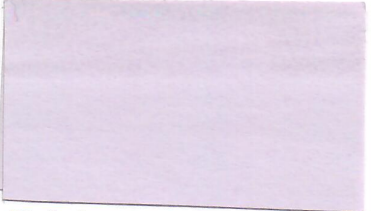


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Christine Grab



Christine Grab, in pro per

FILED
CIVIL BUSINESS OFFICE 19
GENERAL DIVISION
20 DEC 15 AM 9:58
CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

Christine N. Grab

Plaintiff,

vs.

The California Franchise Tax Board
Defendant

) NO. 37-2020-00005100-CL-BT-CTL
)
) DECLARATION OF Christine N. Grab IN
) SUPPORT OF MOTION FOR ORDER
) COMPELLING FURTHER RESPONSE TO
) DEMAND FOR DOCUMENTS
) Code Civ. Proc. § 2031.310
)
) **DATE: MAY 28, 2021**
) **TIME: 9:00 AM**
) **LOCATION: 330 BROADWAY, SAN**
) **DIEGO**
)
) Judge: HONORABLE EDDIE C. STURGEON
) Dept: C67
) Action Filed: JANUARY 29, 2020
) Trial Date: UNASSIGNED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Declarations 1 – 3 - 2 -
List of Documents Demanded - 3 -
Items #1A – 1I of the Demand:..... - 3 -
Items # 2A - 2B of the Demand:..... - 9 -
Items # 3A - 3D of the Demand:..... - 12 -
Items #4A – 4E of the Demand: - 16 -
Items #5A and 5B of the Demand: - 21 -
Item #6A of the Demand: - 25 -
General Objections Raised by FTB in Response to Request for Production of Documents (exhibit
40) - 27 -
Relevance - 33 -
Informal Resolution Attempts..... - 33 -
Justification for Grounds for Motion - 34 -
Verification - 35 -
Memorandum of Points and Authorities in Support of Motion to Compel Further Response - 36 -
Exhibit List..... ~~37~~ 37 -

Declarations 1 – 3

1 I, Christine N. Grab, declare:

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. I am the Plaintiff.

2. On October 1, 2020, I, Plaintiff, Christine N. Grab, served a Demand for Documents, Set No. one (1) on Defendant, The California Franchise Tax Board (FTB), a copy of which is attached to this Declaration as exhibit 39.



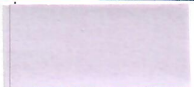






3. Defendant made and served a Response Set No. one (1), dated November 3, 2020, a copy of which is attached to this Declaration as exhibits 40 (objections to documents not produced) and 41 (documents produced). The Response served by Defendant requires further responses as follows:

List of Documents Demanded

Items #1A – 1I of the Demand:

Please provide accurate accounting ledgers to track all of the following payments that we made that were put into “suspense” instead of being immediately applied to our account. The accurate ledgers will show:

- Date each payment was put into suspense.
- Exactly where that money was located for the duration of the “suspense” period
- Track any movements of the monies while in suspense
- Accurate dates the monies were moved out of suspense and applied to our account (the dates on the accounting ledgers that were supplied to OTA have inaccurate dates with regards to these payments).

Request #	Date payment made	Payment Method	Amount
1A	Nov 9, 2010	credit elect	
1B	Nov. 20, 2010	check	
1C	April 18, 2011	check	
1D	November 8, 2013	credit elect	
1E	February 27, 2014	credit elect	
1F	March 31, 2013	check	
1G	June 16, 2014	credit elect	
1H	January 25, 2017	credit elect	
1I	March 15, 2017	credit elect	

1 *FTB Response:*

2 RESPONSE TO REQUEST NO. IA-11:

3 The FTB objects to this Request to the extent that it seeks privileged information and
4 documents protected from disclosure by the deliberative process privilege, the attorney-client
5 privilege, the attorney work product doctrine, Government Code section 6254.5 and/or Evidence
6 Code sections 1040 and 1041. The FTB further objects to this Request to the extent that it is overly
7 broad. The FTB further objects to this Request to the extent that it seeks documents in the
8 possession, custody or control of the Propounding Party. The FTB further objects to this Request to
9 the extent it seeks documents that are equally available to the Propounding Party. The FTB further
10 objects to this Request on the grounds discovery is ongoing and premature.
11

12 Subject to and without waiving the foregoing objections, the FTB responds as follows: FTB
13 will produce non-privileged responsive documents in its possession, custody or control. See Bates
14 Nos. FTB 001 - 007. Discovery and investigation is ongoing. The FTB reserves its right to
15 supplement or amend this response.
16

17
18 ***Factual and Legal Reasons for Compelling Further Response and Showing of Good Cause***

19 ***Justifying Discovery Sought Items #1A – II:***

20 FTB did provide some screenshots of the payment records in their accounting system in
21 response to this request (exhibit 41, pages 1 - 7). However, none of the information provided
22 fulfilled my requests for information about the dates that my estimated tax payments were placed
23 into and removed from suspense. None disclosed the location of my funds while the funds were in
24 suspense.
25

26 In fact, some of the information FTB provided in response to this request is less accurate
27 than the information that FTB had submitted to the Office of Tax Appeals during my first hearing.
28 For example, on page FTB007, FTB wrote “1H- No payment information found” (exhibit 41, page

1 7). In my follow-up email to Ms. Barsegyan dated 12-01-2020, I pointed out where this payment
2 could be found on the 2015 accounting ledger (exhibit 44, page 4). FTB's response was: "...FTB
3 produced all documents responsive to your request...FTB does not have any further documents
4 responsive to your request." (exhibit 45, page 2).

5
6 FTB claimed they have no records of a payment made of [REDACTED] despite the fact that this
7 payment is listed on their own accounting ledgers. This is a violation of FTB's principal to manage
8 taxpayer accounts with accuracy and financial integrity as per the Statement of Principles of Tax
9 Administration (see General Objections below).

10 FTB also made a false statement in the documents provided. On page FTB007 (exhibit 41,
11 page 7), FTB wrote "*Please note that the no payment was transferred or cancelled on the
12 'Estimated Transfer Cancellation Screen.' It is showing the amount that was transferred from one
13 tax year to another *and the date it was transferred.**" The asterisk indicated the payments that had
14 been made via credit elect. (emphasis added to indicate the false portion of the statement.)
15

16 The payments with this asterisk each say "Transfer Effective Date," which indicates the date
17 to which the payment was back-dated, as is required per Revenue & Tax Code 19363. This is not
18 the actual date that the money was applied to our account.

19 In the case of payment 1A of [REDACTED], the payment was made on 11-09-2010, so clearly, the
20 "effective transfer date" of 04-15-2010 cannot be the actual date on which the money was applied
21 (exhibit 41, page 1; exhibit 2).

22 Likewise, Item 1D, a payment of [REDACTED] was made on 11-08-2013. It thus could not have
23 been applied on 04-15-2011 (exhibit 41, page 4, exhibit 2, exhibit 8). There are three more items
24 that this false statement pertains to: 1E, 1G, and 1I (exhibit 41, pages 5 - 7).
25

26 In exhibit 45, page 2, FTB stated that "...FTB produced all documents responsive to your
27 request...FTB does not have any further documents responsive to your request." If it is true that
28

1 FTB has no records of the dates that payments made via credit elect were received nor the dates the
2 payments were applied to our account, FTB has breached its duty to manage taxpayer accounts with
3 accuracy and financial integrity as per the Statement of Principles of Tax Administration (see
4 General Objections below). It is inconceivable that a taxation agency that purportedly adheres to
5 Principles of Tax Administration would not maintain such records.
6

7 In FTB's Meet and Confer Response dated 12-07-2020, Ms. Barsegyan also wrote:
8 "Furthermore, your inquiry regarding the location of the funds in your account is not relevant to
9 your refund complaint against the FTB. Pursuant to Revenue and Taxation Code section 19133, if a
10 taxpayer fails to properly timely respond to the notice and demand by the FTB, the FTB may
11 impose a penalty of up to 25 percent of the amount of tax assessed pursuant to section 19087 unless
12 the failure is due to reasonable cause and not willful neglect." (exhibit 45, pages 2).
13

14 As I detailed in my Complaint on pages 2 – 4, Revenue & Tax Code 19087 states that
15 Notices and Proposed Assessments and Demand Penalties are only to be issued/imposed on
16 *delinquent* accounts as assessed by FTB. It says:
17

18 (a) If any taxpayer fails to file a return, or files a false or fraudulent return with intent
19 to evade the tax, for any taxable year, the Franchise Tax Board, at any time, may
20 require a return or an amended return under penalties of perjury *or* may make an
21 estimate of the net income, from any available information, and may propose to
22 assess the amount of tax, interest, and penalties due. **All the provisions of this part**
23 **relative to delinquent taxes** shall be applicable to the tax, interest, and penalties
24 computed hereunder (emphasis added).
25

26 If FTB's above statement is truthful – that the transfer effective date was the actual date that
27 those five credit-elect payments were applied to our account -- then per FTB's own record 1G
28 (exhibit 41, page 6), our tax year 2013 was fully funded by the due date, the Notice of Proposed

1 Assessment (NPA) was falsely issued, and all penalties, fees and interest were wrongfully imposed
2 (exhibit 47). As such, the penalties, fees, and interest for tax year 2013 should be immediately
3 refunded to us, along with interest for the duration that the monies was improperly held.
4

5 If FTB's above statement is truthful – that the transfer effective date was the actual date that
6 those five credit-elect payments were applied to our account -- then per FTB's own record 1D, there
7 should have been a payment of [REDACTED] on the 2011 NPA (exhibit 41, page 3). The NPA states zero
8 received in payments (exhibit 47, pages 1, 2).
9

10 Ms. Barsegyan continued on (exhibit 45, page 3), "Thus, the location of the funds has no
11 bearing on the FTB's decision to impose the demand penalty..." I believe this is a false statement.
12 As I discussed on pages 7 – 18 of my Complaint, per R&TC 19087(2)(a), had the estimated tax
13 payments designated for tax years 2010 and 2013 been timely applied to our account in accordance
14 with the law, the penalties would not have been imposed on tax years 2011 and 2013.
15

16 In my Complaint, I documented that FTB aggressively harassed me and my husband for
17 monies that were never due, and that this aggressive harassment is what caused us to file our tax
18 year 2011 and subsequent tax years late. Had FTB not been negligent in locating and correctly
19 applying the 14 "lost" payments, tax year 2014 penalties would not have been imposed. The
20 inaccurate records produced by FTB and the denial by FTB that they maintain accurate records
21 corroborates my allegations.
22
23

24 On page FTB007 of the evidence FTB produced, FTB wrote "*Please note that *the no*
25 *payment was transferred or cancelled on the 'Estimated Transfer Cancellation Screen.'* It is
26 showing the amount that was transferred from one tax year to another and the date it was
27 transferred.*" The asterisk indicated the payments that had been made via credit elect. (emphasis
28

1 added to indicate the portion of the statement that I am referencing.) This statement indicates that
2 our credit elect payments had been placed into a status called “no payment.”

3 FTB has not denied that it knows where the money was located in the interim between
4 receiving payment and applying the funds to our account. Revealing the location of these “lost”
5 funds is a critical component to understanding why the 14 payments were so difficult for FTB staff
6 to locate and correctly apply to our account. If FTB abided by its principal of operating with
7 transparency, FTB would disclose the location of the “lost” funds.

9 In their Response to Request for Production of Documents, FTB claimed that providing
10 accurate accounting data, including the location of “lost” payments, would fall under the purview of
11 attorney-client privilege, the attorney work product doctrine, Government Code section 6254.5
12 and/or Evidence Code sections 1040 and 1041 (exhibit 40, pages 4 - 6). I believe that invoking these
13 statutory protections raises red-flags as to the legitimacy of FTB’s accounting operations.

14 Given FTB’s own internal accounting discrepancies, I reserve the right to request an audit.

15
16
17
18 **Items # 2A - 2B of the Demand:**

19 2A. On January 23, 2014, we made a payment of \$9,047.46 that but was not applied to our
20 2011 tax year until July 16, 2014. Please provide an accurate accounting ledger tracking this
21 payment, including the location where the payment was initially applied, each time this payment (or
22 a portion thereof) was moved during the interim between payment date and proper application date,
23 and the removal of interest.

24
25 2B. Please provide an explanation for why Exhibit H, a 2002 accounting ledger that was
26 submitted to OTA by FTB, inaccurately reflects that the \$9,047.46 payment was refunded to us on
27 March 9, 2014.
28

1 *FTB Response:*

2

3 RESPONSE TO REQUEST NO. 2A:

4 The FTB objects to this Request to the extent that it seeks privileged information and
5 documents protected from disclosure by the deliberative process privilege, the attorney-client
6 privilege, the attorney work product doctrine, Government Code section 6254.5 and/or Evidence
7 Code sections 1040 and 1041. The FTB further objects to this Request as being vague and
8 ambiguous, particularly as to the terms "location", and "proper application date". The FTB further
9 objects to this Request to the extent that it fails to identify the requested documents with reasonable
10 particularity. The FTB further objects to this Request to the extent that it seeks documents in the
11 possession, custody or control of the Propounding Party. The FTB further objects to this Request to
12 the extent it seeks documents that are equally available to the Propounding Party. The FTB further
13 objects to this Request on the grounds discovery is ongoing and premature.

14
15 Subject to and without waiving the foregoing objections, the FTB responds as follows: FTB
16 will produce non-privileged responsive documents in its possession, custody or control. See Bates
17 Nos. FTB 008. Discovery and investigation is ongoing. The FTB reserves its right to supplement or
18 amend this response.
19

20

21 RESPONSE TO REQUEST NO. 28:

22 The FTB objects to this Request because it does not comply with Code of Civil Procedure
23 section 2031.030 to the extent that it is a request other than for the production of documents. The
24 FTB further objects to this Request to the extent that it seeks privileged information and documents
25 protected from disclosure by the deliberative process privilege, the attorney-client privilege, the
26 attorney work product doctrine, Government Code section 6254.5 and/or Evidence Code sections
27 1040 and 1041. The FTB further objects to this Request on grounds that it is vague and ambiguous,
28

1 particularly as to "Exhibit H". The FTB further objects to this Request to the extent that it seeks
2 documents in the possession, custody or control of the Propounding Party. The FTB further objects
3 to this Request to the extent it seeks documents that are equally available to the Propounding Party.
4 The FTB further objects to this Request on the grounds discovery is ongoing and premature.
5 Discovery and investigation is ongoing. The FTB reserves its right to supplement or amend this
6 response.
7

8
9 ***Factual and Legal Reasons for Compelling Further Response and Showing of Good Cause***

10 ***Justifying Discovery Sought for Items # 2A - 2B:***

11 FTB provided a one page document that was unlabeled (exhibit 41, page 8). In her email
12 dated 12-09-2020, Ms. Barsegyan indicated that it was in response to Request 2A (exhibit 46, page
13 2).
14

15 The top portion of the document is a tax year 2002 accounting ledger, which shows that the
16 payment we made for \$9,047.46 on 1-23-2014 was applied to a bill, then refunded on 03-09-14. It
17 also indicates that a payment of \$1,000 was transferred from tax year 2008 to 2002 on 03-16-11,
18 and refunded on 04-30-2011.

19 The bottom half shows a payment of \$1,000 was applied to tax year 2008 on 03-16-2011.

20 This response does not fulfil my Demand #2A for an accounting ledger that fully tracks the
21 payment of \$9,047.46. This 2002 ledger falsely indicates that the payment was refunded to us
22 it had not been; the payment was moved to tax year 2011 on 07-16-2014 (exhibit 2). It also does not
23 indicate the removal of \$47.46, as only \$9,000 was applied to tax year 2011 (exhibit 2).
24

25 This 2002 ledger also does not fulfil my Demand #2B, for data that explains why the 2002
26 accounting ledger falsely says that this payment of \$9,047.46 was refunded to us.
27
28

1 If this were a legitimate line item, FTB would have produced a copy of the refund check as
2 proof that the line item is legitimate.

3 If listing an item as a refund when the money was applied in a different manner was a
4 standard business practice, FTB would have produced their manuals of standard operating
5 procedures to document when and why such items are identified as refunded. Failure to produce
6 their manuals indicates to me that this is not a legitimate practice and that FTB has violated its
7 principal of managing their accounts with accuracy and financial integrity.
8

9 In my Complaint, I documented that FTB aggressively harassed me and my husband for
10 monies that were never due, and that it was this aggressive harassment that caused us to file our tax
11 year 2011 and subsequent tax years late. The "lost" payment of \$9,047.46 intended for tax years
12 2010/2011 is one of the two payments that FTB had an especially difficult time locating. Instead of
13 locating the "lost," \$9,047.46, FTB filed a wage garnishment against my husband for \$6,478.48.
14

15 As discussed below in the General Objections section, accurate accounting records are a
16 standard part of FTB operations. FTB has provided inaccurate ledgers to me, the Office of Tax
17 Appeals, and this court, which is a violation of Standard Principals of Tax Administration.

18 Accurate data for tax years 2002, 2010 and 2011 are reasonable requests. Requesting an
19 explanation via standard operating procedure manuals for why the ledgers provided appear to be
20 inaccurate, including containing information that appears to be false, is also reasonable. FTB bears
21 the burden of proof showing that their records are kept in accordance with the Statements of
22 Principals of Tax Administration.
23

24 I reserve the right to request an audit regarding the accounting discrepancies.
25
26

27 **Items # 3A - 3D of the Demand:**

28 3A. Please provide a complete amortization schedule showing how interest was calculated

1 for tax year 2008. This should include principal amount, interest rate, days of interest charged, dates
2 that the principal was re-calculated (to reflect principal increases due to added interest and/or
3 principal reduction via payments made) and dates that the interest rate changed.
4

5 3B. Please provide a complete amortization schedule showing how interest was calculated
6 for tax year 2011. This should include principal amount, interest rate, days of interest charged, dates
7 that the principal was re-calculated (to reflect principal increases due to added interest and/or
8 principal reduction via payments made) and dates that the interest rate changed.
9

10 3C. Please provide a complete amortization schedule showing how interest was calculated
11 for tax year 2013. This should include principal amount, interest rate, days of interest charged, dates
12 that the principal was re-calculated (to reflect principal increases due to added interest and/or
13 principal reduction via payments made) and dates that the interest rate changed.
14

15 3D. Please provide a complete amortization schedule showing how interest was calculated
16 for tax year 2014. This should include principal amount, interest rate, days of interest charged, dates
17 that the principal was re-calculated (to reflect principal increases due to added interest and/or
18 principal reduction via payments made) and dates that the interest rate changed.
19

20 ***FTB Response:***
21

22 **RESPONSE TO NO. 3A:**

23 The FTB objects to this Request to the extent that it seeks privileged information and
24 documents protected from disclosure by the deliberative process privilege, the attorney-client
25 privilege, the attorney work product doctrine, Government Code section 6254.5 and/or Evidence
26 Code sections 1040 and 1041. The FTB further objects to this Request to the extent that it is overly
27 broad and unintelligible. The FTB further objects to this Request to the extent that it seeks
28

1 documents in the possession, custody or control of the Propounding Party. The FTB further objects
2 to this Request to the extent it seeks documents that are equally available to the Propounding Party.

3 The FTB further objects to this Request on the grounds discovery is ongoing and premature.

4 Subject to and without waiving the foregoing objections, the FTB responds as follows: FTB
5 will produce non-privileged responsive documents in its possession, custody or control. See Bates
6 Nos. FTB 009 - 016. Discovery and investigation is ongoing. The FTB reserves its right to
7 supplement or amend this response.
8

9
10 RESPONSE TO REQUEST NO. 3B:

11 The FTB objects to this Request to the extent that it seeks privileged information and
12 documents protected from disclosure by the deliberative process privilege, the attorney-client
13 privilege, the attorney work product doctrine, Government Code section 6254.5 and/or Evidence
14 Code sections 1040 and 1041. The FTB further objects to this Request to the extent that it is overly
15 broad and unintelligible. The FTB further objects to this Request to the extent that it seeks
16 documents in the possession, custody or control of the Propounding Party. The FTB further objects
17 to this Request to the extent it seeks documents that are equally available to the Propounding Party.
18 The FTB further objects to this Request on the grounds discovery is ongoing and premature.
19

20 Subject to and without waiving the foregoing objections, the FTB responds as follows: FTB
21 will produce non-privileged responsive documents in its possession, custody or control. See Bates
22 Nos. FTB 0 17 - 021. Discovery and investigation is ongoing. The FTB reserves its right to
23 supplement or amend this response.
24

25
26 RESPONSE TO REQUET NO. 3C:

27 The FTB objects to this Request to the extent that it seeks privileged information and
28 documents protected from disclosure by the deliberative process privilege, the attorney-client

1 privilege, the attorney work product doctrine, Government Code section 6254.5 and/or Evidence
2 Code sections 1040 and 1041. The FTB further objects to this Request to the extent that it is overly
3 broad and unintelligible. The FTB further objects to this Request to the extent that it seeks
4 documents in the possession, custody or control of the Propounding Party. The FTB further objects
5 to this Request to the extent it seeks documents that are equally available to the Propounding Party.
6 The FTB further objects to this Request on the grounds discovery is ongoing and premature.
7

8 Subject to and without waiving the foregoing objections, the FTB responds as follows: FTB
9 will produce non-privileged responsive documents in its possession, custody or control. See Bates
10 Nos. FTB 022 - 027. Discovery and investigation is ongoing.
11

12 RESPONSE TO REQUEST NO. 3D:
13

14 The FTB objects to this Request to the extent that it seeks privileged information and
15 documents protected from disclosure by the deliberative process privilege, the attorney-client
16 privilege, the attorney work product doctrine, Government Code section 6254.5 and/or Evidence
17 Code sections 1040 and 1041. The FTB further objects to this Request to the extent that it is overly
18 broad and unintelligible. The FTB further objects to this Request to the extent that it seeks
19 documents in the possession, custody or control of the Propounding Party. The FTB further objects
20 to this Request to the extent it seeks documents that are equally available to the Propounding Party.
21 The FTB further objects to this Request on the grounds discovery is ongoing and premature.
22

23 Subject to and without waiving the foregoing objections, the FTB responds as follows: FTB
24 will produce non-privileged responsive documents in its possession, custody or control. See Bates
25 Nos. FTB 028 -033. Discovery and investigation is ongoing. The FTB reserves its right to
26 supplement or amend this response.
27
28

1 *Factual and Legal Reasons for Compelling Further Response and Showing of Good Cause*

2 *Justifying Discovery Sought Items # 3A - 3D:*

3 FTB did provide partial amortization schedules. There appear to be discrepancies in these
4 accounting records. I reserve the right to make further requests regarding the missing portions of
5 these amortization schedules and the discrepancies found in the portions that were provided. There
6 is good cause for discovery sought by the demand in that facts and evidence suggests that that FTB
7 has breached its duty to maintain accurate accounting records, and these will help substantiate some
8 of the accounting breaches that led to the false imposition of penalties.
9

10
11

12 **Items #4A – 4E of the Demand:**

13 4A. On tax years 2014 there is a strange accounting item for \$8.37. Please provide an
14 explanation for why the copies FTB provided to me say “FTB Adjustment,” but the copy provided
15 to OTA in Exhibit D says “write off.”
16

17 4B. Please provide an explanation for why this small accounting adjustment/write off is
18 considered classified information.
19

20 4C. FTB’s Exhibit H is a 2002 accounting ledger submitted to OTA by FTB. There is a
21 strange accounting item for twelve cents identified as a “write off.” Please provide an explanation
22 for why this small accounting write off is considered classified information.
23

24 4D and 4E. Please explain why each of these adjustments were made.

25
26

FTB Response:

27 RESPONSE TO REQUEST NO. 4A:
28

1 The FTB objects to this Request because it does not comply with Code of Civil Procedure
2 section 2031.030 to the extent that it is a request other than for the production of documents. The
3 FTB further objects to this Request to the extent that it seeks privileged information and documents
4 protected from disclosure by the deliberative process privilege, the attorney-client privilege, the
5 attorney work product doctrine, Government Code section 6254.5 and/or Evidence Code sections
6 1040 and 1041. The FTB further objects to this Request as vague and ambiguous, particularly as to
7 terms "copies", "strange", and "Exhibit D". The FTB further objects to this Request to the extent
8 that it seeks documents in the possession, custody or control of the Propounding Party. The FTB
9 further objects to this Request to the extent it seeks documents that are equally available to the
10 Propounding Party. The FTB further objects to this Request on the grounds discovery is ongoing
11 and premature.
12

13
14
15 RESPONSE TO REQUEST NO. 4B:

16 The FTB objects to this Request because it does not comply with Code of Civil Procedure
17 section 2031.030 to the extent that it is a request other than for the production of documents. The
18 FTB further objects to this Request to the extent that it seeks privileged information and documents
19 protected from disclosure by the deliberative process privilege, the attorney-client privilege, the
20 attorney work product doctrine, Government Code section 6254.5 and/or Evidence Code sections
21 1040 and 1041. The FTB further objects to this Request to the extent that it is overly broad and
22 unintelligible. The FTB further objects to this Request as being vague and ambiguous, particularly
23 as to phrase "this small accounting adjustment/write off". The FTB further objects to this Request to
24 the extent that it seeks documents in the possession, custody or control of the Propounding Party.
25 The FTB further objects to this Request to the extent it seeks documents that are equally available to
26
27
28

1 the Propounding Party. The FTB further objects to this Request on the grounds discovery is ongoing
2 and premature.

3
4 RESPONSE TO REQUEST NO 4C:

5
6 The FTB objects to this Request because it does not comply with Code of Civil Procedure
7 section 2031.030 to the extent that it is a request other than for the production of documents. The
8 FTB further objects to this Request to the extent that it seeks privileged information and documents
9 protected from disclosure by the deliberative process privilege, the attorney-client privilege, the
10 attorney work product doctrine, Government Code section 6254.5 and/or Evidence Code sections
11 1040 and 1041. The FTB further objects to this Request to the extent that it is overly broad and
12 unintelligible. The FTB further objects to this Request as being vague and ambiguous, particularly
13 as to the terms "strange accounting" and "Exhibit H". The FTB further objects to this Request to the
14 extent that it seeks documents in the possession, custody or control of the Propounding Party. The
15 FTB further objects to this Request to the extent it seeks documents that are equally available to the
16 Propounding Party. The FTB further objects to this Request on the grounds discovery is ongoing
17 and premature.

18
19
20 RESPONSE TO REQUEST NO. 4D AND 4E:

21
22 The FTB objects to this Request because it does not comply with Code of Civil Procedure
23 section 2031.030 to the extent that it is a request other than for the production of documents to be
24 separately set forth and identified. The FTB further objects to this Request to the extent that it
25 seeks privileged information and documents protected from disclosure by the deliberative process
26 privilege, the attorney-client privilege, the attorney work product doctrine, Government Code
27 section 6254.5 and/or Evidence Code sections I 040 and 1041. The FTB further objects to this
28

1 Request to the extent that it is overly broad and unintelligible. The FTB further objects to this
2 Request as being vague and ambiguous, particularly as to the terms "these adjustments". The FTB
3 further objects to this Request to the extent that it seeks documents in the possession, custody or
4 control of the Propounding Party. The FTB further objects to this Request to the extent it seeks
5 documents that are equally available to the Propounding Party. The FTB further objects to this
6 Request on the grounds discovery is ongoing and premature.
7

8
9 *Factual and Legal Reasons for Compelling Further Response and Showing of Good Cause*

10 *Justifying Discovery Sought for Items #4A – 4E:*

11 As discussed below in the General Objections section, accounting ledgers are a standard part
12 of FTB operations. If FTB abided by its own published principals of operating with transparency,
13 they would have no objection to providing accurate accounting ledgers or explaining the apparent
14 discrepancies.
15

16 The fact that the 2014 accounting ledgers FTB submitted to OTA are different than the 2014
17 ledgers that they gave to me raises red-flags.

18 The fact that the nature of these two adjustments is considered “classified” information also
19 raises red flags. In the Standard Principals of Tax Administration, adjustments are not normally
20 considered privileged information.
21

22 The fact that FTB would claim that disclosing the nature of the adjustments and explaining
23 the discrepancy between the two sets of 2014 ledgers would fall under the purview of deliberative
24 process privilege, attorney-client privilege, the attorney work product doctrine, Government Code
25 section 6254.5 and/or Evidence Code sections 1040 and 1041 raises more red-flags.

26 Ms. Barsegyan also to objected 4B, 4C, 4D and 4E on the basis that I have not requested a
27 physical document and that the requests are overly broad and unintelligible. It is my belief that my
28

1 requests are clear: why were these adjustments made? If this were a legitimate business practice,
2 FTB would produce their standard operating manuals. Failure to produce their manuals indicates to
3 me that this is not a legitimate practice. FTB should immediately produce the documents that I have
4 demanded.

5
6 I have been requesting clarification regarding these two line-items for several years. FTB
7 has consistently refused to provide clarification, which is a violation of their principal to operate
8 with transparency (see General Objections below).

9 Ms. Barsegyan further objected to the use of the words “copies,” “strange,” “Exhibit D,”
10 “Exhibit H,” “this small accounting adjustment/write off,” and “these adjustments” as vague and
11 ambiguous.

12 The words “strange” and “small” are superfluous and thus not grounds to raise an objection
13 upon.

14 “Exhibit D” refers to the 2014 accounting ledgers that FTB submitted to OTA, which they
15 labeled as “Exhibit D.” I provided a copy of this ledger as Exhibit 15, page 6 with my Complaint.

16 “Exhibit H” refers to the 2002 accounting ledger that FTB submitted to OTA, which they
17 labeled as “Exhibit H.” I provided a copy of it with my Complaint as Exhibit 15, page 1. FTB
18 themselves produced this document for Demand #2A, (exhibit 41, page 8) yet insist they cannot
19 locate this 2002 ledger to fulfill Demand #4C.

20
21 “Accounting adjustment/write off” are the terms that FTB themselves used in the documents
22 to describe the line item.

23 And “these adjustments” refers to the line-item on the 2002 ledger for \$.12 identified as
24 “write off” and the line items in the 2014 ledger for \$8.37 that is identified as a “write off” in the
25 documents submitted to OTA but labeled as “accounting adjustment” in the ledgers that FTB
26 provided to me.
27
28

1 In her General Objections #12 (exhibit 40, page 4), Ms. Barsegyan stated that all words used
2 that are consistent with standard-use definitions are acceptable, and that Defendant would interpret
3 words in according to normal usage of the of the English language unless specifically stated
4 otherwise. According to Cambridge Dictionary, the word “copy” is defined as
5 “to produce something so that it is the same as an original piece of work.” In this case, the copy
6 refers to the accounting ledgers that were previously provided by FTB to OTA and to me.
7

8
9
10 **Items #5A and 5B of the Demand:**

11 5A. The accounting ledgers for tax year 2002 (Exhibit H that FTB submitted to OTA)
12 indicate that the payments made on May 15, 2008 for \$1,000 and October 15, 2010 for \$9,000 were
13 both applied to a “bill” on tax year 2002. Please provide a copy of both of these “bills.” If the copies
14 no longer exist due to statute of limitations, please provide notes or other records that indicate the
15 existence and nature of these alleged “bills.”
16

17 5B. The accounting ledgers for tax year 2009 indicate that a payment made on January 27,
18 2011 was partially applied to a “bill” on tax year 2009. Please provide a copy of this “bill.” If the
19 copy no longer exists due to statute of limitations, please provide notes or other records that indicate
20 the existence and nature of this alleged “bill.”
21

22 ***FTB Response:***

23
24 **RESPONSE TO REQUEST NO. SA:**

25 The FTB objects to this Request to the extent that it seeks privileged information and
26 documents protected from disclosure by the deliberative process privilege, the attorney-client
27 privilege, the attorney work product doctrine, Government Code section 6254.5 and/or Evidence
28 Code sections 1040 and 1041. The FTB further objects to this Request to the extent that it is overly