BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,	
W. HELDMAN and D. HELDMAN,	OTA NO. 250822893
APPELLANT.	

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Tuesday, August 11, 2026

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, W. HELDMAN and D. HELDMAN, APPELLANT.	OTA NO. 250822893

Transcript of Proceedings, taken at 12900 Park Plaza Drive, Suite 300, Cerritos, California, 90703, commencing at 9:08 a.m. and concluding at 9:28 a.m. on Tuesday, August 18, 2026, reported by Ernalyn M. Alonzo, Hearing Reporter, in and for the State of California.

APPEARANCES:

Administrative Law Judge:	STEVEN KIM
For the Appellant:	WILLIAM HELDMAN RICHARD PONCE
For the Respondent:	STATE OF CALIFORNIA FRANCHISE TAX BOARD JOHN LY JACKIE ZUMAETA

I N D E X

E X H I B I T S

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

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Cerritos, California; Tuesday, August 18, 2026

9:08 a.m.

JUDGE KIM: We are going on the record. This is the appeal of W. Held and D. Held, OTA case No. 250822893. The date is Tuesday, August 11th, 2026, and the time is 9:08 a.m. This hearing is being held in person at Cerritos.

I am Judge Steven Kim. Appellants have elected to have this case heard and decided under OTA's Small Case Program. Therefore, I will be the sole ALJ for the purpose of conducting this hearing and determining the outcome of this appeal.

So, let's introduce the parties, starting with Appellant.

Can you state your name and your title, please?

MR. HELDMAN: William Heldman, Appellant.

MR. PONCE: Richard Ponce. I represent the Appellant.

JUDGE KIM: Thank you.

And for Respondent Franchise Tax Board.

MR. LY: Good morning. This is John Ly, and I'm an attorney for Respondent Franchise Tax Board.

MS. ZUMAETA: And I'm Jackie Zumaeta, also for the Franchise Tax Board.

JUDGE KIM: Thank you.

So, as stated in the prehearing conference and prehearing conference Minutes and Orders, the issue to be decided in this appeal is whether Appellants claims for refund for the 2016 and 2017 tax years are barred by the statute of limitations.

Appellants, is this your understanding of the issue on appeal here?

MR. PONCE: Yes, sir.

JUDGE KIM: And Respondent FTB, do you agree that's the issue?

MR. LY: Yes.

JUDGE KIM: Thank you.

Appellants submitted a new exhibit, the declaration by Mr. Heldman.

Has FTB had a chance to review this exhibit?

MR. LY: Yes, we have, and we have no objections to the exhibit.

JUDGE KIM: No objections. Okay. In that case, I'm going to admit this exhibit. Appellants also submit Exhibits 1 and 2, as well as this declaration, which I'll identify as Exhibit 3. And FTB did not object to any of these exhibits. Therefore, Exhibits 1 through 3 are now admitted into evidence.

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(Appellants Exhibits 1-3 were received into evidence by the Administrative Law Judge.)

JUDGE KIM: FTB submitted exhibits A through L, and Appellants did not object to the admissibility of these exhibits. So, therefore, they are now admitted into evidence.

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

JUDGE KIM: Appellants indicated during the prehearing conference that Mr. Heldman was going to testify as a witness.

Is that still the case? Okay.

MR. PONCE: Yes.

JUDGE KIM: Okay. FTB did not raise any objections to Mr. Heldman.

Before we begin the presentation, I need to place Mr. Heldman under oath so that what he says can be considered evidence. So, please raise your right hand.

W. HELDMAN,

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

JUDGE KIM: Okay. Appellants, you'll have

five minutes for your presentation and witness testimony. You may have Mr. Heldman testify in the narrative fashion, or you can ask him specific questions, or you can structure your argument however you want; and please proceed when you're ready.

MR. PONCE: Thank you, Your Honor. I think I will have Mr. Heldman provide a narrative -- a narrative account of what happened with him and his former CPA.

PRESENTATION

WITNESS TESTIMONY

MR. HELDMAN: Former CPA, his name was Dale Paisley, and he advised me -- excuse me -- that I'd have to file certain tax returns because I had no income. So, I had filed. And there was an issue -- excuse me -- of how I paid bills and stuff. My father left me money which, you know, he left me cash, mainly, but there was also minor money, of joint bank accounts. I even got a loan on my house. My house even went through foreclosure, and then I was able to sell -- save my house from getting money out of it. But that's how I pretty much survived.

Thank you.

JUDGE KIM: Thank you, Mr. Heldman.

Mr. Ponce, did you have anything you wanted to

add?

MR. PONCE: If I may ask him a couple of questions --

JUDGE KIM: Sure.

MR. PONCE: -- for the record.

DIRECT EXAMINATION

BY MR. PONCE:

Q Mr. Heldman, when you got calls from the Franchise Tax Board or letters as to why you didn't have your dad on the phone to tell them that you inherited the money that you inherited, what was your response?

A They asked me if I got a letter -- a letter from my father after telling them that my father passed away. Could I get a signed letter? Well, I can't get a signed letter. He's deceased. So --

Q Mr. Heldman, what did your CPA say about your tax returns that you needed to file when you told them that Franchise Tax Board asked you to file the tax returns?

A There was no income of money, so there was no need to file the tax returns. So I didn't file them.

MR. PONCE: Thank you. That is all.

JUDGE KIM: Thank you.

Mr. Ly, did FTB have any questions for the witness, Mr. Ponce -- Mr. Heldman?

MR. LY: No questions. Thank you.

JUDGE KIM: Okay. I did have a few questions. You -- you said you contacted FTB. Was that by phone?

MR. HELDMAN: Yes.

JUDGE KIM: Okay. I didn't see anything in the record showing a response to FTB's request for tax return, demand for tax return, or the notices of proposed assessments. Did you ever submit a written response to those notices?

MR. HELDMAN: I believe I did. They asked me to -- if I could get the letter from my father again, or bank statements or who was giving me money and explain to them that I was going through a foreclosure of my house. I actually got a loan on my house and that's how I was surviving. They were like, how could you pay property taxes and bills if you have no income coming in. So that's how I explained it.

JUDGE KIM: And you -- you explained that over the phone, or you submitted a letter or --

MR. HELDMAN: I believe a letter and over the phone. I mean, this is 2017. We're talking about eight years ago or so.

JUDGE KIM: Okay. I didn't see any written response, or any evidence of a phone call in the record. Okay. Thank you.

All right. Let's move onto FTB's presentation.

Mr. Ly, you have 10 minutes, and you may proceed when you're ready.

MR. LY: Thank you.

PRESENTATION

MR. LY: Good morning, and my name is John Ly; and I, along with Jackie Zumaeta, represent Respondent Franchise Tax Board. The evidence in this appeal shows that Appellants did not timely file their claims for refund for the 2016 and 2017 tax years before the statute of limitations expired. Under the applicable section of Revenue & Taxation Code, the general statute of limitations provides that the last day to file a claim for refund is: The later of four years from the date that the return was filed, if it was filed within the extended due date; four years from the due date of the return without regard to extensions; or one year from the date of overpayment.

Appellants late filed their original 2016 and 2017 tax returns in July of 2025 after the four-year statute of limitations had expired for both those tax years. Appellants also did not have any payments on their 2016 or 2017 tax year accounts that were made within one year of the filing of their returns. Therefore, the one

year statute of limitations is also unavailable to allow a refund of their overpayments for the 2016 and 2017 tax years.

Appellants contend that a tax professional advised them that they did not have to file California returns for the tax years at issue. In the precedential opinion of the Appeal of Beneme Partners LP, your office held that there's no reasonable cause or equitable basis for suspending the statute of limitations. It was also held that the language of the statute of limitations is explicit and must be strictly construed.

Appellants also contend that Respondent erroneously collected payments when they did not owe tax for the tax years at issue. However, the United States Supreme Court in United States v Dalm, explain that a taxpayer's failure to file a claim for refund or credit within the statute of limitations bars a refund or credit, even when it is later shown that the tax was not owed in the first instance. Additionally, the amounts were not erroneously collected because the law provides that if a taxpayer fails to file a return, Respondent may make an estimate of income from available sources and propose an assessment of tax and penalties, plus interest.

Appellants have not provided any additional evidence that would allow Respondent to grant their claims

for refund. Therefore, Respondent requests that your office sustain Respondent's claim for refund denials for the 2016 and 2017 tax years.

Thank you, and I'm happy to answer any questions.

JUDGE KIM: Thank you, Mr. Ly.

Does FTB have any record of the Appellants calling in regarding the notices or submitting any written information?

MR. LY: Respondent does have call logs that Respondent can provide after the hearing. And in regards to writing, Respondent does have a writing received after the deadline to file a protest for the notice of proposed assessment. However, the writing from Appellant just mainly states that he was unable to get in contact with anyone from Respondent. Respondent can also provide a copy of that correspondence after this hearing as well.

JUDGE KIM: Okay. And -- and those call logs, what did they say, generally?

MR. LY: The call logs, mainly, are between Appellant-husband and Respondent's employees where Respondent discusses Appellants tax filing requirements for the 2016 and 2017 tax years, which may establish error with the proposed assessments. Respondent had advised Appellant to refile the 2016 tax return or to provide bank statements that show how Appellant was able to pay for his

mortgage payments.

JUDGE KIM: Thank you.

All right. Appellants, Mr. Ponce, you reserved five minutes to make a closing statement or rebuttal, and you may proceed when you are ready.

MR. PONCE: Thank you, Your Honor.

CLOSING STATEMENT

MR. PONCE: I believe that the facts speak for themselves. Unfortunately, we don't have anything in writing from the client where the CPA told him that he didn't have to do his tax returns. So, we can just put ourselves in the mercy of you to see if we can at least get some of that money back that was taken from my client.

And that's the only comment I really have, and thank you for your time.

JUDGE KIM: Thank you.

MS. ZUMAETA: Judge Kim?

JUDGE KIM: Yes.

MS. ZUMAETA: Would it be possible to ask for maybe five minutes just for us to be able to look through that call log just to make sure there's nothing that we've missed?

JUDGE KIM: Okay.

MS. ZUMAETA: Thank you.

JUDGE KIM: All right. Then I'm going to go off the record for just a few minutes.

(There is a pause in the proceedings.)

JUDGE KIM: It's going back on the record.

Thank you for your presentations. I am going to hold the record open for -- how long do you think you'll need to submit those?

MS. ZUMAETA: So in reviewing --

JUDGE KIM: Yeah.

MS. ZUMAETA: -- the call log, we -- we -- and looked at the -- the first call came in after the 2016 Notice of Proposed Assessment had already gone final.

JUDGE KIM: Okay.

MS. ZUMAETA: So, in that phone call, Appellant advised that he was planning to file a return and asked for additional time to file. We gave him 30 additional days and still never received a return. So, the Notice of Proposed Assessment remained finalized and from that point forward, all of the calls advised that he needed to file a return in order to seek a claim for refund.

JUDGE KIM: I see.

MS. ZUMAETA: So, we can certainly provide that in the -- within the next 15 days but just wanted to give you an idea of what's in there.

JUDGE KIM: Okay. Okay. I -- I'm going to hold

the record open for 15 days so that FTB can submit those call logs. And after I get that -- after that briefing period has ended, I don't think I need any response to that. So, OTA will close the record and issue a written opinion within the 100 days of that date.

Thank you, everyone, for participating today.

Today's hearing in the Appeal of Heldman is now concluded, and we are off the record.

(Proceedings concluded at 9:28 a.m.)

HEARING REPORTER'S CERTIFICATE

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

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

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

I have hereunto subscribed my name this 26th day of August, 2026.

_____

ERNALYN M. ALONZO
HEARING REPORTER