BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,	
R. BELGARDE,	OTA NO. 230713903
APPELLANT.	

TRANSCRIPT OF PROCEEDINGS

State of California

Tuesday, August 18, 2026

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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IN THE MATTER OF THE APPEAL OF, R. BELGARDE, APPELLANT.	OTA NO. 230713903

Transcript of Proceedings, taken at 400 R. Street, Sacramento, California, 95811, commencing at 1:08 p.m. and concluding at 3:40 p.m. on Tuesday, August 18, 2026, reported by Ernalyn M. Alonzo, Hearing Reporter, in and for the State of California.

APPEARANCES:

Panel Lead:	ALJ NATASHA RALSTON
Panel Members:	ALJ JOSH ALDRICH ALJ KEITH T. LONG
For the Appellant:	R. BELGARDE JAMES BOURBEAU R. PRASAD
For the Respondent:	STATE OF CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION VANESSA BEDFORD CHAD BACCHUS JASON PARKER

I N D E X

E X H I B I T S

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

(Department's Exhibits A-F were received into evidence at page 8.)

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California; Tuesday, August 18, 2026

1:08 p.m.

JUDGE RALSTON: We are now on the record in the Case of R. Belgarde, OTA Case No. 230713903. The date is August 18th, 2026, and the time is approximately 1:08 p.m. This hearing is being held electronically with the agreement of the parties.

I am Judge Ralston. I am the lead ALJ for this panel. My co-panelists are Judge Aldrich and Judge Long, and we are all equal participants in deliberating and determining the outcome of this appeal.

I'm going to ask the parties to introduce themselves and who they represent, starting with Mr. Bourbeau.

MR. BOURBEAU: Yes, Your Honor. James Bourbeau representing Rick Belgarde, the Appellant. And if I may -- sorry -- ask another housekeeping question?

JUDGE RALSTON: Sure.

MR. BOURBEAU: Mr. Belgarde is the -- the dualee [sic]. He is going to attend the entire hearing, correct? I don't see him on the screen. He's a witness, but he's also the taxpayer. So, I just -- a technical question. I'm not sure how the -- how the OTA proceeds in this way. I've not done a video hearing before the --

JUDGE RALSTON: Yes. He -- it may be that you aren't seeing everyone. It depends on the way your teams are set up. You might need to scroll a bit because I -- Mr. Belgarde is here. I can see him on my screen as well, as well as Mr. Prasad.

MR. BOURBEAU: Okay. Thank you. I don't see anybody there. Thank you.

JUDGE RALSTON: Sure. At the bottom, it usually says like, participants. And if you click on that, you may be able to change the way your screen is set up. That way you may be able to see everyone.

MR. BOURBEAU: Thank you.

JUDGE RALSTON: Sure.

MR. BOURBEAU: And I do see a number of other people listed on -- on the participants. So, I apologize. They're just not coming up on my screen. So, I -- I wasn't sure if they're in the room. Thank you.

JUDGE RALSTON: Sure. And no worries. Looks like everyone is here that I am aware that's supposed to be here. So, let's continue.

So, Mr. Bourbeau has introduced himself.

And for CDTFA, if you could introduce yourselves and who you represent for the record. Thank you.

MS. BEDFORD: Vanessa Bedford, Attorney III for CDTFA.

JUDGE RALSTON: Thank you.

MR. BACCHUS: Chad Bacchus, attorney with CDTFA.

JUDGE RALSTON: Thank you.

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

JUDGE RALSTON: Okay. Thank you.

So, we held a prehearing conference in this matter on July 20th, 2026. And as discussed at the PHC, the issue to be decided in this appeal is whether the Appellant is personally liable for the unpaid liabilities of WDFA under Revenue & Taxation Code 6829.

Mr. Bourbeau, do you agree that this is the issue?

MR. BOURBEAU: I do, Your Honor. Thank you. I agree.

JUDGE RALSTON: Thank you.

And, Ms. Bedford, do you agree that this is the issue?

MS. BEDFORD: We do, Your Honor. Thank you.

JUDGE RALSTON: Thank you.

So, at the prehearing conference, Appellant submitted Exhibits 1 through 8, and CDTFA submitted Exhibits A through F. Neither party noted any objections to these exhibits at the prehearing conference, but I'm going to ask again.

Mr. Bourbeau, do you have any objections to Respondent's Exhibits A through F?

MR. BOURBEAU: No, Your Honor.

JUDGE RALSTON: Thank you.

And, Ms. Bedford, do you have any objections to Appellant's Exhibits 1 through 8?

MS. BEDFORD: No, we do not.

JUDGE RALSTON: Okay. Okay. Thank you. So, Appellant's Exhibits 1 through 8 and Respondent's Exhibits A through F are admitted without objection.

(Appellant's Exhibits 1-8 were received into evidence by the Administrative Law Judge.)

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

JUDGE RALSTON: Also, you may have noticed that on our panel Judge Aldrich is substituting for Judge Ridenour.

Mr. Bourbeau, did you have any objections to Judge Aldrich substituting for Judge Ridenour?

MR. BOURBEAU: No, Your Honor. None.

JUDGE RALSTON: Thank you.

And, Ms. Bedford, did you have any objections to Judge Aldrich substituting for Judge Ralston?

MS. BEDFORD: No, we do not.

JUDGE RALSTON: Thank you.

At the prehearing conference, Mr. Bourbeau, you stated that you would have Mr. Belgarde and Mr. Prasad as witnesses. Is that still the case?

MR. BOURBEAU: Yes, Your Honor.

JUDGE RALSTON: Okay. And looks like both witnesses have signed in.

Ms. Bedford, did you have any objections to either witnesses -- either witness testifying?

MS. BEDFORD: No, we do not.

JUDGE RALSTON: Thank you.

We're ready to move on to the opening presentations.

Mr. Bourbeau, you requested 105 minutes for your presentation and witness testimony. After your witnesses testify, CDTFA may have questions for your witnesses as well as the panel members may have questions for yourself or the witnesses.

And, Ms. Bedford, you have requested 20 minutes for your presentation.

And then after Respondent's presentation, Mr. Bourbeau, you will have about 10 minutes for rebuttal.

Does anyone have any questions before we move on to the presentations?

MR. BOURBEAU: No, Your Honor.

JUDGE RALSTON: Okay. And Ms. Bedford is

indicating no as well.

So, I'm going to swear the witnesses in before your presentation. And then, Mr. Bourbeau, it's up to you how you want to structure your presentation. You can give your presentation, and then have your witnesses testify, or you can start with your witnesses, however, you would like. And you can ask your witnesses questions, or they can testify in a narrative fashion, however you like. The time is yours to use how you want.

But before we begin, I'm going to ask Mr. Belgarde and Mr. Prasad to please raise your right hand.

J. BELGARDE,

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

R. PRASAD,

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

JUDGE RALSTON: Thank you.

So, Mr. Bourbeau, you may begin when you are

ready.

MR. BOURBEAU: Very good. Thank you, Your Honor. I'll start with my opening statement because that is how I understood the proceeding to go forward, and it's drafted in that way. So, if it please the panel, I'll -- I'll go ahead. Thank you.

PRESENTATION

MR. BOURBEAU: Esteemed members of the panel, Richard Joseph Belgarde appears before you today for one reason only, to clear his name. The dual determination against him is $15,744.91. He has already spent more than $61,000 in legal fees fighting it. When counsel repeatedly told Mr. Belgarde the economics made no sense, his answer never changed. He said, quote, "I was not there, I did not do this. I will clear my name," end quote.

In nearly 20 years of practice, this attorney has never seen a client so willing to spend his own money solely to erase an erroneous tax determination. That's not usually what I do. Usually, I'm trained to save my client's money. Here, that -- that ship has sailed. That single fact should tell this panel everything it needs to know about the truth of his position. However, we will go into the merits of our position as well.

First, Mr. Belgarde was not a responsible person for WDFA Ventures II, LLC, the taxpayer in the underlying assessment, during the liability period of January 1, 2011, through January 22, 2012. He completely departed the company by the end of September 2010, and he has said so from the very first Department contact. On April 16, 2014, investigator Louie Villasenor recorded Mr. Belgarde's statement in the ACMS notes, Appellant's Exhibit 2, dual package ACMS notes approximately PDF of the Appellant's brief at pages 22 through 24. He started -- and -- and this is Mr. Villasenor's quoted language from his determination. "He" -- meaning Mr. Belgarde -- "started to leave the company in April 2010 and went completely away in September 2010." Those are recited. You'll see from the record those are recitations of -- of Mr. Belgarde's statement to Mr. Villasenor. Mr. Belgarde has never wavered. He will testify to that fact under oath today subject to cross-examination.

The Department's 2014 statements identifying Mr. Belgarde as the responsible person are classic multiple hearsay. They consist of out-of-court statements by Jason Hilton, Ryan Ogden, Stephanie Shen, and Mr. Raj Prasad, who is testifying today; and who, unlike any of the Department's declarants, will, in fact, appear

today subject to cross-examination to support those statements. These hearsay statements were filtered through Mr. Villasenor's ACMS notes, and then summarize in the dual memorandum. All offered for the truth of the matter asserted. None of these declarants are appearing today. None will be subject to cross-examination. None of the statements were made under oath.

As the panel is undoubtedly aware, we even gave the Department an opportunity to put on Mr. Villasenor to support his hearsay statements, and they declined, or rather opposed our request for subpoena which in the end is itself revealing. Nobody is here today on behalf of the Department except the hearsay and the lawyers. Even if the Department were to put on someone, it's apparently not going to be the declarants. This would not fly in a court of law. In fact, the IRS and EDD payroll tax responsibility analogues are never rendered in this way. The -- in -- in an IRS hearing, first of all, estimates are not applied toward responsible persons. These are unpaid taxes that were reported and went unpaid. And in an IRS or EDD hearing, the declarants always sit before the ALJs or the Tax Court Judges and support their hearsay statements.

Under Regulation 30214 sub (f)(4), the panel may use the California Rules of Evidence when evaluating the

weight of any evidence. In appeal of Todd A. Welker, 2019-OTA-247 non-precedential, but we offer it here as persuasive, if not binding. The panel expressly invoked that regulation and held. The opinion notes that the statement to the escrow officer was hearsay. Regardless, we did not exclude the evidence. So, what we hear there is obviously hearsay can be admitted. However, the panel goes on. Quote, "The panel is allowed to use California Rules of Evidence when determining the weight to be given to evidence. And we gave all evidence the weight to which it is entitled. Period," end quote.

So, the -- the same principle applies here. Because the declarants are absent, the statements lack every reliability safeguard, oath, cross-examination, and personal knowledge of the liability period. Regulation 30214 further provides that a factual finding on a material disputed fact shall not be based solely on unsworn statements. The panel should therefore, assign these hearsay notes and summaries very little weight. And I add again, this doesn't happen before adjudicative bodies, such as the California Unemployment Insurance Appeals Board for payroll taxes, nor the IRS for its TFRP, which is Trust Fund Recovery Penalties, which is an analog personal responsibility statute and corresponding regulations used in much the same way as section 6829 and

Regulation 1702.5 is here. It just doesn't happen except here.

From the very first moment Investigator Villasenor contacted Richard Belgarde on April 16, 2014, Mr. Belgarde told the Department exactly what he was -- has told every decision maker since. He started to leave the company in April 2010 and went completely away in September 2010. That contemporaneous statement made before any dual determination was issued, before counsel was retained, and before any motive to fabricate could conceivably exist has never changed. It is the single most important piece of evidence in this case on the question of responsible person status and willfulness.

Mr. Prasad, one of the remaining principals, will corroborate this under oath. Unlike the other hearsay declarants, he will today testify to the veracity and context of his hearsay statements that have been made in the record. Mr. Prasad's notarized letter of August 26, 2015, states under penalty of perjury, quote, "As of September 2010, Rick J. Belgarde was not a member nor an officer of WDFA. Mr. Belgarde should not be held liable for any debt due by WDFA on/or after September 10th."

The Department's contrary hearsay evidence falls into three weak categories. First, documents dated before

the September 10th, departure. These would be the seller's permit application, SOS, Secretary of State filings and Quiznos applications. These are all in the filings. These prove only what Ms. -- what Mr. Belgarde has never disputed, that is, he was once involved. Then two checks were offered as exhibits in Mr. Villasenor's dual memorandum. Those are No. 116 dated July 1, 2011, and No. 1187 dated July 28, 2011, whose signature Mr. Belgarde has always maintained are forgeries or, at best, signed by someone else on his behalf.

I would point to those exhibits and ask that the panel take a look at Mr. Belgarde's signature which consists of a series of basically of loops. Unfortunately, for him in this case, anyone, including myself, the Department, and the panel could make that signature. It is actually a series of loops. In fact, a great cost to Mr. Belgarde, a forensic handwriting specialist could not say for certain these checks were signed by them. The report was inconclusive either way admittedly, but I think it's very important that this very well-esteemed handwriting expert who testifies regularly in court couldn't make that determination. In other words, anybody can make a series of loops on a check.

The -- and I move on to the 2014 hearsay statements from employees and investors. They never

placed him in the business during the actual liability period. Contrast that with Mr. Belgarde's conduct on the companion dual for Job Ventures, Inc. He conceded responsibility for that overlapping period because he was actually there. You'll see in the record, esteemed panel, that this is a different -- completely different dual, but it is a dual that placed Mr. Belgarde in that section 6829 role as responsible person. Mr. Belgarde ceded that assessment. That assessment has been paid. He will admit today under oath that he was the responsible person in that case, just not WDFA Ventures II, LLC, the entity at issue today.

Now, moving onto our second position. Even if the panel somehow found him responsible, the entire Board assess estimated portion of the dual must be stricken, Regulation 1702.5 is unambiguous. Personal liability attaches only if the entity, quote, "Collected sales tax reimbursement and failed to remit such tax when due," end quote. Such tax means the specific tax the Department now seeks to dual. The Department's only proof of collection for the estimated periods consists of four hearsay and, as of today, unsupported 2014 statements that sales tax was charged and collected. And this is a general statement. This happens a lot, in my experience, in these types of estimated assessments that are then dualed.

The Department's only proof of collection -- oh, sorry.

None -- none of these statements identify a single dollar collected in the estimated periods. That is not proof by a preponderance that such tax was collected. The Department's response brief claims Appellant conceded collection throughout the liability period. That claim is false. I -- I don't find that in the record. I -- I'm not sure what that claim is based upon. But we understand that claim to be inaccurate. Mr. Belgarde's own -- own May 23, 2014, business operations questionnaire, which is in the record, he checked "I don't know" to whether sales tax was collected. He could not know. He was not there.

Third, there was no willfulness. A man who left in September 2010, cannot have had actual knowledge of estimated liabilities manufactured years later for periods when he was gone. This is fundamental to the point of being somewhat aggravating. So -- so, part of this statute requires willfulness. Mr. Belgarde will testify today that he wasn't there. Therefore, that prong necessarily fails if this panel finds that Mr. Belgarde was indeed not there, and his testimony in that of Mr. Prasad is credible and compelling. It would be impossible for him to act willfully.

Finally, I want to ask the panel to do something

which is probably outside of its comfort zone but well within its role in legal factual and statutory interpretation and its mission. Consider the dispositive legislative history, which undergirds section 6829. I spent a time to comb through the microfiche and the boxes of documents from 1981 Thomas Hannigan that -- that -- who was the author of what is now section 6829. Our position in this regard is completely fleshed out in the writings, but I want to stress it. I think it's very important.

First of all, the California Supreme Court has instructed that the primary purpose in construing a statute is to ascertain and give effect to the legislature's intent and that the plain language is the best gauge of that intent. However, if the plain language alludes the panel, we read -- we implore you to read this legislative history. It is stunning. That's my opinion. It is stunning how obvious it is that -- for instance, the author's August 27, 1981, letter and the Board's own -- this is coming from the Board -- the Board's own September 8, 1981, letter both require that the BOE had, quote, "Collected the tax," end quote, and, "that such taxes have, in fact, been collected from consumers," end quote. I -- I'm stunned at what has happened at the Department. I've looked back and the farthest I can find is 1991 in -- in the records possessed by the Department.

That -- that's where it ends. But that is a gap of 10 years.

And so, between 1981 and 1991, which is about where I first find this idea that in the policy manuals that the Board at that time and the Department now can make a finding of tax reimbursement allegedly, according to hearsay, being collected through statements and then estimated from -- from records, understandably. I mean, look, I -- I get it. I need to say it, actually. This -- this issue has become a mission for me, and it's because I think this is wrong. I think it's just wrongly applied. Somewhere along the line the BOE and then the Department was able to insert language in its own policy, and we'll talk about that later; soon, I promise. We'll talk about Madfish and the idea that policy can be law. This Board has already ruled that policy cannot be law. And so, I think legislative intent is much stronger than the post-1991 Department policy.

So, what I was going to say actually, is I've worked with the Department and the BOE for a number of years. And I -- I find them to be ultimately very reasonable in how they go about their work except in this one way. It -- it is -- it again, stunning to me that if you read the legislative history, it's so clear. This was -- this law was introduced passed and chaptered by

Governor Brown for the sole purpose of going after those bad acting CEOs, accountants, presidents, et cetera, those responsible people who filled their own coffers with actual money that they had collected and then absconded with it. And so, the -- the law was necessary. Like I said, there's an analog in payroll taxes both where it concerns the IRS and the EDD. But this is just incorrectly processed, promulgated, assessed. It is -- it -- it's not right.

In fact, the Senate analysis, which is included in the record, describe the precise evil; individuals who pocket sales tax that was actually collected. What the Department has been doing -- and I understand it. There's institutional creep. The Department, I think in many cases rightfully so, understand these taxes to have been collected. I think the problem facing the panel, and -- and anyone looking at this is, were they collected? And what happened between 1981 and 1991 where this very strong legislative intent was watered down to mean just some sales tax reimbursement was collected by someone at some time. I think it's too vague. And I -- I'm actually -- I -- I can't wait until one of these goes to court because I think we'll prevail. And I ask the panel, please, put aside the institutional history and look at the statute. This is going to come up again.

It's already in the pipeline before this body in a number of my cases. It keeps me awake at night. It actually does. And not much does that. Okay. I've been doing this for a few years. This one really bugs me, and I think we need to turn it around. And so, where it comes to estimated assessments, at least, even if you find that Mr. Belgarde was there, which he was not, I ask the Board to take a very close look at the legislative history. To me it's clear. As I say, this panel has already rejected precisely this kind of agency overreach; meaning, the OTA in Madfish ruled decisively that the CDTFA's internal policy could not control over the plain language of the statute at issue in that case. We ask that the Board please review and apply Madfish in this case as well.

Finally, Mr. Belgarde is not asking for sympathy. He's asking this panel to apply the statute as passed and written and to consider that this man, at great personal expense -- like I said, I've never seen anything like this in my entire career where a person has paid four times the assessed amount to clear his name. We implore you to hear Mr. Belgarde's and Mr. Prasad's testimony in this regard. He was not there. The hearing -- I -- I'm sorry. The dual determination should be reversed in full. At absolute minimum, the entire estimated portion must be stricken. Mr. Belgarde is here to clear his name. We ask

that the panel grant him this.

Thank you.

JUDGE RALSTON: Okay. Thank you, Mr. Bourbeau. You can move into your witness testimony now, if you'd like.

MR. BOURBEAU: Thank you. I call Richard Belgarde, please.

DIRECT EXAMINATION

BY MR. BOURBEAU:

Q All right.

A Just in case you can't see me, I am here.

Q We can see you, Rick. Good afternoon.

A Good afternoon.

Q Thank you for being here.

A My pleasure.

Q Mr. Belgarde, please state your full name and current residence for the record.

A Richard --

Q Or that -- sorry. Feel free -- no. Just state your name. This is going live on YouTube, so we -- we couldn't need to have your address. I apologize.

A Richard Joseph Belgarde. I go by Rick Belgarde.

Q Thank you. Are you the same Richard Joseph Belgarde who is the Appellant in OTA Case No. 230713903,

which is being heard today?

A Yes.

Q When did you first retain me in this matter?

A On/or around November 2015.

Q And approximately how much have you spent in legal fees defending this dual determination?

A $61,000 and counting.

Q The amount at issue is approximately $15,744. Why have you continued this appeal despite the cost exceeding the liability many times over?

A It's very important that I do clear my name because I was not there during the time period in which the Board has said that I was. And I don't mind paying for things that I was there for, but I was not there, and I have no reason to lie.

Q Have I indicated to you in the past that this doesn't make financial sense to go forward?

A You've said it the first time we met 10 years ago plus.

Q Thank you.

A You -- you made it very clear that this was not a good financial decision.

Q Okay. Part of my job. Okay. Have you ever wavered in your statement that you completely left WDFA Ventures II, LLC by the end of September 2010?

A No.

Q Why did you leave?

A This is -- the gentleman who's here who will testify, we -- we had a bit of a disagreement on how to run the company. I wanted to lay off a bit more people than he did, and I just thought that would be part of the downfall of the company if we didn't do that. And I thought since I only own 2 percent of the company, I should let Raj run the company how he wants. And we were just fighting a lot, the two of us, you know. And I just thought at that time it would be best if, you know, let Raj do what he wanted to do in regards to the company, and I was going to stand down and stop -- stop fighting with him at that point.

Q When you left in September 2010, did that departure include your complete separation from the company WDFA Marketing, Inc.?

A Yes.

Q And what -- what was -- did WDFA Marketing, Inc., have any role in the entity at issue today WDFA Ventures II, LLC?

A Yes. They owned the entity. It was a single member LLC, which is a discredited entity for the IRS, and the managing member is WDFA Marketing.

Q So, WDFA Marketing, Inc., is the managing member

of WDFA Ventures II, LLC, or rather was at the time?

A Yes. Yeah.

Q If you were no longer, meaning, after September 2010, an officer, director, or affiliated with the managing member entity, did you retain any authority or control over the managed entity WDFA Ventures II, LLC?

A No, including making payments.

Q After September 2010, did you ever set foot in the Quiznos Placerville's location or participate in any management decision?

A I will even go as far back as the purchase of it. I'd never had been in the location, ever.

Q So, do you disagree with any statements that were made in the record that would have placed you as a direct operating manager in those stores of any kind?

A I was never in the stores whatsoever. There's no way. No -- no -- no officer or whatever at the company had ever stepped into any of those locations whatsoever.

Q Quiznos was a sandwich store, correct?

A Yes, that's correct.

Q After September 2010, did you have any access to the business checking account, books, records or POS system of WDFA Ventures II, LLC?

A No.

Q Did you file or cause to be filed any sales and

use tax returns for my period after fourth quarter 2010?

A No.

Q Were you even aware that sales and use tax returns were due or filed for any period after fourth quarter 2010?

A I was not a part of it. I don't know what they did.

Q Describe your role with WDFA Ventures II, LLC, and its related entity WDFA Marketing, Inc., prior to September 2010?

A I was the CFO of the company, and in turn, I -- I over saw the different entities that were underneath that, which was also WDFA II, or whatever it's called, for it. And during that time period, I was -- I was responsible for anything financial during that time --

Q Now --

A -- up until my departure.

Q I apologize. Thank you.

A Yeah.

Q Mr. Belgarde, I'm directing your attention to a document that was used as an exhibit in the dual determination memorandum, that is the December 11, 2009, California Secretary of State Limited Liability Articles of Organization. Are you able to access that document where you are?

A Yes. I think I have it in front of me.

Q Are you familiar with this document?

A Yes. I -- I am familiar with it. I did not do anything to change it because I was no longer with the company. It -- that would have been somebody else's responsibility.

Q And in this document dated in '09 would be before your departure as you've stated; correct?

A That's correct. Yes.

Q And then afterward --

A And that's the lawyer who set it up for us. But go ahead.

Q I see. I see. Who is the lawyer?

A The one who signed the document, Christian Howell.

Q Okay. It names you as agent for service of process, correct?

A Hm-hm.

Q Yes?

A Yeah.

Q I'm getting this is 2009 when you were actively in the company; correct?

A That is correct. Hm-hm.

Q Did that fight -- oh, sorry. Sorry. Strike that, panel. I apologize.

Is that --

MR. BOURBEAU: Sorry. If I could -- a point of clarity before the Board, if I may, Judge Ralston?

JUDGE RALSTON: Sure.

MR. BOURBEAU: Thank you. So, I referred Mr. Belgarde to the December 11, 2009, Articles of Organization. I had meant to -- to show Mr. Belgarde, actually, the Statement of Information made in -- pardon me. I apologize -- January 28, 2010. And so that -- that is my mistake. The January 2010 state of -- Statement of Information was included in the dual package, but I'm seeing here I -- I have questions about that, and I did not provide that to Mr. Belgarde. And so, I would like to ask him some questions about that, but I'll just refer to that Statement of Information as if it -- understanding that it is in record. The panel can access it, but I'll just ask Mr. Belgarde general questions about the date, if -- if that's allowable?

JUDGE RALSTON: Yeah. That's fine.

MR. BOURBEAU: And I apologize. That's my mistake. I -- I also meant to give him the Statement of Information.

BY MR. BOURBEAU:

Q Mr. Belgarde, if there is a Statement of Information in the record dated January 2010, would --

would that also be filed while during your tenure with WDFA Ventures II, LLC?

A Can you ask that again, the internet went out for a minute.

Q I -- I'm sorry. January 28, 2010, that is the date that the Department has offered a record. It is a Secretary of State Statement of Information for WDFA Ventures II, LLC, January 28, 2010. Was not that record also filed during your actual tenure?

A Yes.

Q And would you have any idea if that was ever corrected upon your departure in September 2010?

A I have no idea. I've never checked.

Q Okay. Thank you.

MR. BOURBEAU: I apologize, panel. That is my mistake in not getting Mr. Belgarde the second document.

BY MR. BOURBEAU:

Q Who after -- who, after you left, had access to the check stock and authority to sign or cause signatures on WDFA Ventures II, LLC, checks?

A I believe it was ---I'm not really sure, but I can tell you who had availability when I was there. It was Jason Hilton, and myself, and Stephanie Shen. She wasn't a signer, but she had access to it. At no point, did the man that's in this here have access to any of

that. He never signed any checks or even knew where the stock was.

Q Thank you. In a separate dual determination involving Job Ventures, Inc., account 101-720382 for overlapping periods, did you concede responsibility?

A Yes.

Q Was Job Ventures, Inc., a company related to WDFA Ventures II, LLC?

A Not at all.

Q Why did you concede the dual determination regarding Job Ventures but not this one?

A Because I was around during that period of time, and I was the responsible party. I was one of the responsible parties.

Q On your business operations questionnaire, dated May 23, 2014, on question 1, "Was sales tax reimbursement collected from customers?"

You checked, "I don't know." Was that your true answer at the time?

A It's still my true answer today. I don't know.

Q Did you even know, after September 2010, whether the business was still operating or what its daily sales might be?

A No.

Q Could you have caused any payments to be made

from the LLC's accounts after you left?

A No, I didn't have checks or anything to pay anything.

Q Are you familiar with the document -- the two copies of checks in the Department's dual memorandum? One is a WDFA Ventures II, LLC, check No. 1166 dated July 1, what, I guess, appears to be 2011, but -- but the copy is unclear. I think it is -- it was offered by the Department as an exhibit in its dual as that date 7/1/2011; and then 7 -- and then check No. 1187 dated 7/28/2011. I believe I've -- I have provided these two copies to you. Have you had a chance to review them?

A Yes. And I've seen them before because during another hearing or what-have-you, they showed it to me. Yes.

Q Thank you. Is this your signature on either of these checks?

A I wasn't around to sign those checks, so no.

Q Did you suspect they might be signed by someone else using a facsimile of your signature?

A Yes. You can just look at my signature and start doing exactly the same thing.

Q Did you not, in fact, pay quite a song for the handwriting expert to review these checks as opposed to your genuine signature? And was that conclusion -- what

was that conclusion?

A I did indeed paid a handwriting analysis person to look over it, and the person concluded it was inconclusive, that they could not determine that it was my signature and it was not my signature.

Q Thank you. So, moving to the 2014 hearsay statements by Jason Hilton, and these are the hearsay statements that the Department has included in its dual memorandum, and its briefing since and its determinations. Did any of these four people, Jason Hilton, Ms. Shen, and -- sorry.

MR. BOURBEAU: Bear with me, panel. If I may, I'm just looking for the witness list. I'm not recalling one of the declarants' names, and I do have it right here.

BY MS. BEDFORD:

Q Okay. So, those declarants would have been Jason Hilton, Stephanie Shen, and -- I apologize -- Raj Prasad who is here to testify today. But regarding Jason Hilton and Stephanie Shen, would they have had any knowledge of -- of your having any responsibility after September 2010?

A They would know that I was not responsible. Just the two you talked about, they would know I'm not responsible. Stephanie Chen -- Shen worked for me, and then when I decided not to work there anymore, she went

over and started working for WDFA with one other of my employees. And she most certainly knew what was going on. I believe she's the accounting manager. I'm not sure what her real title was for it, but she would have been working very closely with Jason --

Q Thank you.

A -- not Raj.

Q Thank you. From the first telephone call with investigator Mr. Villasenor on April 16, 2014, what did you tell the Department about when you left WDFA Ventures II, LLC?

A I told them I left them at the same time as I left WDFA Marketing.

Q Is that statement true today just as it was true on April 16, 2014?

A Yes.

Q Has that statement about your complete departure by the end of September 2010 ever changed in the --

A No.

Q -- 12 years since you first made it to the Department?

A No. Sorry for interrupting.

Q No -- no -- no problem. Thank you. Why should the panel believe you over the Department's later documentary inferences drawn from the documents that

predate your departure?

A I would go with the fact that why would I spend $61,000 to clear my name for -- the -- the fact is I do accounting for a living, and I need people to understand my clients or whomever out there, that I'm honest. And this is including the -- the, you know, any agency out there that I have no reason to lie to them nor to anybody else for it. I've built my business on the fact that I am responsible when I -- when I take on those responsibilities. I also have no reason to lie to anyone in regards to it. Otherwise, I wouldn't have spent $61,000-plus to go and defend my -- it sounds weird -- honor. To be quite honest, I -- I just -- I just will go to the end with -- with this until I can't go anymore to prove my innocence.

MR. BOURBEAU: Thank you, Mr. Belgarde.

No further questions, Your Honors. We reserve the right to redirect. Thank you.

JUDGE RALSTON: Okay. I'm going to pause your time for a minute and check with the Department to see if they have any questions for Mr. Belgarde.

MS. BEDFORD: No, we do not.

JUDGE RALSTON: Okay. Thank you.

And let me check with my panel members.

Judge Aldrich, did you have any questions for

Mr. Belgarde?

JUDGE ALDRICH: Hi. This is Judge Aldrich. I do have I quick question for Mr. Belgarde. With respect to the 2 percent ownership interest that was referenced, is that in the -- I guess which business entity was that ownership interest in?

MR. BELGARDE: WDFA Marketing, and all of the underlying -- the entity that's in question today was a single member LLC that was owned by WDFA Marketing.

JUDGE ALDRICH: Okay. So, in a sense, you had an ownership interest in the current business?

MR. BELGARDE: I had through that, yes.

JUDGE ALDRICH: Right.

MR. BELGARDE: Yes.

JUDGE ALDRICH: Okay. And upon your departure did your ownership interest change? Was it sold? Was it --

MR. BELGARDE: Was not sold. Nothing was done of it. Unfortunately, a year after my departure, WDFA Marketing went into bankruptcy protection, and they went out of business at that point. So, there wasn't -- there wasn't anything from Raj or anybody there saying they were gonna buyout my interest at that time.

So, it -- I -- I think I'd also -- if you don't mind. You didn't ask me this particular question of

what -- I actually personally guaranteed the building that they had. And I paid out money associated with that when they went out of business. So, I took responsibility for what was in -- what I had to take responsibility for because that's what I did at that time because I promised that at the very beginning when we got that building. And so, there was a pay out that needed to happen, and I paid it out of my own personal funds.

And that -- that's just really important to me. I did own 2 percent, but at that time, I was no longer a member of the company. I didn't do any -- I didn't do any voting on anything. I was -- I was a silent partner at that point, of which that was fine with me with it because I wanted Raj to be successful.

JUDGE ALDRICH: Thank you. Back to Judge Ralston.

JUDGE RALSTON: Okay. Thank you, Judge Aldrich.

Mr. Belgarde, you stated that you had started to leave the company in -- in around -- I think you said around April, but it took until September for you to be fully severed, separated. What actions were you taking to leave the company? Did you -- did you notify people, or send them emails, saying, Hey, you know, I'm no longer involved." Is there any kind of documentation?

MR. BELGARDE: Raj and I had a conversation, and

we needed a -- the correct transition for me to be out. So, we didn't -- I didn't want the business to fail just because I was leaving and all the accounting staff reported to me. So, we figured out a solution together to help transition it as smoothly as possible so there was little disruption to the business.

JUDGE RALSTON: Okay. And this was all oral, not -- not written?

MR. BELGARDE: Yeah. Raj and I used to talk, you know, almost every single day about things, and we've always been very direct with each other and honest about what was going on. So, yeah, we -- we didn't communicate through email. That's not our style, to be quite honest. We like to talk to people on the phone.

JUDGE RALSTON: Okay. And when you -- before that April date, when you were a part of the business, you had the check signing authority. Were you the person that would pay, you know, the electric bill or the rent, you know, any type of bills for the corporation? Or you just had signing ability, but weren't the actual person to pay the bills?

MR. BELGARDE: No. I -- I signed everything that -- no one else -- when I was there, no one else signed anything in regards to it. What happened after that, I don't know, to be quite honest. But when I was

there no one else signed anything. They had to -- everything came through me. I made sure that we had proper approvals and also they matched up against whatever needed to happen; and then I signed the checks, and we sent out -- we sent them out. So, when I was there, I was the only signer, unless I was on vacation or something. Then I don't think they really signed -- signed many checks when I was gone.

JUDGE RALSTON: Okay. And were there -- but were there others that had the check signing authority?

MR. BELGARDE: All four people who owned part of WDFA Marketing, which included Raj, Jason, and Andy.

JUDGE RALSTON: Okay. And then when you left, did you file anything like, with the bank to take your name off the accounts or anything?

MR. BELGARDE: First of all, I can't file anything. They have to file it to get me off. So, they -- I don't know if they got me off or not. I do know that -- that I don't think they followed proper procedure in taking me off immediately.

JUDGE RALSTON: Okay. Thank you. I don't have any further questions. I don't think my co-panelists do. We may ask you some questions after, you know, after Mr. Prasad and Mr. Bourbeau wrap up, or after CDTFA does their presentation. But I think for now, we have no

further questions.

So, Mr. Bourbeau, back to you to continue your presentation.

MR. BOURBEAU: Thank you. I'll ask the panel to please call Mr. Prasad at this time.

JUDGE RALSTON: Yes. Mr. Prasad, you are up.

MR. PRASAD: Hello.

DIRECT EXAMINATION

BY MR. BOURBEAU:

Q Good afternoon, Mr. Prasad.

A Good afternoon.

Q It's nice to meet you finally. I've spoken with you through emails, and I've seen your name for the past 12 years. But it's nice to -- thank you for appearing, and it's nice to meet you. Please state your full name, sir.

A Rajneel Prasad.

Q What was your relationship to Rick Belgarde in 2009 through 2010?

A He was our CFO, shareholder, and member of our Board of Directors.

Q What was your role with WDFA Marketing, Inc., during this period?

A I was the CEO with my primary function being

revenue generation.

Q And with WDFA Ventures II, LLC, the taxpayer entity at issue today?

A I had no role with that organization at all. It was about three or four people away from me in terms of operations or anything. My only involvement with that business group would have been I would create marketing strategy that we would test out on that business, and then I would try to go sell it to the corporation or other franchises.

Q Thank you. By the end of September 2010, had Rick Belgarde completely left both WDA -- WDFA Marketing, Inc., and WDFA Ventures II, LLC, meaning he was no longer a board member, officer, manager, CFO, or with any authority over either entity?

A That is correct.

Q And I'm turning your attention to a statement you made in August of 2015. It is on WDFA Marketing letterhead. Are you in possession of that document today?

A Yes.

Q Are you familiar with this document?

A Yes.

Q Okay. When you -- and I believe it -- it says as of September 2010 -- or I'm reciting it. I'll ask you if this is accurate. "As of September 2010, Rick J. Belgarde

was not a board member or an officer of WDFA. Mr. Belgarde should not be held liable for any debt due by WDFA on/or after September 2010." Is that an accurate statement?

A Yes.

Q Is it as true when you wrote it in 2015 as it is today?

A Yes.

Q Can you describe the role of WDFA Marketing with WDFA Ventures LLC -- sorry -- Ventures II LLC? What are these -- yeah, what are the roles of both companies, and how are they interrelated, if at all?

A Okay. To be honest, I'm going back like 15 years here almost, 16 years, so I'm trying to be as honest about this as I can. There are some things that are fuzzy. But the original relationship was WDFA Marketing would purchase out fire sale franchisees, and we would operate them not for profit but more of a testing ground for marketing campaigns. And then once those campaigns work, we would scale them up to franchisors/franchisees within that same system just to kind of make our sales process a little bit easier.

Q Thank you. And what is a fire sale into the franchisees?

A And so in -- in franchisees or even most

businesses, sometimes a business is not running and the owner wants to off load it, and you know that the business is running at a loss. And when we looked at that books -- and once again, the -- but I'm guessing one of the reasons why we picked up that specific Quiznos was it was losing money because of marketing cost. So, we were able to pick it up -- I don't remember the exact number, but I remember it was relatively cheap, and re -- keep it running because it had employees and stuff, and then we started testing out marketing campaigns with that. So, the fire sale is basically somebody who wants to get out really bad, and they're willing to take a big loss on it.

Q It sounds like -- what I'm hearing is that it's this sort of rehabilitation of a company that is in trouble. Your company comes in, buys it at a discount, and changes certain things to make it profitable or to sell it. Is that a fair characterization?

A Yeah, like a general turn around.

Q And prior to September 2010, was Rick a part of this company in the CFO capacity? Was he managing the company in any meaningful way prior to September 2010?

A In a super meaningful way. Rick made all the payments. He approved all expenses. He managed all of our reporting, all of our taxes. You know, Rick was basically our entire accounting Department. Everybody

reported to him. Everything you know some -- we were outsourcing from him for a very long time, his employees and his staff and so forth. So, yeah, a big part.

Q Thank you. You've heard Rick testify today to alleged activities after 2010, such as checks being signed ostensibly by him as alleged by the Department. Can -- can you make any meaningful statements about Rick following 2010? In other words, after he says he departed, was -- do you have any knowledge of whether he was involved in these businesses?

A Not day-to-day, no. Actually, if I think about it, I mean, if anything it would just be a -- a call to see where things were. Like, any time anybody transitions out of a business, there's that period where you call and -- but no. Rick was not involved. And that's -- and that's, you know, that's the way Rick operates. Once he's done, he's completely out. And --

Q And so -- oh, sorry. Please.

A Yeah. And I don't remember him going out and me having him involved in anything after that.

Q Okay. Thank you. And in your August 26, 2015, letter, when you refer to WDFA, are you referring to WDFA Marketing as the managing member of WDFA Ventures II, LLC, and to WDFA Ventures II, LLC, meaning any reference in this letter to one WDFA, would it necessarily mean a

reference to both entities?

A Yeah, because to me I know they're structurally different and they were different entities and businesses. But for me, they were just a part of my job at WDFA Marketing, right, so, how they were structured or not. So, while I didn't go into detail in that letter, but yes, I -- once Rick resigned, he redesigned from all of it.

Q Do you personally have any knowledge that would allow you to say whether sales tax reimbursement was collected by WDFA Ventures II, LLC, after September 2010?

A I couldn't tell you if it was collected before 2010. I'm the guy you don't let anywhere near your money. I make money. You expect me to pay a bill, well, sorry. So, yeah. I couldn't.

Q Okay. Thank you. Thank you for your candor. Is there any reason you would have any motive today to falsely exonerate Rick?

A No. I was going to make a joke, that's what I thought. No. Not at all. I'm here because, you know, telling the truth and being honest matters.

MR. BOURBEAU: Thank you.

No further questions, Your Honor, and panel.

JUDGE RALSTON: Thank you.

Ms. Bedford, did you have any questions for

Mr. Prasad?

MS. BEDFORD: No, we do not.

JUDGE RALSTON: I have a question. So, speaking of paying the bills, after Mr. Belgarde left, who was responsible for writing the checks for the bills?

MR. PRASAD: So, it was a transitionary period. We were trying to find a replacement for Rick. My job always was sales, clients, dinners, golfing, you know, just making the revenue is filled up. We had an operating team with a COO, director of operations. We had controllers, accounting people. I know I should have a name to give you, but I swear I do not pay attention to how accounting works in the companies I run. My job is to make sure the revenue is there and everybody gets their paychecks. So, I'm going to -- the comfortable statement is the operations team and the accounting team that was there was put in place after Rick left, but that's where the payments would have been.

JUDGE RALSTON: Okay. And is there any reason why they would sign Mr. Belgarde's name instead of someone other -- someone that was on that team?

MR. PRASAD: I couldn't answer that without it being a speculation.

JUDGE RALSTON: Okay.

MR. PRASAD: You know, I couldn't -- I -- this

is -- by the way, I just -- I want to go on the record. This is the first I've ever heard of that, because Rick and I continued our personal relationship. Rick and I continued working together after WDFA Marketing shut down. Rick was not signing checks at that time. He shouldn't have been because that would have been one of those like, yes, he's a silent investor, but he was no longer on the board. He was no longer an executive in the company. I mean, that would have been a red flag for me 'cause I would have been like, well, what other checks does he have, and is he really syphoning money from the company?

JUDGE RALSTON: And last question. I know it was a while ago, but do you recall after Mr. Belgarde left was there any announcement to the employees? Like, how were they notified that he was no longer a part of the business?

MR. PRASAD: So -- so, I'm going to preface this. This was 16 years ago now, right, 2010. The world was a little different. So, the things that you do now, you send out those email blasts, you update Slack, you put out a press. They didn't exist back then. So, a lot of what happened was key people got notified via meetings. It was announced in staff meetings, like, Rick is no longer responsible for our accounting, no longer a part of our CFO. We're looking for a new CFO. In the meantime, here

are the -- these people that you have worked with, from cforick.com who now are -- or CFO Rick who now work for us on our payroll. So, hopefully there are no breaks in accounting because of this.

This was part of the transition that Rick helped us put through, and I smile because he didn't want to. He didn't want to lose employees, but it was one of those things where it was the best move for our company to kind of bring those people over. So, yes, there was a staff meeting. There was an introduction. Were there emails? I'm hoping there were. I -- I -- I don't have an email to go into -- in the database to go pull up and say here's the actual email, but I -- I'm sure vendors were notified. Vendors didn't like Rick. So, you know, so I'm sure we had to notify a few people there. So, yeah, there's probably some sort of an announcement that was made.

JUDGE RALSTON: Okay. What about did someone keep minutes for the meetings, and would they be stored somewhere?

MR. PRASAD: Yes, we kept meetings for all of our board meetings. Where are they stored today? I couldn't tell you. Like, and -- and I don't mean this in jest, and I don't mean this in any other way. If you knew me personally, you would realize I'm not the paper guy. You don't want any paperwork anywhere near me. It will just

pile up. So, maybe Jason Hilton has them, but I do not.

JUDGE RALSTON: Okay. Thank you. I'm going to check with my panel.

Judge Aldrich, did you have any questions for Mr. Prasad?

JUDGE ALDRICH: I have a couple of brief questions for Mr. Prasad.

Thank you for being here. With respect to the Quiznos in Placerville, what was the turnaround plan in general?

MR. PRASAD: So, the plan usually was, if we could pull off a campaign for a thousand dollars retail, which would cost the company something -- I don't know. I forget what our margins were. But it would have cost us probably 50 percent of that, right. The idea was if we could generate -- take a thousand dollars in advertising and generate $3,000 in sales and show it through the register of that actual Quiznos, we would be able to go the 400 franchisees of those Quiznos and go, look at what we did after we bought out the store and ran the test, and this is what you have to do to implement it.

JUDGE ALDRICH: Okay. And speaking of registers, to your knowledge, did the point of sale system or the register for that Quiznos change at any time in 2009 forward?

MR. PRASAD: I -- I wouldn't be privy to that, sir. Like I said, outside of the, hey, we have a Quiznos we have to market, that was my limitation. The reason why we ended up buying that Quiznos is because when we work with franchisees, sometimes they're -- they're not as agreeable as we need them to to run the full test. So, the whole idea was, we buy it out. We let the income team run it the way it is, and we just put our implementation in, and that way we can run it from start to end without there being any issues.

So, other than that, I have no idea what -- like I said -- like Rick said, none of us ever went to that store. It was a -- it was a geolocation on a map that we used to do targeting for and then develop advertising campaigns for.

JUDGE ALDRICH: And when you would purchase a franchisees you -- you were still bound by the franchisee/franchisor relationship that the original franchisees had or had entered into; is that correct?

MR. PRASAD: Yes.

JUDGE ALDRICH: And do you know if that Quiznos franchisee was required to have some kind of point of sale system?

MR. PRASAD: Oh, they did.

JUDGE ALDRICH: And were they reporting their

sales to the franchisor?

MR. PRASAD: I would assume so yes, because there were point of sale systems that were connected via network. So, I don't -- I didn't go through the franchisees training. I think I was like, great idea. We're getting it for how much? Yes, go get it. I think that's where my -- I'm sorry. I -- that wasn't where my involvement was.

JUDGE ALDRICH: Okay. I appreciate that, and thank you.

Back to Judge Ralston.

JUDGE RALSTON: Thank you.

Judge Long, did you have any questions for Mr. Prasad?

JUDGE LONG: Yes, I do. I am looking at the responsible person questionnaire that you filled out Mr. Prasad on -- date of April 29th, 2014. It's part of the dual memorandum which is Exhibit D of CDTFA's briefing. And it specifically asks, "If known, provide the name, title, address, and telephone number of any person who are responsible, who had responsibility for the business sale and use tax compliance during the time you were working for or associated with the business." And you only identified Mr. Belgarde.

And similarly in a phone conversation with the

auditor on April 16th, 2014, you identified Mr. Belgarde as the person that would have any financial information for the company, that you had never seen, balance sheets, that he was CFO, and that he ran the day-to-day operations of the business. And then also, with respect to your role and Mr. Hilton's role, essentially, you had nothing to do with the day-to-day operations of the business.

With respect to the sales and use tax responsibility and the ability to make payments for the sales and use tax, I'm having a hard time reconciling your current testimony with these statements. And if Mr. Belgarde didn't have the opportunity -- or the sales and use tax responsibility after the September 2010 date, why you didn't identify another person at the time. Can you kind of give me some idea?

MR. PRASAD: Yeah. Absolutely. So, the first time I filled out the questionnaire -- and once again, I'm -- we're going back 12 years here. So, I'm -- I'm going to answer to the best of my memory and knowledge. I do remember filling out the questionnaire. At the time, I thought it was for WDFA Marketing. Because remember, for me it's all one thing. Like, I -- you know, it -- I -- I found out because of this hearing that there was a WDFA Ventures II. That was -- so there's a 1 somewhere is -- was the joke that came out of my mouth.

So, I -- at the time that's what I thought. Then I had my phone conversation with the gentleman, and I was honest. I would totally go on the record today and say the same thing. While Rick was around, he managed all of it. He's the guy that I would have always pointed at during those time frames. Later, I find out that the way I had answered, or maybe I wasn't as clear with Rick's departure, I had to rewrite that statement that you see from 2015. Why didn't I name somebody else at the time? To be honest with you, I don't -- I didn't want to accuse somebody of something when I wasn't 100 percent sure. And I know being the former CEO of the company, the responsibility does fall on me, and I -- you know, I acknowledge that. But at the same time this was a massive company at the time.

There was seven, eight people in our accounting department. We had multiple people in our operations department. I legitimately -- like after Rick left, I legitimately couldn't tell you who was making those payments. So, that's one of the reasons why I never offered another name cause I -- you know, I -- I'm in kind of the gray area as everybody else.

JUDGE LONG: Okay. Thank you. I don't have any other questions.

JUDGE RALSTON: Thank you, Judge Long.

Thank you, Mr. Prasad. The panel has no more questions for you.

So, Mr. Bourbeau, I think you still have a few minutes for your -- still on your opening, and then we'll move onto CDTFA's presentation, and then you'll have a few minutes to respond. So --

MR. BOURBEAU: Thank you, Your Honor. I do have a possible redirect question for Mr. Prasad. What I'm looking for now is the wording that Judge Long recited from the questionnaire. I am looking at the Department's exhibits right now. I -- I -- if I can find it in a minute or two, if you allow time --

JUDGE LONG: It's -- it's question 6.

MR. BOURBEAU: Question 6 in the dual memo?

JUDGE LONG: Of the Responsible Person questionnaire.

MR. BOURBEAU: Oh, thank you. Thank you. And I do have one here. However, I -- if it pleases the panel, I would need to show Mr. Prasad the document. Is there a way that we can have somebody put it up on the screen while I ask my question? If not, it's not the most important thing here today. I think it -- you know, Mr. Prasad's testimony is clear. So, I -- I really don't need to make a big thing of it. I just thought well, I think this also hinges on the wording of the -- of the

questionnaire itself.

JUDGE RALSTON: Yeah, I'm not aware of how we would put that on the screen for him.

MR. BOURBEAU: Okay.

JUDGE RALSTON: I think we could -- only way we would be able to do it is you could email it to him, but you know, we don't -- that's the only way I'm aware of how we could get him the information.

MR. BOURBEAU: You know, in reviewing it right now, panel, I -- I think I'll -- I'll avoid asking the question simply because I -- I believe the witness answered the question, and -- and Judge Long, of course, recited the language of No. 6 accurately. So, I -- I don't think we need have to ask Mr. Prasad anymore questions about it. He -- he asked -- he -- he answered the question. Thank you.

JUDGE RALSTON: Okay. Thank you. Does that conclude your presentation?

MR. BOURBEAU: Well, reserving redirect as needed if --

JUDGE RALSTON: Yeah. After -- yeah, after Respondent's presentation, you'll have another chance to. So that concludes your presentation for right now?

MR. BOURBEAU: Yeah. Yes. Thank you.

JUDGE RALSTON: Okay. Thank you.

We are going to take a 10-minute break. Please make sure that you mute yourselves during the break, and it is 2:33. So, let's say 12 minutes. Let's come back at 2:45 p.m.

MR. BOURBEAU: Thank you.

JUDGE RALSTON: You may also want to mute your video. The live stream is still ongoing, but also, don't -- don't disconnect because we'll have to try to get you back in when we come back. So, thank you.

(There is a pause in the proceedings.)

JUDGE RALSTON: So, we are back on the record. It is 2:45.

And, Ms. Bedford, you -- it's time for your presentation, so please begin when you are ready.

PRESENTATION

MS. BEDFORD: To the panel, the Department understands the primary issue in this appeal is whether Appellant is entitled to a refund of the approximately $15,700 in voluntary payment for unpaid sales and use tax liabilities of WDFA Ventures II, LLC, WDFA for the liability period January 1, 2011, through January 22nd, 2012. Specifically, if the Department proves that Appellant is personally liable for the unpaid sales and use tax liabilities of WDFA for the liability

period, pursuant to Revenue & Taxation section, section 6829, Appellant will not be, in fact, titled to a refund. The Department maintains its position that Appellant is personally liable, pursuant to section 6829, for the unpaid liabilities of WDFA for the liability period.

As you're aware, upon termination, dissolution, or abandonment of an LLC's business, any officer, manager, director, or other person having control or supervision of or who is charged with the responsibility for the filing of returns or the payment of tax, or who is under a duty to act for the LLC in complying with any requirement of the sales and use tax law is personally liable for the LLC's unpaid tax, interest, and penalties if the person willfully failed to pay or cause to be paid any taxes due from the LLC; section 6829 subdivision(a). See also California Code Regulation Title 18, section or Regulation 1702.5 subdivision(a).

For an officer to be held personally liable as a responsible person for an LLC's unpaid sales and use tax liabilities, the Department must prove the requirements for imposition of personal liability by a preponderance of the evidence, Regulation 1702.15 subdivision (d), effective April 1st, 2017. If the person is not an officer, member, partner, or manager with an ownership

interest in the entity, the person is presumed not to be personally liable for the entity's unpaid tax, interest, and penalties, unless the Department rebuts this presumption with a clear and convincing evidence, Regulation 1702.5 subdivision (e).

Appellant contends that he resigned as an officer of WDFA in September 2010 and was not an officer of WDFA during the liability period. However, there's no evidence to support that assertion. Rather, the evidence shows that Appellant resigned from WDFA Marketing, a different business, and is silent on whether Appellant resigned from WDFA, Exhibit A, Exhibit 32 at page 15. At the time of the decision, April 20, 2023, WDFA Marketing's documents available on the Secretary of State's website, indicated that WDFA Marketing was an advertising agency with three corporate officers; chief executive officer Rajneel Prasad, Secretary Jason Hilton, and Appellant as chief financial officer; Exhibit A, page 2 at footnote four.

In contrast, there's evidence that Appellant was WDFA's sole officer during the liability period. WDFA's January 8th, 2010, Statement of Information identified Appellant as WDFA's chief and sole officer; Exhibit A, Exhibit 1 at page 2. Appellant identified himself as WDFA's president in his July 6, 2010, permit application; Exhibit A, Exhibit 2. Further, there's evidence of

Appellant's involvement with WDFA as an officer after the alleged September 2010 resignation. Appellant filed WDFA's 3Q '10 and 4Q '10 sales and use tax returns identifying himself therein as its chief financial officer; Exhibit A at Exhibit 3.

The EDD wage History and Registration Information Form identifies Appellant as WDFA's president for 3Q '10 through 2Q '11, Exhibit A at Exhibit 6. Two responsible person questionnaires completed in 2014 by fellow WDFA owners, Mr. Hilton and Mr. Prasad, identify Appellant as WDFA's owner slash business manager and chief financial officer respectfully; Exhibit A, Exhibits 15 and 16. Because the evidence demonstrates that Appellant was an officer of WDFA during the liability period. The presumption set forth in Regulation 1702.5 subdivision(e) for persons who are not officers, members, or managers with an ownership interest does not apply, and the Department need prove each element required by section 6829 only by preponderance of the evidence.

The four elements that must be met to impose personal liability under section 6829 are: One, the corporation's business must be terminated, dissolved, or abandoned; two, the corporation must have collected sales tax reimbursement on its retail sales of tangible personal property and failed to pay it to the Department; three,

the person must have been responsible for the filing of returns or the payment of sales and use tax or under a duty to act for the corporation in complying with the sales and use tax law; and four, the person's failure to pay the taxes due from the corporation must have been willful.

Appellant has conceded that WDFA terminated its business and that WDFA collected sales tax reimbursement on its retail sale of tangible personal property; Exhibit A, page 3 at footnote 5. As to whether Appellant was a responsible person, the evidence shows that Appellant had control, supervision of, and the responsibility for the filing of returns or the payment of tax and had a duty to act for the corporation in complying with the sales and use tax law. WDFA's July 6, 2010, seller's permit application signed by Appellant identifies Appellant as WDFA's president; Exhibit A at Exhibit 2. Appellant electronically filed as chief financial officer WDFA's 3Q '10 prepayment and 4Q '10 sales and use tax returns in October 2010 and January 2011 respectively, which immediately preceded the liability period; Exhibit A at Exhibit 3.

Mr. Hilton and Mr. Prasad identified Appellant as being an owner and officer as CFO, and the person responsible for WDFA's financials and sales and use tax

compliance, including the filing of its sales and use tax returns and payment of its taxes as well as the person who was 100 percent in charge of WDFA's day-to-day operations who ran the whole thing and who made financial decisions on behalf of the business; Exhibit A, Exhibits 15 to 20. WDFA accountant and employee, Stephanie Shen, identified Appellant as the person responsible for making financial decisions for WDFA; Exhibit A, Exhibit 24 at page 1.

Department records indicate that on three occasions in 2014, April 16th, April 17th, and June 19th, Appellant agreed that he was the person responsible for WDFA's sales and use tax compliance; Exhibit A, Exhibit 22. Several documents identify Appellant as WDFA's chief executive officer and sole officer; Exhibit A, Exhibit 1 at page 2, WDFA's president for 3Q '10 through 2Q '11; Exhibit A at Exhibit 6, or an officer and/or owner of WDFA, Exhibit A at Exhibits 5, 7, 9, 10, 11, 13, and 14. Additionally, Appellant signed three of these documents as WDFA's owner, president, or chief financial officer. See Exhibit A, Exhibit 7, 10, and 12.

As can be seen, there's documentary evidence up to January 2011 that Appellant was responsible person, and there's no evidence showing that his responsibilities changed after that date. As such, Appellant was an owner

and officer of WDFA and a person responsible for its sales and use tax matters during the liability period.

As to the fourth element of personal liability, the evidence shows that Appellant's failure to pay WDFA's tax liabilities was willful. Failure to pay is willful if the person had knowledge that the taxes were not being paid and had the authority and ability to pay the taxes but failed to do so. Failure to pay may be willful, even without bad purpose or motivation; Regulation 1702.5(b)(2). WDFA's unpaid sales tax liabilities, including tax, interest, and penalties originate from a self assessed sales and use tax return for 1Q '11 filed late with partial remittance and Notice of Determination dated 20 -- February 28th, 2021, issued to WDFA when it failed to file sales and use tax returns for 2Q '11 and 2 -- 3Q '11. And a Notice of Determination -- I'm sorry -- the date on that first Notice of Determination is not February 28th, 2021. It's February 20, 2012. And the Notice of Determination, dated October 30th, 2012, issued to WDFA after it failed to file sales and use tax returns for 4Q '11 and 1Q '12, Exhibit F.

Since Appellant prepared the 3Q '10 and 4Q '10 sales and use tax returns, Exhibit A at Exhibit 3, and prepayments, the quarters just before the liability period, and was the only person responsible for WDFA's

sales and use tax compliance, Appellant had actual knowledge that WDFA owed but did not timely pay the taxes at issue at the time the taxes became due because he knew when the returns and prepayments became due as part of his responsibility to prepare the returns and payments. Because of his background, Appellant knew that WDFA failed to timely file its 1Q '11 sales and use tax return and failed to timely pay the taxes due. Appellant also knew that WDFA failed to file sales and use tax returns and consequently failed to timely pay its sales taxes for the remaining portion of the liability period.

Additionally, information provided by Stephanie Shen shows that employees provided sales information to Appellant; Exhibit A at Exhibit 24. Therefore, Appellant had actual knowledge that WDFA paid taxable sales and collected sales tax reimbursement but failed to timely pay the sales tax due on those sales. Based on this evidence, Appellant had the requisite knowledge that taxes were due and not being paid as of the date those taxes were due.

Regarding the authority to pay the taxes or to cause them to be paid when the taxes became due, the evidence shows that Appellant had that authority. Appellant was WDFA's owner, see Exhibits 9, 14, 15, and 21, CEO and sole officer, see Exhibit A, Exhibit 1 at page 2, president, see Exhibit A, Exhibits 2, 5, 6, 7, 10,

and 14, and CFO, see Exhibit A, Exhibits 3, 12, 16, and 23, who submitted payment of WDFA's taxes when he filed WDFA's prepayments and sales and use tax returns for 3Q '10 and 4Q '10; see Exhibit A, Exhibit 3.

Appellant signed two WDFA checks during the liability period on July 1st, 2011, and July 28th, 2011, Exhibit A at Exhibits 4 and 8, which shows that he was authorized signer of WDFA's checking account. While Appellant alleges that he did not sign these checks, he has failed to offer any evidence that his signatures on these checks were forged. Mr. Hilton and Mr. Prasad identified Appellant as being an owner, officer, and the person responsible for WDFA's financials, including the filing of a sales and use tax returns and payment of its taxes. See Exhibit A, Exhibits 15 to 20. This evidence demonstrates that Appellant had the authority to pay or cause to be paid WDFA's taxes on and after the date those taxes were due as the sole officer, CEO, president, and CFO. This authority is confirmed by the WDFA checks signed by Appellant, Exhibit A, Exhibits 4 and 8.

As to Appellant's ability to pay the taxes, the evidence shows that WDFA had funds available to pay the taxes when they became due but used those funds to pay other creditors instead. Appellant concedes that WDFA collected sales tax reimbursement during the liability

period, therefore, WDFA had those monies available to pay its taxes but it failed to do so; Exhibit A, page 3. The evidence as summarized as in Exhibit A Exhibit 31, shows that WDFA had funds available during every quarter of the liability period that could have been used to pay its tax liabilities but were used to pay other creditors instead. For example, WDFA paid its landlord approximately $27,000 in rent payments from 1Q '11 through 3 Q. 11; Exhibit A at Exhibit 27. WDFA paid the Quiznos's corporation approximately $29,000 between 1Q '11 and 1Q '12; Exhibit A at Exhibit 30.

Further, WDFA continued operating through January 22nd, 2012, making taxable sales of tangible personal property of how much it collected sales tax reimbursement from customers. The continued operation means that it had sales receipts available and sales tax reimbursement with which to pay its tax liabilities, but did not do so. In sum, WDFA collected reimbursement through the liability period. Appellant was a responsible person, and Appellant's failure to pay WDFA's sales and use tax obligations was willful. Meaning, Appellant had the actual knowledge that the taxes were not being paid and had authority and ability to pay the taxes but failed to do so.

Based on the evidence provided, the Department

has met its burden on each of the elements for imposing personal liability pursuant to section 6829. For these reasons, we request that the request for refund be denied.

Thank you.

JUDGE RALSTON: Thank you, Ms. Bedford. Does that conclude your presentation?

MS. BEDFORD: Yes, it does.

JUDGE RALSTON: Thank you. I'm going to check with my panel.

Judge Aldrich, did you have any questions for Ms. Bedford?

JUDGE ALDRICH: I do have a question for Ms. Bedford.

I guess in response to Appellant's counsel argument that certain items in the evidence are hearsay and should thus, be given less weight, do you care to respond to that?

MS. BEDFORD: I mean, the -- the OTA regulations 30214 allow the panel to take under evidence -- any evidence presented, and that includes hearsay evidence. And there's no particular reason that those documents and statements at the time they were prepared should be given less weight, given the fact that they were prepared and on paper as opposed to in front of the panel day.

Mr. Bacchus, do you have anything you want to add

to that?

MR. BACCHUS: No, I -- I agree. Ultimately, the Department understands that it is the panel -- one of the panel's jobs, I guess, is to weigh the evidence in -- in front of them. I also don't believe that it -- those documents should be given any less weight. They were, you know, completed, many years ago. They weren't completed in anticipation of this -- of this hearing. They would -- they were just completed in response to questions that were being asked by the Department investigating the potential dual liability in this case.

JUDGE ALDRICH: Okay. Thank you.

JUDGE RALSTON: Thank you.

Judge Long, did you have any questions for CDTFA?

JUDGE LONG: I do not have any questions. Thank you.

JUDGE RALSTON: Thank you.

Mr. Bourbeau, you have about 10 minutes for your rebuttal.

MR. BOURBEAU: Yeah. Thank you. So, I'd like to share the Department's exhibits and redirect my witness, Mr. Belgarde, if I can and then I'll --

JUDGE RALSTON: Mr. Bourbeau, let me -- sorry just to interrupt. Just because this is live streamed, I'm not sure which exhibit you want to present, but if

you're going to show it on the screen, we just want to make sure it doesn't have any personal addresses, anything like that on there.

MR. BOURBEAU: I don't think so. It's the Department's reply brief.

JUDGE RALSTON: Oh, okay.

MR. BOURBEAU: Yeah, so could -- could -- could the OTA share it? Would that be better? It is in the record.

JUDGE RALSTON: You said it --

MR. BOURBEAU: It is in the record.

JUDGE RALSTON: Yes. Okay.

MR. BOURBEAU: So, I don't know what is -- I -- I guess what I'm asking, Your Honor, is what would convenience the panel more? Should I share it and ask Mr. Belgarde -- who, by the, way is somewhat sight impaired. So, I'm hoping Rick can read it. I think it's important because the Department's counsel went through a litany of exhibits, and we -- we would like to -- to get some testimony regarding those exhibits.

JUDGE RALSTON: Okay. Right. So, I think the exhibits may have some personal information in them. So, why don't we take a break. Do you have a way to email the brief to Mr. Belgarde?

MR. BOURBEAU: He is in possession of it by

email. Just --

JUDGE RALSTON: Okay.

MR. BOURBEAU: Just, you know, I -- I believe a few minutes ago I emailed him the reply brief.

JUDGE RALSTON: Okay. Does he need to take a minute to take a look at that or -- it looks like we may have lost Mr. Belgarde. So, let's just wait. I think -- yeah. So, if Mr. Belgarde has a copy -- and I think we can try to contact him just let him know we're -- we're not quite ready to take that break yet, or if he -- to see if he got disconnected. But -- okay. Thank you.

So, the panel all has -- we all have a copy of that as well as CDTFA. So, if you just want to like, refer to, for example, Exhibit A, you know line 3, it says blah, blah, blah, would you like to address that, we are able to follow along. So, there's no need to actually show it on the screen.

MR. BOURBEAU: Sure.

JUDGE RALSTON: And so if he has a copy of that -- and I think that probable would be the best way to proceed.

MR. BOURBEAU: Thank you.

JUDGE RALSTON: Sure.

MR. BOURBEAU: I would agree with that, and thank you for the offer. I don't see Mr. Belgarde on the

hearing currently as --

JUDGE RALSTON: Yeah. It looks like they're trying to contact him. He might have dropped off. So, we're just -- we're just going to wait for a minute. My staff -- let's take a break for about five minutes or so. We're just gonna give the -- our team time to contact Mr. Belgarde, and see if we can get him back on.

So, we'll come back in a few minutes when we've got everyone here.

MR. BOURBEAU: Thank you.

JUDGE RALSTON: Thank you.

(There is a pause in the proceedings.)

JUDGE RALSTON: We are back on the record. It is 3:18 p.m.

Mr. Bourbeau, since Mr. Belgarde missed some of that, are you okay with proceeding where we left off? I don't think you had officially started your presentation yet.

MR. BOURBEAU: Yes. And -- and if I could just explain to Belgarde where we did leave off, I -- I did send him the -- the copy --

JUDGE RALSTON: I'm -- I'm sorry, Mr. Bourbeau. Sorry to cut you off again. I think before -- before we went on break, Mr. Prasad had indicated that he had a question.

Did you have a question, Mr. Prasad?

MR. PRASAD: Oh, no. Rick had just told me his internet had dropped off, and I was just trying to communicate that.

JUDGE RALSTON: Okay. Thank you.

Okay. Now, Mr. Bourbeau, I think we've -- we've covered everything. So, please go ahead and proceed. You can update Mr. Belgarde and proceed with your rebuttal.

MR. BOURBEAU: Very good. And how much time do I have, Your Honor?

JUDGE RALSTON: About 10 minutes or so.

MR. BOURBEAU: Okay. Mr. Belgarde, Rick, we're gonna go through some of the Department's exhibits really quickly. Okay. So, are you able to bring up the Department's response, the copy that I sent you?

MR. BELGARDE: Yes.

MR. BOURBEAU: Okay. And hold on one moment. I'm trying to -- trying to bring it up myself and my curser went away. Okay. Oh, this is why I prefer a good old in-person hearing. Okay.

REDIRECT EXAMINATION

BY MR. BOURBEAU:

Q Rick, I'm pointing you -- directing you to the Department's --

A If possible, can you just tell me what page?

Q Yes. I'm looking for it now. It will be -- I apologize. I had it. I had it up here. Okay. So, yes. So, on the PDF it is page 26.

A Okay. I think I'm on page 26.

Q Okay. And I apologize. Now, the -- it's page 27, Exhibit 1. This is the -- the State of California Secretary of State Statement of Information that -- that we went over in your original testimony, but as it was present -- as it was presented by the Department in their presentation, I want to cover it. This -- this Statement of Information naming you as a part of WDFA Ventures and WDFA Marketing, Inc., was filed; and there are two dates on it, January 28, 2010, and March 11, 2010. Those dates -- do those dates predate your departure from those --

A Yeah.

Q -- organizations?

A Hm-hm.

Q Okay. And moving to application for seller's permit, page 29, naming you as president. The date on that document is I believe --

A -- 7/8 -- 7/8/2010.

Q Yes. I have -- sorry. I'm -- oh, okay. Yes. And that date would, according to your testimony predate

your departure --

A Yes.

Q -- correct?

A Yes.

Q Okay. The sales tax return page 31 is for the period 8/1/2010 through 9/30/2010, this would have been -- and it says it's submitted by you. Take a moment and read that. Would this be at least partially during your tenure at the organization?

A The transmission was done on 10/27/2010. That was after the departure. But I could see that this was submitted online, and they could put any number -- any name in there.

Q And if you remember, would -- can you recall whether or not your name might have been associated with that account on the online portal?

A Most likely, but you actually have to type this in.

Q Okay.

A So, somebody has to type in the name and put that information in.

Q Is it your testimony that you believe somebody might have done that on --

A Yes.

Q Okay. Somebody other than you?

A Yeah.

Q And why is that?

A Because that's after the date. Even though it's 9/30, it says right here transmission date of 10/27/2010.

Q Thank you.

A And it looks like somebody -- somebody paid it, it looks like. I -- it says payment amount of $1,273.

Q But that would not have been you?

A Yeah. It was not.

Q Okay. And then I have a Quiznos Placerville collections document dated -- this is page 34. I'm struggling to see the date on it, but I would assume there is a date on it.

A I'm blowing it up, and I don't see a date yet.

Q Yeah. So, are you familiar with this document?

A No. No. It doesn't look familiar, but it's been a long time.

Q Okay. And the exhibit -- Exhibit 6, I believe, page 35 appears to be some EDD wage history for WDFA Ventures II, LLC, without a date with your name on it. Does that -- does this document look like something you created or had anything to do --

A No, I didn't create this. And the fact is, once again, this is electronic.

Q Yes. Thank you. And moving to page 36, a

September 9, 2010, business license application, please --

A That's me.

Q -- take a look at that.

A That's me.

Q And was that during the tenure of --

A Yes.

Q -- your involvement with the business?

A Absolutely.

Q And we already covered the checks in your testimony. So, this check is -- going to page 37 is -- oh, that's one of the checks at issue.

A Yes.

Q That's --

A -- it is.

Q We've covered that. Okay. Quiznos application page 38, the date on that is 8/14/2010 --

A Yeah, that's me.

Q Okay. Thank you. Moving past the rest of the Quiznos application to -- still going to the Terminix Commercial Pest Control agreement, which is -- let's find a date because the date of the fax transmission may be quite different than -- well, no. It's -- it's -- okay.

A It's projection start date September 2010, so --

Q Yes.

A -- it was right around when I was -- I was

leaving.

Q Okay. And do you recognize the number at the top, the fax transmission, the phone number 415?

A That's not our fax number. That would have been a main number.

Q Okay. All right. But there's a date on it, August 16, 2010, 2:46 p.m. Do you see that?

A Yeah. I'd --

Q And would that have been --

A Yeah.

Q -- while you were still involved in the organization?

A Yes. If it was before that, yes.

Q And no dispute there --

A No.

Q -- correct? And moving onto System Services of America, we have a document that's offered as Exhibit 12 dated 8/17/10. Do you recognize this, and was it --

A Yeah.

Q -- during your --

A Yes it was.

Q Okay. Thank you. Moving past those related documents, Responsible Person questionnaire. And this -- do you recognize this? This was ostensibly filled out by you. I -- I believe you already testified that -- was

sales tax reimbursement collected, and you --

A Is -- is this the one that's done by Jason Hilton?

Q No. I don't know. It's got your --

A It says --

Q -- name on it.

A -- it says right there. It says --

Q Oh, it is. Sorry. Sorry. It is Jason Hilton. Sorry.

A Yeah.

Q So, we'll move on. You're absolutely right. I saw your name on it and thought it was yours. Let's move onto the next exhibit. That is -- okay. So, this one is Raj --

A And -- and --

Q Yeah?

A There's a reason why he would try to blame somebody else is because he didn't want to be held responsible, Jason Hilton.

Q Is that your opinion?

A That is -- that is -- that is a fact because as Raj noted earlier in testimony, he had nothing to do with it. It was Jason Hilton who was basically in charge of that staff --

Q Okay.

A -- until they found somebody else. I don't know if they ever found anybody.

Q But it's true that you're guessing as to Mr. Hilton's motivations, right?

A True.

Q Yeah. Okay. Do you have anything else to base that on? Had he made any statements previous regarding, you know, animosity towards you that --

A He -- he called me up once with Raj to ask if he could get a loan from me to pay the IRS debt because he didn't want to pay it at that specific point. And Raj ended up paying everything and Jason didn't pay anything, to my knowledge. So -- so yes, he -- of course, he wanted to get out of it.

Q Okay. Now, I have a -- going to page 63 of the PDF Exhibit 21 Department's exhibit, it appears to be a document purporting to be the business questionnaire with your name on it. It looks like your squiggle signature at 5/23/2014?

A The rest of it is my handwriting. I recognize it.

Q Okay. Okay. And you indicated that number one, I did not know if was sales tax reimbursement --

A Yeah.

Q -- collected. (INAUDIBLE) pay for your services.

I believe that's all the relevant information there. We have more case notes offered by the Department. I think we're almost done, Your Honors. Let's see as far as anything Mr. Belgarde can testify to. Let's see. Cash receipts.

MR. BOURBEAU: Okay. I believe that is all the redirect I have for Mr. Belgarde regarding the Department's submission of exhibits relevant to -- to him.

JUDGE RALSTON: Okay. So, it looks like we are ready to conclude this hearing.

MR. BOURBEAU: I do have a question, if I may pose it to the panel, regarding follow up to this hearing. If we are able to access any other records, do we have the opportunity to submit those post hearing, such as minutes, anything that we find might help the panel arrive at their decision. Can we please ask for leave to submit such documents? We don't need to follow it with an extensive briefing or reply schedule if -- if it pleases the panel.

Thank you.

JUDGE RALSTON: Okay. So generally, at this point, we would be closing the hearing. But if you think you can access some additional information, that is one of the things that we had asked about earlier. So, what we can do is we can leave the record open for 30 days for you to obtain this information. Should you find that

information and submit it, then we would give the Respondent the 30 days to respond, and then at that point we would close the record. So, okay. So, we are going --

MR. BACCHUS: Ms. -- Ms. Ralston, can I -- I would just like to point out the Department would object to any submission of evidence at this point given that it is after the due date that evidence was due, absent to showing of good cause as to why it wasn't provided by the evidentiary due date.

MR. BOURBEAU: Yes. And I have good cause if I -- I can, at some point, make a reply.

JUDGE RALSTON: Sure.

MR. BOURBEAU: Yeah. So, the good cause is Mr. Prasad testified today of the possible existence of documents that might be helpful in this case. We had no way of knowing Mr. Prasad was at all in possession or could possibly find these. I think they're material to the issue. It was actually in response to a question posed by the panel. So, I think we meet good cause.

JUDGE RALSTON: Thank you. I -- I think what I would like to have you do is we'll note CDTFA's objection, and when -- if you are able to obtain the additional information, Mr. Bourbeau, if you could conclude your statement regarding good cause with that information. We'll give you 30 days to get that information and provide

it, and then we will -- OTA will issue a ruling on that. Should we accept the additional information, then we would give CDTFA a chance to respond, and then we would issue our opinion. After the record closes, CDTFA -- I'm sorry -- OTA, the panel, will meet and we will issue a decision within 100 days after the record is closed.

I think that concludes this hearing. The next hearing will resume tomorrow morning at 9:00 a.m. And we'll send out some information going over what we discussed today about the additional information, and I think that is it. So, yeah, we'll send out some post-hearing orders explaining what we talked about today regarding the good cause and the additional information.

Did you have a question?

MR. BOURBEAU: Oh, I do, Your Honor. If I could just make a short three or four sentence statement in response to the Department's position. I -- I think it's helpful, if -- if I may be allowed. I believe I have some time.

JUDGE RALSTON: Sure.

MR. BOURBEAU: Okay. Thank you.

CLOSING STATEMENT

MR. BOURBEAU: So, the Department stated, in essence, not exactly, but I heard the words "Appellant

doesn't have any evidence." I think that it's important to note that the hierarchy of evidence is hearsay statements at the bottom and then supported hearsay, and then direct testimony. We've provided direct testimony today. We've provided hearsay statements throughout the record with support. And I would remind the Board to please, we implore, not remind.

We implore the panel that is, to review Regulation 30214 sub (f)(5), which states, "After weighing the evidence, the panel will make any necessary factual findings in any opinion issued by the OTA. A factual finding on any material disputed fact shall not be based solely on unsworn statements made by a party during the appeal proceeding before OTA, such is as statements contained in a party's brief or arguments made by an unsworn representative during an OTA oral hearing."

And I think that's very, very important here. We have evidence. We have very good evidence. We have sworn testimony, live testimony subject to cross. The Department chose not to even cross the witnesses as to the veracity of their -- their statement. So, I assume they're accepted for -- for the statements made. I just -- it can't be said enough that this entire thing is hearsay based on estimates and then applied to Mr. Belgarde. It's -- it's unfortunate. I think it

happens too often, and I -- I really wish it didn't, but here we are.

We've got two gentleman who have -- one who's maintained throughout and spent a lot of money to defend his name. The other gentleman is his former business partner who came here at personal cost to support these statements under oath. I would remind the Department that that is evidence. Evidence is not necessarily something that somebody wrote in the course of their job. It -- it could be factual. We -- we don't know. That person isn't here to support those statements. So, they remain hearsay. They should be granted very little evidence. I have seen nothing compelling to think otherwise.

Yes, I'm sure Mr. Villasenor is a -- he's a great guy. I've -- I've actually worked with Mr. Villasenor on other cases. In this case, it's not enough. The Department has a burden to prove -- a burden to prove. It can't be made with hearsay evidence. It's right there in subsection f)(5). It can't be made. It can't be based solely on unsworn -- on unsworn statements.

Thank you. We rest. Thank you for your time, panel. I -- I hope that we can come to some resolution in this case -- the accurate resolution, which is that Mr. Belgarde just simply wasn't there.

Thank you.

JUDGE RALSTON: All right. Thank you, Mr. Bourbeau.

Okay. I think we are ready to conclude. So, as I mentioned earlier, we're going to submit post-hearing orders which will explain about the information to be submitted, and we'll have the deadlines and such for that. This case -- okay. So, we're going to conclude, and the next hearing will resume tomorrow as 9:00 a.m.

So, thank you, everyone, for attending and yeah. I think that's it.

Thank you, everyone.

(Proceedings concluded at 3:40 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 15th day of September, 2026.

_____
ERNALYN M. ALONZO
HEARING REPORTER