

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

2 **Justifying INTERROGATORY 10A:**

3 I am humbly requesting Your Honor to make an exception to the limit on the number of questions.

4 One of the precedential rulings that I am requesting is a determination as to whether **all** of FTB's
5 practices of withholding payments are lawful, not only the two types of payments that were
6 addressed in my initial Complaint (credit elect and married). Your Honor will be unable to make
7 this determination unless FTB's policies and procedures regarding the withholding of payments are
8 fully disclosed.

9 I have several reasons to believe that other types of payments are withheld as a part of FTB's
10 standard policies and procedures: 1. In 9C above, I have already documented that the SDI
11 overpayment in tax year 2014 was withheld from my husband's NPA totals. 2. In section 11 below,
12 I documented that FTB demanded payments of monies for our penalties, fees, and interest that
13 would not have been required to be paid had FTB not removed the overpayments that already
14 existed on those tax years and withheld those overpayments from us. 3. FTB issued a NPA for me
15 for tax year 2005. In 2005, I had two jobs, and one of my employers issued two W2s, so I had three
16 W2s. On the NPA, FTB only credited me the amount of money collected by my primary employer.
17 The state income taxes collected by my secondary employer were not credited, so it appears that
18 FTB also withholds income taxes collected from secondary employers (see attached exhibit 57).

19 **SPECIAL INTERROGATORY NO. 10B:** Please provide a complete list of links to every place
20 on your FTB.CA.GOV website that explains the assorted withholding practices that are listed in
21 answer to question 10A.

22 **FTB RESPONSE TO SPECIAL INTERROGATORY NO. 10B**

23 Defendant objects to this Request as violating Code of Civil Procedure section 94, since in a limited
24 case, each party may serve on each adverse party no more than 35 of any combination of
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1 interrogatories, requests for admission or demands for inspection. Plaintiff has exceeded the
2 allowed limit. Defendant also objects to this Request as being overbroad as to time and scope.
3 Defendant also objects to this Request to the extent it seeks information which is not relevant to the
4 subject matter involved in the pending action and is not reasonably calculated to lead to the
5 discovery of admissible evidence.
6

7 **Factual and Legal Reasons for Compelling Further Response and Showing Good Cause**
8 **Justifying INTERROGATORY 10B**

9 I am humbly requesting Your Honor to make an exception to the limit on the number of questions.
10 One of the precedential rulings that I am requesting is a determination as to whether **all** of FTB's
11 practices of withholding payments are lawful, not only the two types of payments that were
12 addressed in my initial Complaint (credit elect and married). Your Honor will be unable to make
13 this determination unless all of FTB's policies and procedures regarding the withholding of
14 payments are fully disclosed.
15

16 Given that FTB's website states that its Foundational Principles include "Operate with transparency
17 to maintain public trust and confidence," it is reasonable to conclude that if FTB's policies and
18 procedures regarding not applying monies to a taxpayer's account at the time FTB receives the
19 money are lawful, then FTB probably has this information disclosed on its website. Last year, the
20 MyFTB site had an asterisk in the Estimate Payments & Credits Detail page which disclosed that all
21 payments shown may not be credited right away. If I recall correctly, there were no links to an
22 explanation of which payments were credited right away. The MyFTB site has been updated and the
23 disclosure has been removed. Removing the disclosure feels to me like FTB is hiding the fact that
24 not all payments are timely applied.
25

26 **SPECIAL INTERROGATORY NO. 10C:** According to standard accounting definitions, a
27 "suspense" account is a general slush fund. Does any person or department within FTB, or person
28

1 or agency within the State of California, have access to utilize the funds contained in the suspense
2 accounts that the estimated tax payments are placed into?

3 **RESPONSE TO SPECIAL INTERROGATORY NO. 10C:** Defendant objects to this Request as
4 violating Code of Civil Procedure section 94, since in a limited case, each party may serve on each
5 adverse party no more than 35 of any combination of interrogatories, requests for admission or
6 demands for inspection. Plaintiff has exceeded the allowed limit. Defendant also objects to this
7 Request as being vague and ambiguous as to "slush fund" as Plaintiff does not define it. Defendant
8 also objects to this Request as being overbroad as to time and scope. Defendant also objects to this
9 Request to the extent it seeks information which is not relevant to the subject matter involved in the
10 pending action and is not reasonably calculated to lead to the discovery of admissible evidence.

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

12 **Justifying INTERROGATORY 10C:**

13 I am humbly requesting Your Honor to make an exception to the limit on the number of questions.
14 One of the precedential rulings that I am requesting is a determination as to whether **all** of FTB's
15 practices of withholding payments are lawful, not only the two types of payments that were
16 addressed in my initial Complaint (credit elect and married). Your Honor will be unable to make
17 this determination unless all of FTB's policies and procedures regarding the withholding of
18 payments are fully disclosed.
19

20 I believe the answer to this question explaining the policies and procedures for utilizing – or not
21 utilizing -- the funds held in suspense is critical information for Your Honor to understand in order
22 to make a proper determination as to the lawfulness of the practice of not timely applying the funds
23 to the taxpayers account as was specified by the taxpayer, and instead keeping the funds in a general
24 account that someone within the State controls.
25

26 **SPECIAL INTERROGATORY NO. 10D:** Are these "suspense" funds utilized for spending of
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1 any sort, whether routinely or sporadically?

2 **RESPONSE TO SPECIAL INTERROGATORY NO. 10D:** Defendant objects to this Request as
3 violating Code of Civil Procedure section 94, since in a limited case, each party may serve on each
4 adverse party no more than 35 of any combination of interrogatories, requests for admission or
5 demands for inspection. Plaintiff has exceeded the allowed limit. Defendant also objects to this
6 Request as being vague and ambiguous as to "spending of any sort". Defendant also objects to this
7 Request as being overbroad as to time and scope. Defendant also objects to this Request to the
8 extent it seeks information which is not relevant to the subject matter involved in the pending action
9 and is not reasonably calculated to lead to the discovery of admissible evidence.
10

11 **SPECIAL INTERROGATORY NO. 10E:** If the answer to 10D is yes, please list all
12 circumstances under which it is authorized to utilize these "suspense" funds.
13

14 **FTB RESPONSE TO SPECIAL INTERROGATORY NO. 10E:** Defendant objects to this
15 Request as violating Code of Civil Procedure section 94, since in a limited case, each party may
16 serve on each adverse party no more than 35 of any combination of interrogatories, requests for
17 admission or demands for inspection. Plaintiff has exceeded the allowed limit. Defendant also
18 objects to this Request as being vague and ambiguous as to "it" and "suspense fund" as Plaintiff
19 does not define them. Defendant also objects to this Request as being overbroad as to time and
20 scope. Defendant also objects to this
21 Request to the extent it seeks information which is not relevant to the subject matter involved in the
22 pending action and is not reasonably calculated to lead to the discovery of admissible evidence.
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24

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

26 **Justifying INTERROGATORY 10D and 10E:**

27 I am humbly requesting Your Honor to make an exception to the limit of questions. One of the
28 precedential rulings that I am requesting is a determination as to whether all of FTB's practices of

1 withholding payments are lawful, not only the two types of payments that were addressed in my
2 initial Complaint (credit elect and married). Your Honor will be unable to make this determination
3 unless all of FTB's policies and procedures regarding the withholding of payments are fully
4 disclosed.

5
6 I believe the answer to these two question explaining the policies and procedures for utilizing – or
7 not utilizing -- the funds held in suspense is critical information for Your Honor to understand in
8 order to make a proper determination as to the lawfulness of the practice of not timely applying the
9 funds to the taxpayers account as was specified by the taxpayer, and instead keeping the funds in a
10 general account that someone within the State controls.

11 As I detailed in my Specially Prepared Interrogatories Set #002, Accounting Irregularities (see
12 attached exhibit 49), I have documented numerous accounting irregularities involving payments that
13 had been put into suspense. For example, for tax year 2011, we have documented that the withheld
14 payments of \$4,393 and \$9,000 were not applied to our account until several months after FTB
15 processed the 2011 tax returns. This was a violation of FTB's Taxpayer's Advocate's stated policies
16 and procedures that credit elect payments are applied at the time the taxpayer files the return.

17
18 I believe that it is important for Your Honor to understand if these delays in applying the withheld
19 funds in violation of FTB own stated policies and procedures could be as a result of the suspense
20 account being underfunded because someone spent the money. FTB's published foundational
21 principles state:
22

- 23 • "Carry out our fiduciary responsibilities to taxpayers by managing their accounts with accuracy and
24 financial integrity.
- 25 • Operate with transparency to maintain public trust and confidence.
- 26 • Conduct our business in accordance with the Statement of Principles of Tax Administration,
27 Taxpayers' Bill of Rights, and our organizational values."
28

1 I believe that, given the above principles, FTB should be eager to explain how the suspense funds
2 are utilized in order to prove that the suspense funds are utilized – or not utilized -- in accordance
3 with the law.

4 **SPECIAL INTERROGATORY NO. 10F:** When FTB calculates revenue collected for the State
5 of CA, does FTB include the monies held in suspense in the revenue totals, or are these funds
6 unaccounted for until they are removed from suspense?
7

8 **FTB RESPONSE TO SPECIAL INTERROGATORY NO. 10F:** Defendant objects to this
9 Request as violating Code of Civil Procedure section 94, since in a limited case, each party may
10 serve on each adverse party no more than 35 of any combination of interrogatories, requests for
11 admission or demands for inspection. Plaintiff has exceeded the allowed limit. Defendant also
12 objects to this Request as being vague and ambiguous as to "revenue collected for the State of CA";
13 "monies held in suspense"; and "revenue totals" as Plaintiff does not define them. Defendant also
14 objects to this Request as being overbroad as to time and scope. Defendant also objects to this
15 Request to the extent it seeks information which is not relevant to the subject matter involved in the
16 pending action and is not reasonably calculated to lead to the discovery of admissible evidence.
17

18 **Factual and Legal Reasons for Compelling Further Response and Showing Good Cause**
19 **Justifying INTERROGATORY 10F:**
20

21 I am humbly requesting Your Honor to make an exception to the limit of questions. As was
22 documented in In the Declaration in Support of Motion to Compel Further Documents (pages 8 - 9),
23 FTB placed the estimated tax payments that my husband and I made via credit elect into a status
24 called "no payment." This status indicates to me that none of these monies were included in the
25 revenue totals that the FTB reported to the Department of Finance until after the payments were
26 moved into the status of "payment."
27

28 If these suspense funds are not counted in the revenue collected totals until the monies are moved to

1 the final destination of the taxpayer's account **and** these suspense funds are also utilized for
2 spending as described in Interrogatories 10C, 10D and 10E above, then it appears that this suspense
3 account may be an "off the books" account with unauthorized and/or unregulated spending
4 occurring.

5
6 I believe the answer to this question explaining the policies and procedures for determining totals of
7 revenue collected is critical information for Your Honor to understand in order to make a proper
8 determination as to the lawfulness of the practice of not timely applying the funds to the taxpayers
9 account as was specified by the taxpayer, and instead keeping the funds in a general account that
10 someone within the State controls.

11 FTB's published foundational principles state:

- 12 • Carry out our fiduciary responsibilities to taxpayers by managing their accounts with accuracy and
13 financial integrity.
- 14 • Operate with transparency to maintain public trust and confidence.
- 15 • Conduct our business in accordance with the Statement of Principles of Tax Administration,
16 Taxpayers' Bill of Rights, and our organizational values.

17
18 I believe that, given the above principles, FTB should be eager to explain how the FTB revenue
19 totals are calculated. I believe that refusal by FTB to explain their most basic of accounting
20 procedures indicates that there may be wrongdoing in how the totals are calculated.

21
22 **SPECIAL INTERROGATORY NO. 11:** The attached page 18 is a page from my 2011
23 Abatement Request that I submitted to FTB in July 2014 (the full letter has already been submitted
24 as exhibit 38 for this case). In it, I stated that FTB customer service representative Carrey told me
25 that we could not pay the penalties, fees and interest for tax year 2011 via the overpayment that
26 already existed on tax year 2011. She demanded that we send in another payment of \$3,854.74 (see
27 attached page 19). In May of 2017, another FTB customer representative told me the same
28 information when I asked if I could pay the 2014 penalties and interest via the overpayment that

1 already existed on tax year 2014. The representative demanded that I mail in another payment of
2 \$4,011.49 (see attached pages 20 - 21). In the attached letter from FTB's Disclosure Department
3 (see pages 13 - 15), the Disclosure Department denies that this policy exists. The letter states "...we
4 do not have any policies regarding the prohibition of payments made towards penalties, fees and
5 interest being paid via credit elect and applied to a specific tax year. Additionally, we have
6 determined that we do not have any policies regarding the prohibition of money being transferred
7 from other tax years where an overpayment was made." **SPECIAL INTERROGATORY NO.**

9 **11A:** Could you please explain the discrepancy between the information provided by the Disclosure
10 Department and the information relayed to me by the two FTB employees?

11 **RESPONSE TO SPECIAL INTERROGATORY NO. 11A:** Defendant objects to this Request as
12 violating Code of Civil Procedure section 94, since in a limited case, each party may serve on each
13 adverse party no more than 35 of any combination of interrogatories, requests for admission or
14 demands for inspection. Plaintiff has exceeded the allowed limit. Defendant objects to this Request
15 because each question must be full and complete in and of itself under Code of Civil Procedure
16 section 2030.060, subdivision (d). A question is not full and complete if the responding party must
17 refer to other materials to answer the question. Defendant also objects to this Request because each
18 interrogatory may not have subparts, a preface or instructions, or contain a compound, conjunctive,
19 or disjunctive question. Defendant also objects to this Request to the extent it seeks information
20 which is not relevant to the subject matter involved in the pending action and is not reasonably
21 calculated to lead to the discovery of admissible evidence.

24 **SPECIAL INTERROGATORY NO. 11B:** If FTB does not have a policy of requiring "new
25 money" to pay penalties, fees and interest, please explain why FTB required me to send in "new
26 money" and would not allow the penalties, fees and interest to be paid via the overpayments for tax
27 years 2011 and 2014?
28

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 11B:** Defendant objects to this Request as
2 violating Code of Civil Procedure section 94, since in a limited case, each party may serve on each
3 adverse party no more than 35 of any combination of interrogatories, requests for admission or
4 demands for inspection. Plaintiff has exceeded the allowed limit. Defendant objects to this Request
5 because each question must be full and complete in and of itself under Code of Civil Procedure
6 section 2030.060, subdivision (d). A question is not full and complete if the responding party must
7 refer to other materials to answer the question. Defendant also objects to this Request because each
8 interrogatory may not have subparts, preface or instructions, or contain a compound, conjunctive, or
9 disjunctive question. Defendant also objects to this Request as being vague and ambiguous as to
10 "new money" as Plaintiff does not define it. Defendant also objects to this Request to the extent it
11 seeks information which is not relevant to the subject matter involved in the pending action and is
12 not reasonably calculated to lead to the discovery of admissible evidence.
13
14

15 **SPECIAL INTERROGATORY NO. 11C:** If FTB does have a policy of requiring "new money"
16 to pay penalties, fees and interest, please provide the legal codes to justify this policy/practice.
17

18 **RESPONSE TO SPECIAL INTERROGATORY NO. 11C:** Defendant objects to this Request as
19 violating Code of Civil Procedure section 94, since in a limited case, each party may serve on each
20 adverse party no more than 35 of any combination of interrogatories, requests for admission or
21 demands for inspection. Plaintiff has exceeded the allowed limit. Defendant objects to this Request
22 because each question must be full and complete in and of itself under Code of Civil Procedure
23 section 2030.060, subdivision (d). A question is not full and complete if the responding party must
24 refer to other materials to answer the question. Defendant also objects to this Request because each
25 interrogatory may not have subparts, preface or instructions, or contain a compound, conjunctive, or
26 disjunctive question. Defendant also objects to this Request as being vague and ambiguous as to
27 "new money" as Plaintiff does not define it. Defendant also objects to this Request as being
28

1 overbroad as to time and scope. Defendant also objects to this Request to the extent it seeks
2 information which is not relevant to the subject matter involved in the pending action and is not
3 reasonably calculated to lead to the discovery of admissible evidence.
4

5 **Factual and Legal Reasons for Compelling Further Response and Showing Good Cause**
6 **Justifying INTERROGATORY 11A, 11B and 11C:**

7 I am humbly requesting Your Honor to make an exception to the limit on number of questions. One
8 of the precedential rulings that I am requesting is a determination as to whether **all** of FTB's
9 practices of withholding payments are lawful, not only the two types of payments that were
10 addressed in my initial Complaint (credit elect and married). Your Honor will be unable to make
11 this determination unless all of FTB's policies and procedures regarding the withholding of
12 payments are fully disclosed.
13

14 I believe that the policy and procedure for removing overpayments from a particular tax year and
15 putting those funds into suspense, thus leaving the previously fully funded tax year as now
16 underfunded and subject to payments of monies in order to bring the liability to zero, qualifies as a
17 type of "withheld" payment. I believe that the details of this policy/procedure, as well as the laws
18 upon which those policies and procedures are based, is critical information in order for Your Honor
19 to make a proper determination as to the lawfulness of FTB's demands on me and my husband to
20 send in the two additional payments addressed in Interrogatory 11's general opening.
21

22 Given that one of FTB's published foundational principles is to "Operate with transparency to
23 maintain public trust and confidence," it seems to me that FTB should be eager to prove that their
24 policies and procedures have a valid legal basis.

25 **SPECIAL INTERROGATORY NO. 12:** The attached page 22 is a page from the Notes on my
26 account. FTB fully redacted an entry made somewhere between 01-04-2018 and 01-16-2018.
27

28 **SPECIAL INTERROGATORY NO. 12A.** Why did FTB redact the date, time and tax year(s)?

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 12A:** Defendant objects to this Request as
2 violating Code of Civil Procedure section 94, since in a limited case, each party may serve on each
3 adverse party no more than 35 of any combination of interrogatories, requests for admission or
4 demands for inspection. Plaintiff has exceeded the allowed limit. Defendant objects to this Request
5 because each question must be full and complete in and of itself under Code of Civil Procedure
6 section 2030.060, subdivision (d). A question is not full and complete if the responding party must
7 refer to other materials to answer the question. Defendant also objects to this Request because each
8 interrogatory may not have subparts, preface or instructions, or contain a compound, conjunctive, or
9 disjunctive question. Defendant also objects to this Request as being overbroad as to time and
10 scope. Defendant also objects to this Request to the extent it seeks information which is not relevant
11 to the subject matter involved in the pending action and is not reasonably calculated to lead to the
12 discovery of admissible evidence.

15 **SPECIAL INTERROGATORY NO. 12B:** It is my understanding that dates and times do not
16 qualify as redactable? If this redaction is a violation of protocol, could you please provide me with
17 the date, time of the entry, and tax year(s) the entry applied to?

18 **FTB RESPONSE TO SPECIAL INTERROGATORY NO. 12B:** Defendant objects to this
19 Request as violating Code of Civil Procedure section 94, since in a limited case, each party may
20 serve on each adverse party no more than 35 of any combination of interrogatories, requests for
21 admission or demands for inspection. Plaintiff has exceeded the allowed limit. Defendant objects to
22 this Request because each question must be full and complete in and of itself under Code of Civil
23 Procedure section 2030.060, subdivision (d). A question is not full and complete if the responding
24 party must refer to other materials to answer the question. Defendant also objects to this Request
25 because each interrogatory may not have subparts, preface or instructions, or contain a compound,
26 conjunctive, or disjunctive question. Defendant also objects to this Request as being vague and
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1 ambiguous as to "redactable" as Plaintiff does not define it. Defendant also objects to this Request
2 as being overbroad as to time and scope. Defendant also objects to this Request to the extent it seeks
3 information which is not relevant to the subject matter involved in the pending action and is not
4 reasonably calculated to lead to the discovery of admissible evidence.
5

6 **SPECIAL INTERROGATORY NO. 12C:** If you believe that redacting the date, time and tax
7 year(s) were proper, could you please explain why this redaction is not a violation of protocol?
8

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 12C:** Defendant objects to this Request as
10 violating Code of Civil Procedure section 94, since in a limited case, each party may serve on each
11 adverse party no more than 35 of any combination of interrogatories, requests for admission or
12 demands for inspection. Plaintiff has exceeded the allowed limit. Defendant objects to this Request
13 because each question must be full and complete in and of itself under Code of Civil Procedure
14 section 2030.060, subdivision (d). A question is not full and complete if the responding party must
15 refer to other materials to answer the question. Defendant also objects to this Request because each
16 interrogatory may not have subparts, preface or instructions, or contain a compound, conjunctive, or
17 disjunctive question. Defendant also objects to this Request as being vague and ambiguous as to
18 "protocol" as Plaintiff does not define it. Defendant also objects to this Request as being overbroad
19 as to time and scope. Defendant also objects to this Request to the extent it seeks information which
20 is not relevant to the subject matter involved in the pending action and is not reasonably calculated
21 to lead to the discovery of admissible evidence.
22

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

24 **Justifying INTERROGATORIES 12A, 12B AND 12C:**

25 I am humbly requesting Your Honor to make an exception to the limit on number of questions.
26

27 Attached exhibit 53 is an Accusation against FTB employee Eric Yadao that I filed in the CA
28 Supreme Court for improperly redacting documents to hide pertinent evidence in conjunction with

1 the OTA case that was the predecessor for this case. Given FTB's established track-record of hiding
2 evidence via improper redactions, and given that I have already caught Ms. Hubbard withholding
3 pertinent evidence in this case (see attached exhibit 52, pages 8, 11), I believe it is fair to assume
4 that FTB is again trying to hide pertinent evidence via improper redactions.
5

6
7 **Plaintiff's Response to FTB's General Objections Raised:**

8 FTB GENERAL OBJECTION NO. 1: Defendant objects to these interrogatories as a whole, and to
9 each interrogatory contained therein, to the extent they seek information that is neither relevant to
10 the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible
11 evidence.
12

13 PLAINTIFF'S RESPONSE TO GENERAL OBJECTION NO. 1: The purpose of this lawsuit is for
14 Your Honor to determine whether FTB's policies and procedures are in alignment with the existing
15 state and federal tax laws. As I have detailed in the opening, FTB has provided a tremendous
16 amount of vague and conflicting information, and I believe it is currently impossible to determine
17 exactly what FTB's policies and procedures are. Every question in this set of interrogatories helps
18 to clarify the true nature of FTB's business practices, including clarifying which laws the practices
19 are based upon.
20

21 FTB GENERAL OBJECTION NO. 2: Defendant objects to these interrogatories as a whole, and to
22 each interrogatory contained therein, to the extent they request information that is protected from
23 disclosure by the attorney-client privilege, the attorney work-product doctrine, and/or any other
24 applicable protection, privilege, or immunity. An inadvertent disclosure of information subject to
25 such objection(s) shall not be deemed to be a waiver of such privilege.
26

27 PLAINTIFF'S RESPONSE TO GENERAL OBJECTION NO. 2: I believe that this is a false
28 statement. I have not asked for any protected information. The majority of the interrogatories were

1 requests for clarification of information that FTB themselves has given me in the past. The rest were
2 requests for the laws that FTB bases its policies and procedures upon, which I believe FTB is
3 required disclose.

4 FTB GENERAL OBJECTION NO. 3: Defendant objects to these interrogatories as a whole, and to
5 each interrogatory contained therein, as oppressive and/or unduly burdensome to the extent they
6 request Defendant to obtain information from other individuals, from documents not in Defendant's
7 possession, custody, or control, and/or from documents in Defendant's possession, custody, or
8 control.

9
10 PLAINTIFF'S RESPONSE TO GENERAL OBJECTION NO. 3: I believe that this objection is
11 unconscionable. Defendant is not able to obtain information about policy and procedure that the
12 Defendant themselves set and daily follow? The standard operating manuals that Defendant wrote
13 are not in Defendant's possession, custody or control? Or it is in their control and it is oppressive
14 and unduly burdensome for Defendant to obtain information that they themselves created, control
15 and use on a daily basis? There is no outside party that FTB needs to consult to answer any of the
16 interrogatories contained herein.

17
18 FTB GENERAL OBJECTION NO. 4: Defendant objects to the Requests to the extent any of them
19 seek information equally or more available to Plaintiff, such as through the public domain, or
20 already in the possession, custody, or control of Plaintiff.

21
22 PLAINTIFF'S RESPONSE TO GENERAL OBJECTION NO. 4: It is true that most of the
23 interrogatories address information that is already in the public domain or already in my possession,
24 custody, or control. However, the information that I've accumulated is conflicting. The purpose of
25 this set of interrogatories was for FTB to clarify – *under penalty of perjury* -- what information
26 given to me in the past was true and what information was false. It also provides FTB an
27 opportunity to provide a reasonable explanation for the large amount of conflicting information.
28

1 FTB GENERAL OBJECTION NO.5: Defendant objects to these interrogatories as a whole, and to
2 each interrogatory contained therein, to the extent they are overbroad as to time and scope, and/or
3 unduly burdensome and oppressive.

4
5 PLAINTIFF'S RESPONSE TO GENERAL OBJECTION NO. 5: The purpose of this set of
6 interrogatories is to clarify FTB's general operating policies and procedures so that Your Honor can
7 evaluate if they are compliant with the state and federal tax laws. Given FTB's published
8 foundational principles of operating with transparency, FTB should be eager to clarify their policy
9 and procedure, along with clarifying which laws these policies and procedures are based upon. If
10 disclosing FTB's daily business practices are unduly burdensome and oppressive, that is by FTB's
11 own doing. FTB should consider simplifying their policies and procedures so that they can give
12 accurate and consistent information every time they are asked. It seems like simplifying policies and
13 procedures would be easier for everyone than consistently providing misinformation which leads to
14 lawsuits, with those lawsuits requiring Interrogatories, Meet and Confers, and Motions to Compels
15 in order to determine the truth of what FTB's policies and procedures really are. Considering that in
16 March of this year, FTB was granted an additional \$2 million taxpayer dollars for litigation costs
17 above and beyond their existing litigation budget due to excessive lawsuits being filed against them,
18 it would also be the fiscally responsible thing to do.

19
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21 FTB GENERAL OBJECTION NO.6: Defendant objects to these interrogatories as a whole, and to
22 each interrogatory contained therein, to the extent they are vague and ambiguous, and/or
23 unintelligible.

24 PLAINTIFF'S RESPONSE TO GENERAL OBJECTION NO. 6: Generally speaking, I believe
25 each interrogatory was clear and specific. Each interrogatory is individually addressed above.

26 **Relevance**

27
28 4. The matters to which further response is sought are relevant to the subject matter involved in the

1 pending action or reasonably calculated to lead to discovery of admissible evidence and are not
2 privileged or otherwise protected from discovery.

3 **Informal Resolution Attempts**

4 5. Before filing this motion for an order compelling further response, plaintiff attempted to resolve
5 informally the issue of lack of sufficient information provided by FTB in order to satisfy the
6 Interrogatories by clarifying the specific information I was trying to obtain. Anna Barsegyan,
7 attorney for defendant, the California Franchise Tax Board, and I exchanged several emails in our
8 attempts to resolve informally the above-stated issues. A copy of the correspondence between
9 myself and Ms. Barsegyan is attached hereto and made a part of this declaration:

10 Meet and Confer Request Dated May 10, 2021 is exhibit 58.

11 Five follow up emails dated May 12, 2021 between myself and Ms. Barsegyan are Exhibit 59. In it,
12 the deadline for response was extended to Tuesday, May 18, 2021.

13 Ms. Barsegyan never provided a Response to the Meet and Confer on or before the due date.

14 **Justification for Grounds for Motion**

15 6. The failure to respond completely and adequately to the Specially Prepared Interrogatories was
16 without substantial justification in that:

17 FTB's foundational principles that are published on their website state:

- 18 • "Carry out our fiduciary responsibilities to taxpayers by managing their accounts with accuracy and
19 financial integrity.
- 20 • Operate with transparency to maintain public trust and confidence.
- 21 • Conduct our business in accordance with the Statement of Principles of Tax Administration,
22 Taxpayers' Bill of Rights, and our organizational values."

23 FTB's published goals include:

- 24 • "Effective Compliance -- Fairly administer the law to ensure taxpayers file and pay the correct
25 amount."

1 Yet these principles and goals seem to conflict with FTB's statements in Defendant's Response to
2 Specially Prepared Interrogatories Set #001:

- 3 • Given FTB's stated foundational principles stated above, there is no logical reason for FTB to refuse
4 to provide clarification of their basic policies and procedures, nor the laws upon which these policies
5 and procedures are based.
- 6 • Of the 36 interrogatories in Specially Prepared Interrogatories Set #001: Clarification of FTB
7 Policies and Procedures, FTB representative Mr. Swank properly answered *none* of the questions.
- 8 • In his Response, Mr. Swank refused to acknowledge the existence of the practice of withholding tax
9 payments, neither to confirm nor deny its existence. He evaded answering the questions regarding
10 FTB's withholding practices by changing the subject.
- 11 • Mr. Swank committed a count of perjury by falsely stating that the Cost Recovery Fee was imposed
12 on tax year 2011 because we hadn't paid our liability in full. The truth was that we had paid it in full
13 via credit elect, but FTB withheld the payment. I believe that this false statement was intended to
14 hide the withholding practice from Your Honor.
- 15 • Mr. Swank only acknowledged the existence of R&TC 19087 once, in 3A, in which he made a
16 statement that evaded disclosing the contents of the law: "Defendant refers Plaintiff to Revenue and
17 Taxation Code section 19087 concerning Defendant's authority to propose an assessment if a
18 taxpayer fails to file a return." Mr. Swank evaded answering the other questions regarding R&TC
19 19087 by changing the subject.
- 20 • Mr. Swank committed 4 more counts of perjury by 1. using deception to make it appear that the laws
21 states something different than it does, 2. using deception to make it appear that FTB's policies and
22 procedures are different than they are, and 3. made false statements that only appeared to be true
23 because of the previous deceptive statements. I believe these false statements were intentionally
24 made to hide that his employer's unlawful business practices from Your Honor

25
26
27 I believe that, taken together with the fact that the CA Auditor's Office has indicated that they have
28 opened an investigation into my allegations (exhibit 56), it is apparent that FTB is withholding

1 relevant information. I believe that FTB has violated the law by not answering the first fifteen
2 questions. I pray that you will require them to comply with all 15.

3 I understand that FTB had a legal right to refuse to answer the remaining 21 questions based
4 on my being over the limit of total questions asked. However, I believe that all of the information
5 contained in the answers to those questions are important for Your Honor to know in order to
6 properly render a verdict. How can you determine if FTB's business practices are lawful if FTB will
7 not disclose said practices, nor the laws on which those practices are based?
8


9 I pray that you will require the remaining 21 interrogatories to be answered in full. However, if
10 Your Honor will only allow a few additional interrogatories, I pray that you will choose to compel
11 items #8A, 8B, 8C, 9A, 9B, 9C, 11A, 11B, and 11C as I believe these are central issues in this case
12 as they pertain to payments of money that FTB unlawfully demanded from us/withheld from us.
13

14 At this point in time, I am not requesting sanctions. However, since FTB has now committed 8
15 counts of perjury (3 from Ms. Hubbard and 5 from Mr. Swank), I reserve the right to do so at a
16 future point in time. I also reserve the right to ask for additional discovery on the items that are
17 addressed in this motion, as more issues may arise upon closer analysis of the new information FTB
18 provides.

19 **Verification**

20 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
21 and correct.
22

23
24 DATED: May 23, 2021

25 
26 _____
27 Christine N. Grab
28 In Pro Per