BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,	
D. MILLER and K. MILLER,	OTA NO. 20116870
APPELLANT.	

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, June 17, 2026

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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IN THE MATTER OF THE APPEAL OF,	
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Transcript of Electronic Proceedings, taken in the State of California, commencing at 9:36 a.m. and concluding at 10:22 a.m. on Wednesday, June 17, 2026, reported by Ernalyn M. Alonzo, Hearing Reporter, in and for the State of California.

APPEARANCES:

Panel Lead:	ALJ SARA A. HOSEY
Panel Members:	ALJ HANS FAMULARO ALJ ASAF KLETTER
For the Appellant:	D. MILLER K. MILLER (MAGUIRE)
For the Respondent:	STATE OF CALIFORNIA FRANCHISE TAX BOARD DAVID MURADYAN BRAD COUTINHO

I N D E X

E X H I B I T S

(Appellant's Exhibits AS-1 was received into evidence at page 6.)

(Appellant's Exhibits NAS-1 to NAS-10 were received into evidence at page 6.)

(Department's Exhibits A-J were received into evidence at page 6.)

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California; Wednesday, June 17, 2026

9:36 a.m.

JUDGE HOSEY: We are now on the record.

This is the Appeal of Miller, OTA Case No. 20116870. Today is -- it's 9:36 a.m. on June 17th, 2026. This hearing is being held electronically.

I am Judge Sara Hosey, the lead ALJ for this hearing; and with me today are my panel members Judge Kletter and Judge Famularo.

Can I ask the parties to state their names, starting with the Appellant, Mr. Miller.

MR. MILLER: My name is Doug Miller.

JUDGE HOSEY: Thank you.

Franchise Tax Board.

MR. MURADYAN: Good morning. My name is David Muradyan.

MR. COUTINHO: Good morning. This is Brad Coutinho representing Franchise Tax Board.

JUDGE HOSEY: Thank you.

And Ms. Miller.

MS. MILLER: This is Kathleen Maguire Miller.

JUDGE HOSEY: Thank you.

As stated in the Minutes and Orders, the issue to

be decided in this appeal is whether Appellant has shown that FTB erred when it granted innocent spouse relief to Kay Miller for the 2017 tax year, pursuant to Revenue & Taxation Code section 18533(f).

We have premarked Exhibits AS-1, A through J, and NAS-1 through 10. They are now admitted as evidence into the record.

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

(Appellant's Exhibits NAS-1 - NAS-10 were received into evidence by the Administrative Law Judge.)

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

JUDGE HOSEY: All right. Mr. Miller, can I please have you raise your right hand to swear you in for your testimony today.

D. MILLER,

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

JUDGE HOSEY: Thank you. You can please begin

your presentation.

PRESENTATION

MR. MILLER: Yeah. I -- I actually not sure that I have a presentation, and I'm not even certain exactly what it is that we're appealing. I understand that in 2017 was when we escalated our divorce, and we wind up selling our -- our family house. And I believe that the -- the root of this entire matter happened when we negotiated the distribution of the proceeds of the sale of that house. We received approximately $1.2 million at that point, and it was agreed and signed -- everybody signed the escrow instructions that did several things. One, it -- it split that $1.2 million into three buckets: One, went to me; two, went to my wife at that time, now my ex-wife, under the understanding that half of this two-third share would go to pay for our -- we had three kids in college at the time, and she was gonna finish off their education. We had all three kids were in college.

It became very clear, almost immediately following that, that she took those distribution of proceeds and went and bought a house with either her brother or her father. They loosely shift back and forth. They both have the name Hugh Maguire, and she misappropriated those proceeds, and I had to continue then

to pay for our kids' education. I had to take out loans from family and was unable to make payments. I think our kids were sometimes not getting their grades because she failed to meet her commitment under that distribution of proceeds.

The other thing that happened in that distribution of proceeds is that we agreed and signed for the escrow agent to send $50,000 to the Franchise Tax Board. That was a payment for taxes that were due. Most of those taxes were -- were due. All of my salary always had withholding against it. She was receiving dividends from a family farming operation that were being just dividend checks without withholding, and we racked up some pretty significant taxes. And this was a pattern established over a number of years, and we always jointly paid those taxes at the end of the year. But for whatever reason -- I think it was because we had taken some money out of an IRA. We had -- she had received these proceeds from her family farm. I don't have any of -- of the records specifically to that year, but this had had occurred over the several years, and we owed you guys $50,000.

That money sat with you. And I think I had assumed it was paid, and -- and never really thought much more about it. During that time, that 2017, 2018, the --

you sent that money back, $50,000, and said hey, we don't even know what this is for. We need to give it back to you. It went into the escrow and ensued a six-month food fight with lawyer bills and everything, and that she refused to send it back to you. So, one point I think you want to be clear is we sent you the $50,000. You returned it, and she then grappled onto it. And what we wound up, you know, splitting it out because she had cooked up this innocent spouse scheme.

I understand that her claims have fallen on very sympathetic ears, but at the end of the day, she's a college educated, has had graduate studies in real estate, is fully capable of understanding what she's claiming she had no knowledge of. We had a tax adviser from Ayco Goldman Sachs who, if I were able to pay him, would come in and testify that she was either present on the phone or in person at every quarterly meeting we had and had full awareness of our taxes. So, the -- the point is she misappropriated the funds. She refused to pay the $50,000 back to you. She, I believe, kind of came onto this innocent spouse thing because she's really done the same thing with the IRS. So, her -- her, you know, group or web of -- of divorcees have decided, hey, let's go after this innocent spouse thing. She tried it on the IRS. The IRS has thrown out her case and found against her. So,

it's -- it's something that I think is an indication of the fraud and deception.

I also found out this morning that she decided that she wanted to hold this hearing remotely because I -- I -- she -- she is unable to face you all eye-to-eye. Looking somebody in the eye and committing the -- the deception and lies that she has packed up on this is something that she was unwilling to do in person. I -- I traveled down here in order to -- to present myself in person to present this case.

The other thing that is -- is at the root of this, is that during this period of our divorce, she changed my address; went to the post office or did it online. I think you can do it either way. So, I was not able to get any of these early documents. So, apparently, there was a finding, and I -- and she won this by default because I was unaware of the hearing. I got a letter, somehow caught up with me, and she can shake her head. You can notice her -- her face right here if she'd -- kind of wincing, and she had -- the truth of the matter is that she changed the address, and the original root of this case is, apparently, a finding against me that I had no defense and didn't show up for.

As soon as I became aware of it through other -- other tax payments that I had made and letters that I'd

received from, I believe, Mr. Muradyan -- did I say your name correctly? -- had sent me letters saying hey, you've had this default judgment against you. And that's when I became aware of -- of this, you know, string of -- of pretty outrageous things that she had done, this -- this chain of -- I don't even know what to call it. But it's a level of villainy that has coopted the Franchise Tax Board.

On the last call, if you remember, Your Honor, I think I Judge Hosey was on that call, she appeared to be very chummy with the -- David. You're on a first name basis. I don't know if she's baking cookies for you or whatever it is. But the -- the problem is she has been working this system, your system. She returned -- or refused to return the $50,000. She's misappropriated those funds. And as recently as last month, tricked me into signing a community property waiver for the sale of that house. So, she has had a significant windfall. She is -- I'm -- I'm unable to pay. I am struggling to survive on -- on living off of loans from friends and family and a very small consulting contract occasionally.

She's came to me and said hey, this house, this great house that I bought with these -- these purloined funds, these misappropriated funds, she was unable to sell it because it was locked in a -- in a community property.

And she described to me all of the wonderful things she was going to do for our children. None of that money was coming to me, but that was the house that was bought with the money that she basically misappropriated from the proceeds of the sale of our house and from you, Franchise Tax Board, that was supposed to be sent to you.

And those -- those -- that lies and deception I stupidly signed the community property waiver. She sold the house, did whatever she did, and absolutely none of the commitments that -- that she had made were -- were adhered to. The -- the IRS is on to her, and I pray that you guys are not falling for this.

That's -- that's really all I've got, Your Honor.

JUDGE HOSEY: Okay. Thank you, Mr. Miller. I -- I know that the facts that are going to be discussed today are very personal in nature and that emotions are very elevated, but we really need to focus on this issue of innocent spouse relief, and I appreciate you staying on -- on topic here.

I'm gonna go to the Franchise Tax Board --

MR. MILLER: Are -- are you implying that I was off topic in any way, ma'am?

JUDGE HOSEY: No. I just want to make sure we are all civil here. We really need to focus on the transactions and the 2017 tax year. That's what we're

focused on. And I understand you have a long history, and there's a lot going on in several different tax years, but I'd like to focus on 2017 if we can. Thank you.

MR. MILLER: That -- that's when the sale of the house occurred. That's when the change of address occurred. That's when the $50,000 was sent to you. That was all -- those were all 2017 activities.

JUDGE HOSEY: Okay. Perfect. Thank you. I appreciate it.

I'm going to see if Franchise Tax Board has any questions about your testimony today.

Mr. Muradyan?

MR. MURADYAN: No questions.

JUDGE HOSEY: Okay. Ms. Miller, did you have any questions regarding Mr. Miller's testimony regarding the 2017 tax year?

MS. MILLER: I don't have questions about that tax year.

JUDGE HOSEY: Okay. Thank you.

I'm gonna check with my panel. Are there any questions for Mr. Miller, Judge Kletter?

JUDGE KLETTER: This is Judge Kletter. I have no questions at this time.

JUDGE HOSEY: Thank you.

Judge Famularo?

JUDGE FAMULARO: Yes. Thank you, Judge Hosey.

So, Mr. Miller, I do have one question. I'd like to ask you about the circumstances when the $50,000 was originally supposed to be paid to the Franchise Tax Board from the -- from the sales proceeds from your home in Pacific Palisades. What -- when did you become aware that the money had not -- or that the money had not been applied towards your income taxes as you had it -- as you testified you had intended --

MR. MILLER: Right.

JUDGE FAMULARO: -- for 2017.

MR. MILLER: I -- I don't know the exact time. It was at least in 2018, and I -- I think it was a year or more; and I became aware when I was contacted by the escrow company. I believe the actual escrow agent had since left, and even the escrow company had -- had been acquired or changed names. But whoever was responsible for that escrow received the money back, and sent -- sent out a what do we do with this now type of a communication. And that's when she began the campaign of saying no, we will not send it back to the Franchise Tax Board.

So, the money was sent to you. I -- I think that -- you guys should certainly have clear records of that. I don't know exactly when it was -- was sent back, Your Honor, but -- but it was probably about a year, year

and a half later with the escrow company. You know, it was in the middle of -- of -- our divorce went on for seven or eight years.

JUDGE FAMULARO: Okay. Thank you. One point of quick clarification. I just wanted to mention that we're the Office of Tax Appeals. We're an independent tribunal. We're separate from the Franchise Tax Board. So, when you keep saying "you guys got the money," I believe you're referring to the Franchise Tax Board, and I just wanted to make that clear just for everybody participating today.

MR. MILLER: Un -- under -- understood. I'm -- I was unaware of whether you were actually a separate group or -- or part of them, but I -- I understand. You guys are separate and apart and different than the Franchise Tax Board. So, when I meant "return to you," I guess I'm -- I'm saying the Franchise Tax Board. Sorry, Your Honor.

JUDGE FAMULARO: No. No problem at all. Thank you. No further questions right now. Thank you.

JUDGE HOSEY: Thank you, Judge Famularo. I appreciate the clarification.

And I appreciate your testimony, Mr. Miller.

I'm gonna move now to the Franchise Tax Board's presentation. They have no witnesses, so this will just be legal argument from them.

Mr. Muradyan is presenting. Is that correct?

MR. MURADYAN: That's correct.

JUDGE HOSEY: All right. Please begin when ready.

PRESENTATION

MR. MURADYAN: Good morning. My name is David Muradyan, and represent Respondent Franchise Tax Board in this matter. Along with me here is my colleague Brad Coutinho.

This is an innocent spouse case, and the sole issue on appeal is whether Appellant Douglas Miller has shown that FTB erred when it granted innocent spouse relief to his former spouse Kathleen Miller for the 2017 tax year, pursuant to Revenue & Taxation Code section 18533(f). In this case, Appellant and Ms. Miller filed their 2017 California tax return and reported and claimed total withholding credits of $61,820, which included a withholding credit of $50,000 from the sell of their home, and $11,820 from state withholdings from Ms. Miller's paychecks.

FTB processed the return and issued notice to Appellant and Ms. Miller wherein it informed them that the $50,000 withholding that they had claimed on their return was never remitted to the FTB. Thereafter, FTB made

efforts over the years to collect tax amount due through various collection efforts, but to date, FTB has not been able to recover the amount due.

In 2020, Ms. Miller submitted her innocent spouse request. FTB issued a notice to Appellant advising him of Ms. Miller's request and providing -- provided him the opportunity to submit whatever information and/or documentation he had. FTB's records indicate that Appellant did not file a response. FTB ultimately granted Ms. Miller's request for innocent spouse relief under section 18533(f). Appellant thereafter filed his timely appeal. On appeal, Appellant claims that Ms. Miller is not entitled to innocent spouse relief. He alleges that Ms. Miller agreed to make the $50,000 payment to FTB from the proceeds of the sale of their joint home; and claims that after the funds were returned to the escrow company in 2019, Ms. Miller blocked the escrow company from sending the funds back to FTB. Appellant also claims that the funds withdrawn from the couple's IRA account were to fund the couple's children's education costs and not for personal purposes.

In summary, Appellant requests that Ms. Miller's request for innocent spouse relief be denied. Based on the evidence provided, FTB has concluded that Ms. Miller has established that she is entitled to innocent spouse

relief for the joint 2017 tax year liability, pursuant to section 18533(f). Under section 18533, traditional relief and separate allocation relief are available only with respect to tax liabilities based on additional tax assessments by FTB. In this case, the taxpayer's joints tax liability was self-assessed. Therefore, only equitable innocent spouse relief under subdivision (f) is available to Ms. Miller.

Since section 18533(f) is patterned after IRC section 6015(f), FTB looks to federal law for guidance in making a determination on whether to grant equitable innocent spouse relief to a requesting spouse under subsection (f). IRS Revenue Procedure 2013-34 provides guidelines for taxpayers seeking equitable relief, and FTB follows those guidelines when making a determination on equitable innocent spouse relief requests.

Here, as set forth in FTB's opening brief, Ms. Miller meets the threshold conditions of section 4.01, but is not entitled to a streamline relief under section 4.02, leaving equitable relief under section 4.3 -- 4.03 as the remaining option. FTB will examine the various factors for equitable relief under section 4.03, which provides that the taxing authority may assign any level of importance to any particular factor, depending on the facts and circumstances of each case; and

no single factor is determinative in any particular case.

The factors that are primarily relevant to this inquiry are factors pertaining to marital status, knowledge factor, and whether Ms. Miller received a significant benefit from the income that gave rise to the tax liability. The first relevant factor looks at marital status and whether the requesting spouse is separated or divorced from the non-requesting spouse at the time the taxing authority makes its innocent spouse determination.

Here, Ms. Miller filed a petition for legal separation of marriage with the Los Angeles County Superior Court on June 26, 2017. On August 30th, 2022, the Court entered a Notice of Entry of Judgment for Dissolution of Appellant and Ms. Miller's marriage, and the date of separation as set forth in the dissolution was June 23, 2017, which is the date the petition was filed. Accordingly, because Ms. Miller was separated or divorced from Appellant at the time FTB made its innocent spouse determination on September 28, 2020, FTB finds this factor weighs in favor of granting relief.

The next relevant factor relates to knowledge or reason to know. Specifically, whether Ms. Miller knew or had reason to know as of the date she signed the return that Appellant would not or could not pay the tax liability at the time or within a reasonable period of

time after the filing of the return. Regarding the knowledge requirement, Revenue Procedure 2013-34 provides that for knowledge on under payment cases, this factor will weigh in favor of relief if the requesting spouse reasonably expected the non-requesting spouse to pay the tax liability reported on the return at the time they filed the return.

With respect to this factor, both parties agree that there was supposed to be a payment of $50,000 to pay the liability, and both parties believe that it would resolve the balance due. Due to circumstances outside of Ms. Miller's control, namely the $50,000 being returned to the escrow company well after they signed the return, that did not happen, even though she believed it would happen. There's conflicting information from both parties as to the circumstances of the $50,000 payment once is returned to escrow in 2019. But for purposes of the knowledge factor, the relevant time frame is whether as of the date the return was signed or shortly thereafter Ms. Miller knew or had reason to know that the liability would be paid.

Based on all of the information provided by both parties, it appears that Ms. Miller reasonably expected the tax liability to be paid on or around the time the return was filed through the then anticipated $50,000

withholding at the time the return was signed. And through no fault of her own the payment was -- the payment failed to be remitted to FTB at that time, and subsequently was not repaid.

The final relevant factor deals with whether Ms. Miller received significant benefit beyond normal support from the income that gave rise to the tax liability. This factor focuses on the requesting and non-requesting spouse's lifestyles, and the presence of any abuse or financial control to determine whether the requesting spouse received a significant benefit. It includes additional factors whose presence or absence determines whether the factor weighs in favor of relief, against relief, or isn't true. In her innocent spouse request, Ms. Miller contends and provides documentation purporting to show that Appellant withdrew half of their retirement funds without her knowledge, which she noted was the primary reason for the divorce. Ms. Miller has provided in an email reflecting that Appellant provided at least -- or received at least $300,000 in IRA distributions to his personal account. Ms. Miller has also provided a spreadsheet of deposits documenting deposits that appear to have been made to Appellant's personal Wells Fargo account.

In his appeal with the OTA, Mr. Miller stated

that a $50,000 payment was made to the FTB in November 2017 paid by the escrow company as agreed by Mrs. Miller from the proceeds of the sale of their home. She also stated that the $50,000 was returned to the escrow company in early 2019 and held by them until October of 2020 when he and Ms. Miller were advised by the escrow company that the funds would be swept into a legal proceeding. And he notes that during the period the funds were held back in escrow, Ms. Miller continuously blocked the escrow company from sending the funds back to FTB.

Unfortunately, Mr. Miller has not provided any substantiation with respect to this claim in the form of documentation, emails, or any other documentation of that sort. Based on all of the evidence, Ms. Miller did not receive a significant benefit beyond normal control from the income that gave rise to the tax liability. Accordingly, this factor should weigh in favor of granting relief. Considering all of the facts and circumstances, Ms. Miller has established that it would be inequitable to hold her liable for the unpaid tax for the 2017 tax year, and she is entitled to innocent spouse relief under section 18533(f). The foregoing factors covered are non-exhaustive list of factors, and FTB makes its determinations based on all of the facts and circumstances available. Although, Appellant has made certain

arguments, he has not provided any substantiating documents or corroboration, whereas, Ms. Miller has corroborated many of her statements and positions through various documents, emails, and so on.

For the reasons provided here, FTB requests that the OTA sustain its determination.

Thank you for your time and consideration. And with that, I would happy to take any questions.

JUDGE HOSEY: Thank you, Mr. Muradyan. I appreciate your arguments today.

Let me check with my panel to see if there are any questions.

Judge Kletter?

JUDGE KLETTER: I couldn't find my mouse for a second. Yes, I just do -- you know, I'm aware, Mr. Muradyan, of the briefing, but I just have in your presentation today just wanted to clarify with respect to the knowledge factor. Was -- you know, can you just clarify if that favors relief or if it's neutral or weighs against relief? I couldn't really tell from what you had said.

MR. MURADYAN: Yes. So for -- with respect to the knowledge factor, it -- it's in favor of relief due to the circumstances of the case, namely, that at the time that the tax return was filed, both parties, including

Ms. Miller, believed that the tax liability would be paid.

JUDGE KLETTER: Thank you. I have no other questions.

JUDGE HOSEY: Thank you, Judge Kletter.

Judge Famularo, any questions for Mr. Muradyan?

JUDGE FAMULARO: Yes. Just one just to follow up on the same question. So, I understood from the briefing that the knowledge of the underpayment factor was neutral in -- in Respondent's brief. And you are now saying it weighs in favor of granting relief. Could -- did -- has FTB changed its position regarding that factor, or is, you know, what was their -- was there a mistake in the briefing at the time it was filed?

MR. MURADYAN: So, FTB's determination remains the same in that we -- innocent spouse relief under the equitable subdivision (f). It's still, you know, available to Ms. Miller. With respect to that particular factor, I think on the briefing we, you know, the way we phrase it was a little less -- a little less clear. So, I think we have changed, with respect to that factor, primarily because the dispositive issue with respect to the knowledge fact is at the time that the return was filed.

And, you know, based on all the information we've received at the time the return was filed, Ms. Miller

reasonably thought that it was going to be paid. And even by Mr. -- even by Appellant's admission, it wasn't until 2019, 2020, you know, a couple of years after the return was filed where the whole dispute with respect to the $50,000 began.

JUDGE FAMULARO: Okay. Thank you. And I -- I understood your point, which was that this is a factor. It doesn't change the ultimate determination by the FTB in determining that innocent spouse relief should be granted to Ms. Miller. So, I -- I appreciate the clarification. Thank you.

I have no further questions, Judge Hosey.

JUDGE HOSEY: Thank you.

And thank you, Mr. Muradyan, for your presentation.

I'm gonna move to Ms. Miller.

As the non-appealing spouse, you have 15 minutes to provide arguments and testimony, if you would like to.

MS. MILLER: Thank you, Your Honor.

JUDGE HOSEY: Oh, sorry. I didn't mean to interrupt you, but if you're providing testimony under oath I just have to swear you in. Okay. Can you raise your right hand.

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K. MAGUIRE MILLER,

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

JUDGE HOSEY: Thank you. You can begin when ready.

PRESENTATION

MS. MILLER: Okay. I didn't want to was -- waste everybody's time, and I appreciate everything that the Franchise Tax Board and the Appeal Group has done.

I -- I think the only thing I would want to add is it's ironic, but it was Rubina Mustafa, who was a collection agent for the Franchise Tax Board, who came after me for the monies. And I don't remember -- it was during COVID, but we had a hearing, but I believe it was recorded. And I kept saying to Rubina over and over, "What is this money owed on?" And I had been told by my husband and our then CPA that it was owed on the house, but those funds were not owed on the house. They were very clearly owed on the IRA money that was taken. The IRA money that I had no access to.

And when we had the hearing, at the end of it, Rubina and I talked, and she -- I said, "Now what do I

do?"

She said, "You call innocent spouse." Because when she looked it up, she said, "Yes, you are in fact right."

There's a lot of extenuating circumstances that sort of forced the sale of the house happened because a lot of taxes hadn't been paid. A lot of people hadn't been paid. I went back to work full time at 57. I paid over $294,000 towards our kids' education. I paid more than $175,000 or $185,000 that was allotted to me from the proceeds of the house. On the house itself, there were two final seller agreements; one that was the real one, and the one that was created when my husband came back from racing in the Baja 1000 after closing the sale of the house early.

There's a lot of history here, but its ironic to me that, at the end of the day, there are two people that have helped me with getting innocent spouse, and one of them is Rubina Mustafa who was the tax collector, and the other was the gentleman with the IRS who seized a pension to pay the taxes for the IRS; and I never even knew about the pension because my husband never reported the pension.

So, I don't have much more to say, but I appreciate everybody's time, and I do think it's not a scheme that I've created. I've worked really hard. I'm

proud of what I've done. I don't know too many 57-year-old women who go back to work full time, put three kids through college, go through three cancers. I have a spine surgery. I've had broken bones, and I'm doing great. I appreciate your time, and I appreciate you listening. That's all I have to say.

JUDGE HOSEY: Thank you, Ms. Miller. I appreciate your testimony today.

I'm gonna see if the Franchise Tax Board has any questions for you.

MR. MURADYAN: No questions.

JUDGE HOSEY: All right. I'm gonna see if Mr. Miller has any questions for you about your testimony today.

MR. MILLER: I -- it's hard to kind of sift through a lot of the -- from my wife a lot of the verbal diarrhea, but I -- I actually would like to try and just focus on two key questions if I could.

JUDGE HOSEY: Go ahead you have five minutes.

CLOSING STATEMENT

MR. MILLER: Is there -- is there any question that the $50,000 was distributed from the proceeds of the sale of the house went to the Franchise Tax Board and was returned? Is that -- is that fact in any -- any way

disputed?

MS. MILLER: Who are you asking?

MR. MILLER: I -- I ask the Franchise Tax Board, I -- I guess. I mean, the -- the whole thing seems simple, and I understand we -- we -- you've got volumes and volumes of stuff that you've spun up, but it seems like the $50,000 was paid, and I -- I would think as -- as judges that you would judge this based on the behaviors and the intention and both the behavior, the money was paid. The intention to pay it.

So, I -- I question this whole idea of the reasonable expectation being one of the tests that the Franchise Tax Board is using when we signed our taxes -- our tax return for 2017. We -- Kathleen and I both believed that $50,000 was paid. It was, in fact, paid. I don't think that that's in any -- any dispute here at all, whether it came from money that was -- the sale of the house, or it came from taxes due on a liquidation of an IRA to pay our housing expenses, which at that time, you know, she had to have a certain house, and had -- had a very expensive lifestyle.

So, I mean, the -- the point is the $50,000 was paid. The behavior and the intention to pay was clearly there, and we both signed it. So, I -- I can't cite the -- the code that you're referencing, and I -- I

understand there have to be rules based, but at the end of the day, we're -- this whole matter revolves around the $50,000 that was indeed paid to the Franchise Tax Board. Our intention and our behavior match. The money was paid, and it was only when it was returned, now two-year later, that she grappled onto it, and it became -- became an issue.

So, I -- I was very interested to hear this new information that it was indeed the Franchise Tax Board that suggested to the ex-wife that she proceed on these innocent spouse claims. I mean, the -- the -- the same scam that she tried on the IRS, she was now, not only trying on you, but was directed by you to -- to go after. So, I understand her -- her story is -- is very sympathetic one, and she presents it in the most possible sympathetic way, but it's absolutely completely separate from the one fact that I think matters here, the $50,000 was paid.

The $50,000 was inadvertently returned. There was no intention to not pay, and I did everything in my power to get that money back to the Franchise Tax Board. I still admit that we owe the money however you want to do it. I have no ability to pay it. I'll be forced into a bankruptcy if you want to pursue it. She is recently sold a house, had a very large distribution of proceeds from

this house that was fraudulently bought. And I only last month or it was a month-and-a-half ago, signed the community property waiver.

So, if you want to now try and get the money back, you, Franchise Tax Board, that's -- that's the root of this entire problem. I -- I don't know if I'm making sense or if this argument is clear. It seems very simple and clear to me.

JUDGE HOSEY: I think so. It sounds like you're summarizing your main argument to us, the Office of Tax Appeals; is that right, Mr. Miller?

MR. MILLER: Yes, ma'am.

JUDGE HOSEY: Okay. Did you have any other final statements that you'd like to make before we get ready to close for today? Go ahead.

MR. MILLER: I'd like to get this entire matter behind me in the rearview mirror, and it's -- it's -- we've been -- she's been enjoying this for eight years now, nine years, and whatever it takes. There -- there's no -- I don't have the money to pay you. So, you can -- you can make me responsible for all of it, half of it, any of it, it -- I am -- am in a destitute state living off of -- off of loans from friends and family without a home and without a job, and there -- there's nothing that -- that we can do to resolve this.

However, the Maguire family -- crime family has been committing tax fraud against you guys for -- for years, and I would spend your valuable time looking at -- at their situation and just a string year after year of -- of -- of pretty sketchy transactions. That -- that would be a -- as a -- if I was a California taxpayer, that would be the place that I would be looking to -- to -- for relief on this.

JUDGE HOSEY: Okay. And, Mr. Miller, I think we hear your frustrations, and we --

MR. MILLER: Thank you.

JUDGE HOSEY: -- appreciate your time and effort in this matter today.

I'm gonna see if there are any final questions from my panel before we conclude the hearing.

Judge Kletter?

MR. MILLER: I can't hear you, sir.

JUDGE HOSEY: Oh, let me --

JUDGE KLETTER: Sorry. I have multiple screens, so my mouse is sometimes difficult.

I just had one question for Mrs. Miller actually, if it's not too late to ask. So, Ms. Miller, can you please explain to me the circumstances around the money being returned from Franchise Tax Board and what happened then?

MS. MILLER: Yes. It's kind of a strange set of circumstances because the money was sent from the escrow office with an incorrect form. The money was sent with the form that would relate to the money being owed on the sale of the home. The escrow officer did not want to send the money. And, you know, I brought up two final seller statements that was highly unusual. I had both much them. I provided both of them to David. And so when that happened, that $50,000 check went lost within your system because it wasn't owed on the home. It was owed on the IRA distributions.

So, when the check came in and, it was so late, way after -- and I do believe -- I may be incorrect, but I believe we amended those tax returns to that year, and I believe, you know, he's alluding to me owing money. I believe he received $50,000 check that he cashed from like A-Line, one of his -- his consulting things. And I don't think he paid any taxes on it or reported it.

There's two years involved. It gets complicated because they're '16 and '17. I have one innocent spouse on both years; both with you and with the IRS. On the money that you're talking about, it got sent back to the escrow company that had bought the escrow company. And I am the one who ultimately found it, and I had a new tax adviser because our joint tax adviser that we paid $30,000

a year to advise us -- my new tax adviser said, "Look, half of that money is yours, and half of it is Doug's. But you are not responsible for paying the taxes on his IRA."

So the check went missing. I'm the one who found it. We went through a whole process. That was during our divorce proceedings. That's when we had a hearing. There was a tax collector. Her name was Rubina. I can't find her anymore, but she was on that hearing with us with our divorce attorneys, and it was ultimately decided that in fact, that tax wasn't owed on the [INAUDIBLE]. And so, that's what I know about the check. It went into escrow. Doug wanted me to pay on a portion of that, and I -- I didn't know it. And I didn't feel I should pay it.

So, that's what happened on the missing check, and it went over a lot of years. I mean, we -- we're talking 2017 taxes. I believe they were amended. I filed for innocent spouse protection in 2020. There's -- there's a lot of background here, but when I filed for divorce, I was given information on a checking account and two credit cards. I ultimately learned he had 18 credit cards. He had our children on 15 of them. It took me six-and-a-half years to put the whole thing together.

And that check -- ironically, that missing check finally gave me the proof I needed for the scheme that he

created, even though he keeps saying I'm the one with the scheme. In the year of 2017, I have a tax statement from Equity Trust that they gave him $1.4 million. I never saw any of that. So, there was no retirement money left. There was no -- I -- I didn't even get a car out of the divorce. So, the missing check and the -- [INAUDIBLE] I hope I've answered your question, Judge, but there is a web of deceit and lies. My husband thinks -- my ex-husband thinks they're mine. I believe they're his.

JUDGE KLETTER: Ms. Miller, I just have one follow-up question. So my understanding is that the check was returned and you took your share --

MS. MILLER: Yes.

JUDGE KLETTER: -- and there was also an amount remaining, the other half.

MS. MILLER: Yes.

JUDGE KLETTER: Do you know what -- do you have any knowledge of what happened to the other half of that that was returned to the --

MS. MILLER: I believe it was --

JUDGE KLETTER: -- escrow company?

MS. MILLER: I believe it was given to Doug Miller, and it was supposed to be given to you to pay his taxes. I don't know what happened to it. I didn't get it. I would believe it was [INAUDIBLE]. I was told it --

JUDGE KLETTER: Thank you. Don't --

MS. MILLER: -- went to Doug Miller. He may have either taken it, or he was supposed to give it to you because he owed you the taxes.

JUDGE KLETTER: Okay. Sounds like there's --

MS. MILLER: I don't get involved.

JUDGE KLETTER: -- no knowledge, but no need to speculate or anything. That's all the questions that I have. Thank you.

JUDGE HOSEY: Thank you, Judge Kletter.

Judge Famularo, any questions for the parties?

JUDGE FAMULARO: I have no further questions. Thank you.

JUDGE HOSEY: Okay. Thank you.

I'm gonna go ahead and check with Mr. Miller.

Do you have any final statements you'd like to make since there was a little bit of additional questions there at the end? Oh, I think you're muted. There you go.

MR. MILLER: Yeah. That -- this idea that I had 18 credit cards and secret accounts and millions of dollars of distribution of -- of pensions, they are absolute lies. And she went through five lawyers trying to prove this and wound up with a strip mall lawyer. Finally, they gave up on listening to -- to these stories,

these fantastic stories that -- that would come out of here absolutely untrue.

The -- the -- Judge Kletter, the $50,000 was -- was -- when it finally went to the escrow and she fought and fought to keep it from going back to the Franchise Tax Board, she got $25,000, I got $25,000. At the time I had no job, no home, no place to live, and I certainly needed the money. So, to answer your question, the other 50 -- or the other $25,000 went to me. She fought -- fought this thing for months and months to try and have it not go back to the Franchise Tax Board.

JUDGE HOSEY: Okay. Thank you for the clarification.

Now, that we've had the questions from the panel, we've had presentations from all the parties, the evidence has been admitted into the record, and we have your testimony presented today, we now have a complete record from which to base our decision, and we're ready to -- to submit the case today.

The record is now closed.

This concludes the hearing on this appeal, and the parties should expect our written opinion no later than 100 days from today. With that, we are off the record.

(Proceedings concluded at 10:22 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 2nd day of November, 2026.

_____
ERNALYN M. ALONZO
HEARING REPORTER