additional five minutes, if you want to have the last word and rebut anything else that the Department has said or just add on anything on that you'd want to at this point.

CLOSING STATEMENT

MR. HAROUTIOUNIAN: Well, you know, we provided the documentations that were available to us at that time. We pulled them out of our POS system, and we provided our tax returns. We gave them everything that we had, and they did the math, you know. We had an accountant verify that the math was correct, but I -- I didn't have a -- a way to dispute some of the penalties and interest that they -- they were charging.

So, if there's a possibility for that to be looked at, whether or not they're in line with the rules and regulations of the state, and also whether or not, you know, there's some relief for a company that had to go through some natural disasters and other disasters, if there's some understanding for that, if it exist. I don't know. Like, I wasn't able to obtain legal counsel to be able to advise me of that. So, I'm kind of at the mercy of everybody here to see if there is that opportunity.

JUDGE STANLEY: Okay, does that conclude your remarks for the day?

MR. HAROUTIOUNIAN: Yes, Judge.

JUDGE STANLEY: Judge Wong, do you have any final questions for either party?

JUDGE WONG: I do not. I thank both parties for time and presentations and testimony.

JUDGE STANLEY: And, Judge Aldrich, do you have any?

JUDGE ALDRICH: No further questions. And like Judge Wong, I want to thank you for your time.

JUDGE STANLEY: Okay. Today's hearing in the Appeal of Napa Valley Limoncello Company is concluded, and we are off the record.

(Proceedings concluded at 1:41 p.m.)

HEARING REPORTER'S CERTIFICATE

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

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

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

I have hereunto subscribed my name this 8th day of June, 2026.

____
ERNALYN M. ALONZO
HEARING REPORTER