

Christine Grab

May 11, 2020

The State Bar of California  
Complaint Review Unit  
Office of General Counsel  
180 Howard Street  
San Francisco, CA 94105-1617

Re: Case # 19-O-17816 Eric Yadao

I received a letter from the State Bar Association dated April 13, 2020, indicating that my complaint against Eric Yadao had been closed because they did not find that he violated any rules of the State Bar. I am requesting a review by the Complaint Review Unit.

The letter states that you have already seen a copy of the lawsuit #37-2020-00005100-CL-BT-CTL that I filed against the Franchise Tax Board (FTB) in San Diego Superior Court in January 2020. I assume that you also have seen the evidence. As you are aware, this lawsuit is a Review del Novo for a refund of penalties and fees. The law library instructed me to write a brief in which I make my case as to why the penalties were improperly charged, and also to explain why I disagreed with the Office of Tax Appeals (OTA) decision.

I. The way the Bar Association's letter is worded, it sounds to me like you have dismissed the charges against Eric Yadao because I did not specifically address those issues in my Superior Court Brief. However, my concerns with Mr. Yadao's unlawful behavior falls outside the scope of a case for a refund of fees, and as such, it would have been improper to address them in the Superior Court brief.

I believe that my Superior Court Brief clearly lays out that FTB is fraudulently imposing penalties and fees via "misapplication" of payments and unlawful withholding practices. I have proven that they are overcharging interest, as well. Enclosed is the response from the FTB's legal counsel, Anna Barsegyan (Exhibit 1). In the opening, she makes a blanket statement denying all allegations, but in the body she does not attempt to dispute any of my specific allegations. It is my opinion that the lack of denial of criminal activity is a tacit admission of guilt. Furthermore, the defense did not dispute the validity of any of the evidence that I submitted, including overcharging of interest and inaccurate accounting ledgers.

I believe that it is clear that the purpose of the redactions/omissions of the documents that Mr. Yadao submitted to the OTA, as well as the deceptive wording used in the briefs, were for the purpose of hiding these unlawful practices from the OTA judges. I believe hiding criminal activity does indeed violate the State Bar's Rules of Conduct. Here are two specific instances:



A. Mr. Yadao redacted two strange, small dollar accounting adjustments on Exhibits D and H that were submitted to OTA. No explanation has been offered as to what these strange adjustments were made for, despite me repeatedly asking. These small accounting adjustments do not fall under confidential or personal information, so none of the legal codes cited in the Bar's letter to me apply to these particular redactions.

Please keep in mind that it has been two years since I first exposed that I was overcharged interest in July 2014. FTB has never denied the allegation, and as mentioned above, in her response to my suit, Anna Barsegyan did not dispute the evidence I submitted to prove the overcharging did occur.

I believe that these two redacted accounting adjustments were additional attempts at overcharging interest. But, because I paid the bill timely and in full, FTB was forced to reverse these overcharges. If I am correct, then Mr. Yadao did indeed hide unlawful activity from the judges via improper redactions.

As soon as the courts re-open, I will be sending out subpoenas for more records on my case. One of the items I will be subpoenaing is more information on these strange accounting adjustments. I believe that it is premature for the Bar Association to assume that Mr. Yadao was not covering up criminal activity before we have a clear answer as to exactly what these strange adjustments are.

B. On Page 11 of my Superior Court Brief, I detailed an email conversation in which Mr. Yadao stated that one of the "misapplied" estimated tax payments designated for 2010 had been applied to a miscellaneous bill for tax year 2002. This directly contradicts the accounting ledger, which states that the funds were applied as an estimated tax payment. The accounting ledger does not indicate that any miscellaneous bill ever existed, and when I asked for a copy of this alleged bill, FTB disregarded my requests. I believe this qualifies as a straight up lie.

I will also be subpoenaing a copy of this alleged miscellaneous bill and other records involving the payments that were misapplied to 2002. Clearly, part of the FTB's "misapplication" racketeering scheme involves incorrectly applying monies to years in which the taxpayers were not yet married. I believe that the mechanisms of how this scheme works will be exposed via the records that I subpoena. It is premature for the Bar Association to assume that Mr. Yadao did not lie about the miscellaneous bill in order to cover up the mechanisms of this racketeering scheme. The Bar should wait until this evidence is produced.

II. Mr. Yadao argued that our tax returns were filed late due to willful neglect. He made this willful neglect case by redacting/omitting the majority of evidence that showed that we were not willfully negligent. He redacted/omitted pertinent information about the accounting problems that were created by FTB's multiple breaches of duty and the incredible efforts my husband and I made to resolve FTB's breaches. Mr. Yadao also used deceptive wording to create an inaccurate picture of the situation.



I understand that Mr. Yadao defended his redactions by claiming that all the redactions complied with the laws prohibiting disclosure of confidential or personal information. As you will see below, there was a clear pattern to the redactions: he consistently disclosed my husband's and my personal information when it suited his false narrative, but consistently covered up items that did not suit his false narrative, including hiding FTB's unlawful business practices, multiple breaches of duty, and my efforts to resolve these improprieties. I believe that hiding unlawful/unethical FTB practices does not qualify as "protecting *my* confidential information."

In his effort to redact/omit/deceive, Mr. Yadao also told several straight up lies. The Bar's letter also alleges that in my initial complaint, I never identified any specific lies told by Mr. Yadao. I thought that in my Appellant's Second Response Brief (ASRB), which was included in the complaint, the lies clear were clear, but obviously I was mistaken.

To make the allegations detailed in my ASRB clearer, below I will specify each of the times Mr. Yadao made what I believe are improper redactions and omissions, as well as point out the straight up lies that he told. I have already pointed out one straight up lie above.

A. On page 4, I showed that Mr. Yadao supplied the notes regarding a misapplied payment intended for 2008 that was applied to 2002. He showed that I called in once and sent a fax. He redacted that I had called in a second time and that the FTB disclosed they were unable to locate the payment. Why was the first call not confidential information, but the second call was confidential? Was Mr. Yadao trying to protect *my* privacy by hiding that call or was he hiding the FTB's breach of duty by not timely correcting their "error?"

B. On pages 4 - 5, I pointed out that Mr. Yadao redacted five calls/letters that we had made/sent to FTB between 12-09-2011 and 3-20-2013 -- all efforts to try to locate our five "lost" payments. Wouldn't these be relevant in the willful neglect argument? Was he trying to protect *my* private information or was he trying to hide FTB's multiple breaches of duty to apply payments accurately and timely?

C. On page 5, I pointed out that Mr. Yadao redacted the notes from 11-15-2013, in which we were told that our account was placed on hold until 2-14-2014 to allow time for our tax return to be processed, and thus no wage garnishment would be imposed. This redacted comment exposed that FTB had given us erroneous information that created further delays on our ability to file our returns. Why was this comment considered confidential information? Was he trying to protect *my* private information or was he trying to hide FTB's breach of duty?

D. On page 5, I pointed out that Mr. Yadao redacted a fax sent in by Christine on 12-6-2013 showing that the credit elect that had been applied to tax year 2011 more than covered the balance FTB claimed was due. Wouldn't this be relevant information for a willful neglect argument?

E. On page 5, I point out that Mr. Yadao wrote in his brief that on 12-18-2013 FTB mailed us a letter saying that no further holds would be placed on our account, yet he redacted a note from the very same day that said our account had been placed on hold; no actions at this time. This redacted comment exposed that FTB had given us erroneous and conflicting information that



caused further delays on our ability to file. Why was the letter not considered confidential information, but the note that directly contradicted the letter was considered classified? Was he protecting *my* personal information or hiding FTB's breach of duty?

F. As I detailed on pages 6 - 9, Mr. Yadao wrote that our tax year 2010 tax return was processed on 12-19-2013. Via deceptive wording, he implied that the credit elect of [REDACTED] was immediately applied to tax year 2011, and thus the wage garnishment for tax year 2011 was withdrawn and our 2011 tax year account was placed on hold. He implied that there were no further issues with tax year 2011. The reality was that:

- No money whatsoever was applied to tax year 2011 on 12-19-2013, nor was one penny of that \$ [REDACTED] applied to tax year 2011 until several months later. I believe that leading the judges to believe that money was applied on an inaccurate date does indeed qualify as a straight up lie.
- The FTB reduced our credit elect to [REDACTED] because two payments totaling \$12,500 that were designated for tax year 2010 had vanished.
- The \$ [REDACTED] was not applied on 12-19-2013, as per FTB's credit elect withholding policy. He omitted that FTB lied to us multiple times about this policy, allowing us to believe the [REDACTED] had been "lost" instead of disclosing that it had been intentionally withheld. Even the letter that they mailed to us (Exhibit 10 in the Superior Court Case) indicated that the [REDACTED] would immediately be credited to tax year 2011. It also appears that the [REDACTED] credit elect was not applied on 3-02-2013, the date that it should have been per FTB's own policy of taking credit elects out of suspense the day that year's return is filed.
- The FTB located the \$9,000 payment in January 2014, but inexplicably refused to apply the money to tax year 2011 until July 2014. The wage garnishment for tax year 2011 was reinstated multiple times because of FTB's refusal to apply the payment.
- The \$3,500 payment was not fully located until 2-14-2018, after State Controller Betty Yee's office personally intervened.
- I believe that Mr. Yadao making it sound like all issues regarding tax year 2011 were fully resolved in December 2013 qualifies as a straight up lie.
- We made 11 calls and sent 3 letters/faxes between December 2013 and July 2014 to try to rectify the issues of the "missing" \$ [REDACTED] Wouldn't these be relevant information to disclose when making a willful neglect argument?
- Why are all these breaches of duty on FTB's part considered confidential information worthy of redaction? How was FTB protecting *my* information by hiding these breaches of duty?
- I believe that claiming we were willfully negligent, yet omitting all of this pertinent information about the FTB's multiple breaches of duty -- and the extraordinary efforts that



we made to correct FTB's breaches -- paints a false narrative to the judges. I believe this false narrative was so extensive that it qualifies as straight-up lying.

- Mr. Yadao refused to address these accounting ledger inaccuracies. I believe the reason the ledgers are inaccurate is because FTB is running two unlawful racketeering schemes. I believe Mr. Yadao's refusal to address the inaccuracies qualifies as covering up unlawful activity.

G. As I detailed on page 9, Mr. Yadao had written in his brief that I had contacted the FTB four times to request an extension for tax year 2013 and all requests were denied. He omitted that the first time, the FTB neglected to communicate this denial to us. The second time, he used deception to make it appear that our request was denied, but it hadn't been. He redacted a comment from the third request which stated that our account was placed on hold. I believe that saying that all requests had been denied when none of them were -- and one of the requests had actually been granted -- does indeed qualify as a straight up lie.

Why were the items that he did not redact not considered confidential, but the one that exposed that an extension had indeed been granted was considered classified? Was Mr. Yadao trying to protect *my* information?

H. On page 9, I detailed that he redacted that I called in complaining that I was unable to reach the Collections department and asking if another department could help me. I was told only Collections could help me. I believe that the inability to get through to the only department that could help me is pertinent information in a willful neglect argument. Was Mr. Yadao trying to protect *my* information by hiding information that weakened his case against me?

I. On page 9, I detailed that he redacted that FTB again breached their duty by "misapplying" a payment for [REDACTED]. He redacted the two phone calls and fax that was sent to resolve this "error." How is hiding FTB's breach of duty protecting *my* personal information? Aren't my efforts to resolve FTB's breach of duty relevant information for a willful neglect case?

J. On pages 9 - 10, I detailed that Mr. Yadao redacted information yet another FTB breach of duty, this time with a "lost" payment. He redacted that this took 2 phone calls, a fax and a letter to resolve. How is hiding FTB's breach of duty protecting *my* personal information? Aren't my efforts to resolve FTB's breaches relevant information for a willful neglect case?

K. On page 10, I detailed that Mr. Yadao used deceptive wording to make it sound like our credit elect payment of [REDACTED] for tax year 2014 had been applied on 8-03-2016. No money was applied on that date. I believe that leading the judges to believe that money was applied on an inaccurate date does indeed qualify as a straight up lie.

L. Mr. Yadao omitted that Christine had copied FTB on two letters that she sent to her legislative representatives requesting intervention to remove the credit elect payment from suspense and apply it to tax year 2013. He also omitted that, thanks to the intervention of the legislators, the credit elect was applied on 12-07-2016.



III. The Bar's Letter says "OTA's decision made no finding that any of the facts stated in FTB's brief were false or misleading. Instead OTA's 'Factual Findings' were consistent with the facts stated in Mr. Yadao's brief."

I would like to remind the Bar Association that the reason that I filed a Review del Novo was because OTA's ruling was so blatantly corrupt that it was jaw dropping:

- As I pointed out in my Superior Court brief, the heart of Mr. Yadao's argument was that we filed late due to willful neglect. By exposing all of the improper omissions/redactions, I proved that our late filing was not due to willful neglect but rather due to FTB's multiple breaches of duty. Instead of ruling in my favor, the OTA instead removed the issue of willful neglect from their ruling altogether.
- The OTA judges also did not address the heart of my argument, which was whether it was legal for FTB to unlawfully withhold/misapply payments, then impose penalties and fees that would not have been imposed had the payments been applied in compliance with the law. They omitted the issues that I raised from their ruling altogether.
- The OTA judges accepted FTB's accounting ledgers as accurate. I find this unconscionable since I provided proof that FTB's ledgers were inaccurate via canceled checks, Web-pay receipts, and FTB's own internal notes. FTB did not dispute any of the evidence that I submitted. No explanation was offered for why the judges disregarded my evidence.
- It is my belief that all three judges should lose their licenses to practice law for this shocking verdict.

As I stated in my Superior Court brief, I believe that the OTA judges were coerced by Jozel Brunett, FTB's Chief, Legal Counsel. The two racketeering schemes and overcharging of interest are illicit revenue streams that probably generate significant income, and FTB's mandate is to "protect the revenue." Both racketeering schemes were openly approved by Ms. Brunett's legal department as acceptable business practices. Clearly, Ms. Brunett has a personal interest in trying to cover up these unlawful activities as she will also be facing legal consequences if they are exposed. It is my belief that Ms. Brunett should also lose her license to practice law, along with Mr. Yadao and the three OTA judges.

I believe it is premature for the Bar to dismiss the complaints against Mr. Yadao based on the flawed ruling of the OTA. I believe that for the Bar Association to properly do its job, you should see what evidence comes out during this trial.

In closing, I believe that I have clearly demonstrated that Mr. Yadao improperly redacted documents to hide pertinent evidence, omitted pertinent evidence, and used deceptive wording in order to tell straight up lies. I have provided enough evidence to show that the purpose of these improprieties was to hide the multiple breaches of duty committed by FTB. I believe Mr. Yadao should lose his license to practice law for this alone.

The evidence suggests that the purpose for the redactions/omissions/deceptions was not merely to cover up incompetence, but to cover up bona-fide illegal activity. If the evidence that comes out in the current case shows that he was indeed covering up two racketeering schemes and overcharging of interest, then he should not only lose his license, but also be sentenced to prison.

Please contact me if you need any further evidence or information in order to complete your investigation.

Regards,



Christine Grab

CC : FBI  
CA Auditor's Office  
Controller Yee  
Keely Basler  
Antonio Jaquez  
Governor Newsom  
Gov Ops