

CLAIMANT INFORMATION

LAST NAME Grab		FIRST NAME Christine	MIDDLE INITIAL N
INMATE OR PATIENT IDENTIFICATION NUMBER (if applicable)		BUSINESS NAME (if applicable)	
TELEPHONE NUMBER		EMAIL ADDRESS	
MAILING ADDRESS		CITY San Diego	STATE CA
IS THE CLAIMANT UNDER 18 YEARS OF AGE? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		INSURED NAME (Insurance Company Subrogation)	
IS THIS AN AMENDMENT TO A PREVIOUSLY EXISTING CLAIM? <input type="checkbox"/> Yes <input type="checkbox"/> No		EXISTING CLAIM NUMBER (if applicable)	EXISTING CLAIMANT NAME (if applicable)

ATTORNEY OR REPRESENTATIVE INFORMATION

LAST NAME		FIRST NAME	MIDDLE INITIAL
TELEPHONE NUMBER		EMAIL ADDRESS	
MAILING ADDRESS		CITY	STATE

CLAIM INFORMATION

STATE AGENCIES OR EMPLOYEES AGAINST WHOM THE CLAIM IS FILED Multiple Agencies -- See Attached	DATE OF INCIDENT 01-31-23 and 02-27-23
LATE CLAIM EXPLANATION (Required, if incident was more than six months ago) See Attached	

DOLLAR AMOUNT OF CLAIM \$150,000	CIVIL CASE TYPE (Required, if amount is more than \$10,000) <input type="checkbox"/> Limited (\$25,000 or less) <input checked="" type="checkbox"/> Non-Limited (over \$25,000)
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DOLLAR AMOUNT EXPLANATION
See attached

INCIDENT LOCATION
Sacramento, CA

SPECIFIC DAMAGE OR INJURY DESCRIPTION
See Attached

CIRCUMSTANCES THAT LED TO DAMAGE OR INJURY
See Attached

EXPLAIN WHY YOU BELIEVE THE STATE IS RESPONSIBLE FOR THE DAMAGE OR INJURY
All were acting in official capacity as
Government agent

AUTOMOBILE CLAIM INFORMATION

DOES THE CLAIM INVOLVE A STATE VEHICLE? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	VEHICLE LICENSE NUMBER (if known)	STATE DRIVER NAME (if known)
HAS A CLAIM BEEN FILED WITH YOUR INSURANCE CARRIER? <input type="checkbox"/> Yes <input type="checkbox"/> No	INSURANCE CARRIER NAME	INSURANCE CLAIM NUMBER
HAVE YOU RECEIVED AN INSURANCE PAYMENT FOR THIS DAMAGE OR INJURY? <input type="checkbox"/> Yes <input type="checkbox"/> No	AMOUNT RECEIVED (if any)	AMOUNT OF DEDUCTIBLE (if any)

NOTICE AND SIGNATURE

I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code section 72).

SIGNATURE <i>C. Grab</i>	PRINTED NAME Christine Grab	DATE 7-28-2023
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INSTRUCTIONS

- Include a check or money order for \$25, payable to the State of California.
 - \$25 filing fee is not required for amendments to existing claims.
- Confirm all sections relating to this claim are complete and the form is signed.
- Attach copies of any documentation that supports your claim. Do not submit originals.

Mail the claim form and all attachments to:
Office of Risk and Insurance Management
Government Claims Program
P.O. Box 989052, MS414
West Sacramento, CA 95798-9052

Claim forms can also be delivered to:
Office of Risk and Insurance Management
Government Claims Program
707 3rd Street, 1st Floor
West Sacramento, CA 95605
1-800-955-0045

Department of General Services Privacy Notice on Information Collection

This notice is provided pursuant to the Information Practices Act of 1977, California Civil Code Sections 1798.17 & 1798.24 and the Federal Privacy Act (Public Law 93-579).

The Department of General Services (DGS), Office of Risk and Insurance Management (ORIM), is requesting the information specified on this form pursuant to Government Code Section 905.2(c).

The principal purpose for requesting this data is to process claims against the state. The information provided will/may be disclosed to a person, or to another agency where the transfer is necessary for the transferee-agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with California Civil Code Section 1798.25.

Individuals should not provide personal information that is not requested.

The submission of all information requested is mandatory unless otherwise noted. If you fail to provide the information requested to DGS, or if the information provided is deemed incomplete or unreadable, this may result in a delay in processing.

Department Privacy Policy

The information collected by DGS is subject to the limitations in the Information Practices Act of 1977 and state policy (see State Administrative Manual 5310-5310.7). For more information on how we care for your personal information, please read the [DGS Privacy Policy](#).

Access to Your Information

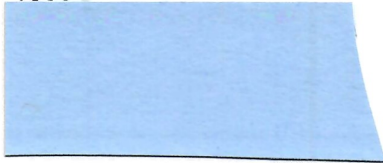
ORIM is responsible for maintaining collected records and retaining them for 5 years. You have a right to access records containing personal information maintained by the state entity. To request access, contact:

DGSORIM
Public Records Officer
707 3rd St., West Sacramento, CA 95605
(916) 376-5300

**Department of General Services
Office of Risk and Insurance Management
Government Claims Program**

Claimant:

Christine N. Grab,



Accused 1:

Malia Cohen
State Controller
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, California 95814

Accused 2:

Hasib Emran
Deputy State Controller for Taxation
300 Capitol Mall, Suite 1850
Sacramento, California 95814

Accused 3:

Joe Stephenshaw
Director
California Department of Finance
915 L Street, Suite 1235 Sacramento, CA
95814

Accused 4:

Gayle Miller
Chief Deputy Director, Policy
California Department of Finance
915 L Street, Suite 1235 Sacramento, CA
95814

Accused 5:

Antonio Vazquez
Board of Equalization
621 Capitol Mall, #2160
Sacramento, CA 95814

Accused 6:

Brenda Voet
Taxpayer Advocate (at the time of incident)
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 7:

Shalini Nanda (Shelly)
Advocate Trend & Issue Specialist
Taxpayers' Rights Advocate Office
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 8:

Ann Wilson, Supervisor
Taxpayers' Rights Advocate Office
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 9:

Angela Jones (Trade Media Liaison at the
time of the incident)
Taxpayers' Rights Advocate Office
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 10:

Williams, Carol D.
Chief of the Administrative Services
Division
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 11:

Selvi Stanislaus
Executive Officer
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 12:

Jozel Brunet
Chief, Legal Officer
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 13:

Shane Hofeling
Deputy Chief Counsel
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 14:

Roger J. Lackey, Jr.
Chief, Filing Services
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Accused 15

Jennifer Fowler
Chief; Accounts Receivable Management
Division
Franchise Tax Board
9646 Butterfield Way, Sacramento,
California 95827

Overview of Claim

On July 8, 2023, ORIM received a claim from me in which I alleged that fourteen people in four government agencies were conspiring to hide The California Franchise Tax Board's (FTB) policies and procedures regarding how payments were applied for the purpose of calculating interest. In that claim, I documented that, for the purposes of calculating interest only, some payments and/or portions of payments made by the taxpayer were never credited to the taxpayer's account. The interest was calculated based on less money received than was actually remitted.

On July 22, 2023, ORIM received a claim from me in which I alleged that fifteen people in four government agencies were conspiring to hide The California Franchise Tax Board's (FTB) policies and procedures regarding payment processing. The specific issue was that, for general accounting purposes, FTB records indicate that FTB withholds payments that are supposed to be "immediately applied" from the taxpayer's account for months and sometimes years before applying the funds to the designated account. Unlike the scenario for calculating interest, the payments that "vanish" are eventually credited to the taxpayer's account, but not until after extra funds are remitted by the taxpayer to cover the "shortfall," and penalties, fees and interest are imposed for "paying late."

Today I present a third claim on a separate, but related matter: Disclosure of FTB's policies and procedures regarding the issuance of Notice of Proposed Assessment (NPA) forms and processing of Protests to said NPA forms.

When FTB determines that a tax liability has been underpaid, FTB issues a notice called the "Notice of Proposed Assessment (NPA)(Form 5830) demanding additional payments of

monies towards the tax liability. The NPA also imposes penalties, fees and interest for underpaying the tax liability as assessed by FTB.

FTB's website states (from <https://www.ftb.ca.gov/help/letters/index.html>):

“Why you received this notice

Based on audit results, we made adjustments to your account for the tax year shown on your notice. The Notice of Proposed Assessment informs you of our intention to assess additional tax and/or penalty. You have a right to protest the proposed assessment within 60 days.

What you need to do

If you agree with the assessment, follow the instructions provided on your notice.

If you do not agree, visit *Disagree with an NPA (Protest)* <https://www.ftb.ca.gov/file/after-you-file/audit/disagree-with-an-npa.html> or follow the instructions provided on your notice on how to protest our assessment. View Notice of Proposed Assessment Information (FTB 7275) for more information.”

The referenced page titled “Personal Income Tax Notice of Proposed Assessment Information” (<https://www.ftb.ca.gov/forms/misc/7275.html>) states:

“If you have received a Notice of Proposed Assessment (NPA) and do not agree, you can protest. On your notice, there will be a Protest By date. You must submit your protest by that date, or your NPA will become final and billable.

During your protest

1. We will send you a letter or notification stating we received your protest.
2. We will review your protest. We may send you one or more Information Document Requests (IDRs) to gather additional facts, understand, and verify the issues under protest.
3. If requested, we will hold an oral hearing so you can:
 - o Present your position on the protest with supporting evidence
 - o Provide additional documentation to establish facts or support tax law.”

FTB has disclosed it is their operating policy and procedure to not list some types of payments made on the notice called the NPA (exhibit 1). This means there are cases where the missing payment(s) cause(s) the tax liability for the year to falsely appear to be underpaid and thus the NPA is falsely issued. Keep in mind that the additional funds towards the tax liability

would not have been demanded had the payment(s) been listed on the NPA, nor would the penalties, fees and interest been imposed for “paying late.”

In the San Diego Superior Court Case *Christine Grab vs. The California Franchise Tax Board*, FTB stated under penalty of perjury that it is FTB’s standard operating policy and procedure to disregard Protests made on the grounds that payments were missing from the Notice of Proposed Assessment.

For several years now, I have been asking FTB to disclose the laws which justify 1. Not applying all payments made on the NPA form and 2. Denying the Taxpayer Right to Protest on the basis that the NPA does not reflect the full funds collected by FTB. FTB has been continually evasive and continually fails to provide the relevant statutes.

I believe that if these practice of not crediting all payments made to the taxpayer’s account on the NPA were lawful, FTB would have disclosed the appropriate statutes. Likewise, if it was lawful to refuse to open Protests on the grounds that payments are missing from the NPA, FTB would have disclosed the appropriate statutes. Thanks to FTB’s evasion, it is clear that both of these business practices are unlawful.

Many people in multiple agencies are currently participating in this evasion in order to cover up FTB’s unlawful business practices. In the latest instance of cover-up that this claim is based upon (exhibits 2 and 3 -- detailed in Specific Damage/Injury and Circumstances Which Led to Damage/Injury sections below), co-conspirators include:

- FTB Board of Directors: State Controller Malia Cohen and her Deputy, Hasib Emran. Mr. Emran currently represents Ms. Cohen for Franchise Tax board matters (exhibit 4).

- FTB Board of Directors: Director of the California Department of Finance Joe Stephenshaw and his Chief Deputy Director, Policy, Gayle Miller (exhibit 5). Ms. Miller has consistently represented the Department of Finance on Franchise Tax Board matters for many years, even prior to Mr. Stephenshaw's appointment.
- FTB Board of Director: Board of Equalization Chairman Antonio Vasquez (exhibit 6).
- FTB's Taxpayer Rights Advocate Staff: At the time, the Taxpayer Advocate was Brenda Voet. However, Ms. Voet was in the process of retiring. While Ms. Voet signed both of the letters that are the focal point of this claim, her email auto-responder indicated that she was no longer working when the letters were issued (exhibit 7).
- FTB's Taxpayer Rights Advocate Staff: Because the incriminating emails from FTB were sent by Shalini Nanda (Shelly) and Ann Wilson was copied on them, it appears that these two people were helping to fill in for Ms. Voet (exhibits 2, 3 and 8).
- FTB's Taxpayer Rights Advocate Staff: Per FTB's website, FTB appointed Angela Jones as the new Taxpayer Rights Advocate, effective May 2, 2023 (exhibit 8). Per FTB's website, Angela Jones had been part of the Taxpayer's Rights Advocate staff since at least October 2021, so she was a part of the staff – and possibly had already taken over Ms. Voet's role -- when the incriminating emails were sent (exhibit 8).
- FTB's Taxpayer Rights Advocate Staff and FTB Executive Staff: Carol D. Williams is the Chief of the Administrative Services Division. Ms. Williams oversees communications, executive and advocate services, and taxpayers' rights advocate. Ms. Williams would have personally approved these two correspondences prior to the Advocate's office remitting them (exhibit 9).

- FTB Executive Staff: Selvi Stanislaus, Executive Officer; Jozel Brunet, Chief, Legal Counsel and Shane Hofeling, Deputy Chief Counsel. All three of these people would also have approved these two correspondences prior to remitting them (exhibit 10). Neither Jozel Brunet nor Shane Hofeling have fully executed Oath of Allegiances (STD 689) as is required per Government Code sections 1360, 1362-1369 and Section 3 of Article XX of the Constitution of California. Without a fully executed Oath, both Ms. Brunet and Mr. Hofeling have been working for FTB illegally and are considered foreign agents posing as government officials. Under Title 18 U.S.C.A. § 912, this is a felony punishable with up to three years in federal prison (exhibit 10). Per the California Department of General Services, Ms. Brunet and Mr. Hofeling also do not have an insurance policy, which is required to be issued under California Government Codes 1450 – 1463. I believe the lack of an insurance policy confirms that Ms. Brunet's and Mr. Hofeling's unexecuted Oaths was not merely "administrative errors" and instead intentional fraud to unlawfully pose as government agents.
- FTB Executive Staff: Roger Lackey, Chief of Filing Services and Jennifer Fowler, Chief of the Accounts Receivable Management Division. Mr. Lackey heads up the department which processes individual and business entity payments and administers the withholding program. Mr. Lackey is the one who is responsible for making sure all payments are applied appropriately according to the laws. Ms. Fowler oversees the collections department. As is explained in detail below, Mr. Lackey and Ms. Fowler appear to be working as a team (exhibit 11) to commit fraud to falsely overcharge taxpayers. Ms. Fowler also does not have a fully executed Oath of Allegiances (STD 689) as is required per Government Code sections 1360, 1362-1369 and Section 3 of Article XX of the

Constitution of California, nor does she have an insurance policy, which is required to be issued under California Government Codes 1450 – 1463. Without a fully executed Oath nor insurance, Ms. Fowler has been working for FTB illegally and is considered a foreign agent posing as government official. Under Title 18 U.S.C.A. § 912, this is a felony punishable with up to three years in federal prison.

Details of Claim:

Background Information:

On 08-04-2014, claimant filed an Abatement Request (which means a request for refund of penalties, fees and interest) with the California Franchise Tax Board (FTB) for tax year 2011. FTB denied claimant's Abatement Request, not just for 2011, but also for 2013 and 2014, even though no Abatement Request was filed for either of those years. I filed an appeal with the Board of Equalization (BOE) on 08-21-2017, which at the time was the administrative court that handled FTB Appeals. While my case was pending, the administration of FTB Appeals was moved from the BOE to the newly created Office of Tax Appeals (OTA). In November 2019, the OTA upheld FTB on the matter. On 01-29-2020, claimant filed a new appeal with San Diego Superior Court (SDSC) in accordance with A.B. 102 section 13, A.B. 131 section 14 and Cal Government Code section 15677. The SDSC case was concluded in March 2022.

One of the bases of arguments that I had made in the court case was that the penalties, fees and interest were falsely imposed because the NPAs had been falsely issued. None of the NPAs that FTB issued had reflected the full funds paid by me and my husband and/or by other parties that had designated funds to be applied to my or my husband's account (i.e. taxes

collected by an employer). I argued that had all of the payments been included, the NPAs would not have been issued.

As I documented on pages 1 - 7 of the *Plaintiff's Statements of Undisputed Facts and Supporting Evidence in Opposition to Motion for Summary Judgment* (PSUF) that I filed in my SDSC court case against FTB (exhibit 12), few of the payments made by my husband and I made, or were made on behalf of my husband and me (ie, taxes collected by an employer), were credited on our NPAs. I documented that the NPAs would not have been issued had all of the payments made been credited to our accounts.

On pages 19 - 35 of the PSUF, I documented that I sent in timely Protests on the basis that the NPAs were falsely issued because not all of the payments were listed. FTB failed to initiate the Protest process on every one of the Protests that I submitted.

As part of my court case, I sent *Plaintiff's Request for Admissions* to FTB. One of the questions in the *Request for Admissions* was:

SPECIAL INTERROGATORY NO. 3C: It appears there are many categories for protesting the amount of income FTB assessed in calculating the tax liability (please see the examples attached as pages 2 - 5); however, it appears there is no category to Protest the amount of money that FTB has collected in payments towards that year's liability. Is it possible for a taxpayer to file a Protest to a NPA on the basis that FTB has underreported the amount of payments FTB has collected?

FTB's Response was:

FTB RESPONSE TO SPECIAL INTERROGATORY NO. 3C: ...Therefore, any protest on the ground that FTB did not include the prepayments or credits is not supported by legal authority.

I did not enclose a copy of the above-referenced *Plaintiff's Request for Admissions* because it is a large document. However, if you would like to see a copy of it, it can be procured directly from the court's website at: <https://roa.sdscourt.ca.gov/roa/faces/CaseSearch.xhtml>. The case

number is year 2020, number 00005100. *Plaintiff's Request for Admissions* is Exhibit 52, which is part of item #39 on the court's website (*Declaration of Christine N. Grab in support of the Motion for Compelling Further Response*). The enclosed exhibit 12, *Plaintiff's Statements of Undisputed Facts and Supporting Evidence in Opposition to Motion for Summary Judgment*, is item #86 on the court's website.

Defendant FTB never denied that the NPAs would not have been issued had all of the payments been included on the NPA totals. Likewise, FTB never denied that they failed to initiate the Protest process after they received my Protests. Per CCP § 431.20(a), failure to deny constitutes admission: Any material allegation in the complaint that is not effectively denied is deemed admitted. [*see Hennefer v. Butcher (1986) 182 CA3d 492, 504, 227 CR 318, 325*]. As such, these arguments submitted to the court are now legally deemed to be accurate. You can confirm for yourself that FTB never denied these allegations by downloading all of the documents from the court's website that FTB filed.

Specific Damage/Injury and Circumstances Which Led to Damage/Injury

As is required under Revenue and Taxation Code (RTC) 21006(a)(2), every year, the Franchise Tax Board allows the general public to make requests for changes to laws, policies and/or procedures that pertain to FTB. I participated in the December 2022 meeting by submitting a set of requests in writing on November 29, 2022 (exhibit 13) and an oral request of the same items at the meeting held on December 8, 2022. The video of the meeting can be found here: <https://www.youtube.com/watch?v=18F6cXHJZwM>. I speak from 14:35 – 19:45. The minutes can be found here: <https://www.ftb.ca.gov/about-ftb/meetings/board-meetings/2022/december-2022/2022-12-08-text.pdf>).

At the meeting, Joe Stephenshaw was not present. He was represented by his deputy, Gayle Miller. Gayle Miller usually attends the FTB Board Meetings in lieu of Mr. Stephenshaw.

One of the items that I requested was disclosure of the legal statues FTB utilizes to set their policies and procedures regarding applying payments NPAs and Protesting NPAs. I wrote:

9. Disclose Tax Codes That Justifies Not Including Payments Into NPA Totals/Denying Protests on the Grounds of FTB Underreporting Collected Amounts

Here is an excerpt from a document that FTB submitted to the court in Grab vs. FTB. It is the Declaration of Christine N. Grab in Support of Motion to Compel Further Response to Specially Prepared Interrogatories, Set #1: Clarification of Policies and Procedures,

SPECIAL INTERROGATORY NO. 3C: It appears there are many categories for protesting the amount of income FTB assessed in calculating the tax liability (please see the examples attached as pages 2 - 5); however, it appears there is no category to Protest the amount of money that FTB has collected in payments towards that year's liability. Is it possible for a taxpayer to file a Protest to a NPA on the basis that FTB has underreported the amount of payments FTB has collected?

FTB RESPONSE TO SPECIAL INTERROGATORY NO. 3C: ...Therefore, any protest on the ground that FTB did not include the prepayments or credits is not supported by legal authority.

As has been established by Revenue and Tax Code 19087, a Notice of Proposed Assessment can only be issued on accounts that have an outstanding tax liability due for the year as assessed by FTB using a status of single, filing 0 exemptions.

In my own case, I have documented via court records that FTB issued Notices of Proposed Assessments (NPA) to me and my husband for multiple tax years which had not included all of the prepayments and credits collected by FTB into the revenue totals.

We filed Protests to these NPAs. As has already been established in Item #2 via the email that was sent on November 26, 2021, FTB "misclassified" all of our Protests to these NPAs and thus denied us our right to Protest under R&TCs 21010 and 20102.

However, as FTB employee Keith Swank stated under penalty of perjury, even if our Protests had not been "misclassified," the Protests would have been denied on the grounds that FTB does not legally have to include all prepayments and credits received into the calculations. I believe that the denial of the right to Protest on these grounds is a violation of the Taxpayer Bill of Rights Sections 21010 and 20102.

Mr. Swank refused to provide any Revenue and Tax codes to justify this practice, which is one of the reasons that I filed a *Motion to Compel*. While the judge did not order Mr. Swank to provide the R&TC codes, I believe that FTB has a responsibility to disclose these legal codes in order to comply with its own Foundational Principals:

- Operate with transparency to maintain public trust and confidence.
- Conduct our business in accordance with the Statement of Principles of Tax Administration, Taxpayers' Bill of Rights, and our organizational values.

As such, I request that the Taxpayer Advocate provide all of the relevant legal codes which justify not applying all prepayments and credits that have been collected by FTB into the taxpayer's NPA totals. I also request all legal codes that justify not allowing Protests on the grounds that FTB had underreported the totals collected.

I am sure that you will want to review the full context of the quote above for your response. Please download the Declaration from the court: <https://roa.sdcourt.ca.gov/roa/faces/CaseSearch.xhtml>. The case year is 2020 and the case number is 00005100. The Declaration is Item #39. Item #3C, the quote referenced above, encompasses pages 10 – 16.

Last year, I made this same Request. In FTB's Response, Brenda Voet stated that she was not required to address this Request since I had litigation pending against FTB. I believe that not addressing my Request was a violation of R&TC Section 21006(b)(2). I believe that alluding that pending litigation voided my right to be a violation of Federal Criminal Code 18 USC §242; Color of Law. Furthermore, how, when and where payments are applied are material facts, and refusing to disclose this information is a violation of 18 USC §1001 (a)(1).

On January 31, 2023, FTB provided a written response to my request (exhibit 2). For Item #4, FTB stated "FTB will provide you with a supplemental response by February 28, 2023, or sooner." For Item #9, FTB wrote:

Disclose tax codes that justifies not including payments into NPA totals/denying protests on the grounds of FTB underreporting collected amounts

FTB issues assessments under Part 10.2, Chapter 4, of the Revenue and Taxation Code. Regarding protests, under Revenue and Taxation Code section 19041, subdivision (a), a "taxpayer may file with the [FTB] a written protest against the proposed deficiency assessment, specifying in the protest the grounds upon which it is based."

FTB disagrees with your assertion that FTB's decision not to answer this question last year due to pending litigation violated any state or federal laws.

As you read for yourself, FTB evaded addressing the issues that I brought up. FTB merely stated that FTB has the legal authority to issue assessments and that the taxpayer had a

right to Protest the assessments. FTB did not deny that these policies and procedures that I had addressed are FTB's standard operating procedure. Failure to deny constitutes admission of truth, so that means that FTB has tacitly acknowledged that both of these practices are standard operating procedure. I believe that failing to fully disclose FTB's operating policies and procedures regarding Notices of Proposed Assessment/Protests, as well as the laws utilized to justify these business practices, are a violation of California Taxpayer Right R&TC Section 21006(b)(2) and 18 USC §1001 (a)(1).

On February 2, 2023, I sent a response to FTB's written response (exhibit 14). Included in the response were thirteen of the fifteen people accused in this claim. The two people not copied that email were Angela Jones and Shane Hofeling. I wrote:

*For the rest of the items (#1 - 3 and #7 - 11), I will take FTB's advice and proceed with the accountability process in accordance with state and federal procedures. **For items that FTB did not adequately address, I am going to proceed under the assumption that if FTB didn't clarify that the policy/procedures have changed, that FTB's previously stated policies and procedures are still in place.***

If any of the standard operating policies and/or procedures have changed regarding any of the issues addressed in my ATBOR requests, please inform me so that I can proceed properly. If FTB abides by its foundational principals of operating with transparency to maintain public trust and confidence and to Conduct our business in accordance with the Statement of Principles of Tax Administration, Taxpayers' Bill of Rights, and our organizational values, then FTB will not hesitate to clarify their current standard operating policies and procedures.

As FTB had promised, on February 27, 2023, FTB sent a supplemental response with more information (exhibit 3). However, no further information was provided regarding NPAs, nor Protests to NPAs. FTB included Angela Jones on this email. Since Brenda Voet's auto-responder still indicated that she was out of the office (exhibit 7), I believe Ms. Jones inclusion indicates that she had already transitioned into the role of Advocate. FTB also copied Shane

Hofeling on the email, indicating that he was the person from Legal who approved the content of the letter (or possibly even wrote the letter himself).

I believe that failing to include all payments made in NPA totals and denying the taxpayer's right to Protest on the grounds that the NPA was falsely issued because payments were missing from the NPA totals are both violation of FTB's Principals of (exhibit 15):

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

FTB has previously disclosed that the reason some payments are not included in the NPA totals is because FTB puts those funds into suspense – which is another word for the general slush fund – until the funds are eventually moved to the taxpayer's account (exhibit 1). I believe that placing these monies into a general fund when it had been designated to be immediately applied to a taxpayer's account qualifies as embezzlement per federal code 18 U.S. Code § 654.

Officer or employee of United States converting property of another, which says:

Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be fined under this title or not more than the value of the money and property thus embezzled or converted, whichever is greater, or imprisoned not more than ten years, or both; but if the sum embezzled is \$1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

Since the withheld monies have not been applied to the taxpayer's account by Mr. Lackey's department, it falsely appears that the taxpayer has a balance due. FTB then moves the taxpayer to the Collections department – headed up by Jennifer Fowler. I am unclear on which department issues the NPA's, so I am not sure if it is Mr. Lackey or Ms. Fowler who oversees the issuance of the fraudulent notices.

Once the NPA is issued, the taxpayer is aggressively harassed by Jennifer Fowler's department to pay monies towards that person's tax liability that are not actually owed because the funds have already been remitted. On pages 19 – 35 of the *Plaintiff's Statements of Undisputed Facts and Supporting Evidence in Opposition to Motion for Summary Judgment*, I detailed how FTB aggressively harassed me for four years for monies that FTB knew – *by its own records* -- was never owed. In an effort to get the harassment to stop, I remitted several extra payments to FTB. Most of the "extra" funds that I had paid were not timely applied to my and my husband's accounts, which meant that FTB continued to insist that we had underpaid our liabilities and needed to send them even more money.

FTB went so far as to file two wage garnishments against my husband for money FTB knew was not owed. The harassment did not stop until I contacted my State Senator, Assemblyman and then-Governor Brown to intercede on my behalf. At that point in time, *my husband and I had remitted \$ [REDACTED] more than FTB claimed that we owed, yet FTB was threatening to file a third wage garnishment unless we immediately sent them an additional \$ [REDACTED]*

I believe that FTB is unlawfully enriching itself through these temporary embezzlement schemes by demanding excess funds be paid by the taxpayer. It is Mr. Lackey's department that is doing the embezzling by not timely applying payments. While all of the withheld funds are eventually applied to the taxpayers account, FTB enjoys the use of the excess funds in the interim.

Furthermore, late fees, penalties and interest are imposed by Ms. Fowler's department for "paying late." I believe that imposing penalties and fees that would not have been imposed had the payments been immediately applied qualifies as racketeering, which is defined as a pattern of illegal activity carried out as part of an enterprise that is owned or controlled by those who are engaged in the illegal activity. The definition derives from the federal Racketeer Influenced and Corruption Organizations Act (RICO), (18 U.S.C.A. §1961 et seq. [1970]).

My research leads me to conclude that an otherwise legal organization that derives some

portion of its income through illicit activities may be in violation of the RICO laws. The U.S. Supreme Court, in Sedima S.P.R.L. v. Imrex Co., 473 U.S. 479, (1985), upheld the constitutionality of the RICO Act and made clear that, unless amended by Congress, the RICO statutes must be interpreted broadly. My understanding is that, for a civil case, I only have to show that via a Preponderance of Evidence that it is more likely than not that people are sustaining injuries from an ongoing criminal enterprise.

Finally, it is the Legal Department, overseen by Jozel Brunett and Shane Hofeling, who violate the taxpayer right to Protest NPAs by refusing to initiate the Protest process when the basis of the Protest is that the NPA was falsely issued because payments were missing.

I am not asking ORIM to take a stance on the legality of these business practices. I intend to file a petition with the Office of Administrative Law (OAL) to determine whether it is lawful for FTB to not include all payments received on NPA totals and if it is lawful for FTB to deny the right to Protest an NPA on any grounds.

My purpose for filing this ORIM claim is to penalize FTB for not providing full disclosure regarding which legal statutes FTB utilizes to justify these questionable business practices involving NPAs. OAL cannot determine if these business practices are lawful if the details of said policies, procedures and protocols are not disclosed.

I believe that FTB evading disclosure of this information in the initial Response confirms that FTB's Board of Directors, Executives and the Taxpayer Advocate staff are all aware that the way they currently process NPAs and Protests are not unlawful. Had the lack of clarification been a result of a misunderstanding of what I had asked, FTB would have clarified in their Supplemental Response. I believe that FTB staff and their co-conspirators in other agencies have not disclosed the details because they are conspiring to prevent an investigation from being launched. This is the federal felony crime of *Obstruction of Justice*.

All fifteen of the Accused were aware of the facts stated above. Taxpayer Advocate Brenda Voet signed the letter per the approval of the Board of Directors and their Deputies, as well as the approval of the above-named FTB Executives and their Deputies. Since it appears

that the Advocate had already retired, it seems the above-named staff in the Advocate's Office were involved in the criminal cover-up, using Ms. Voet as a shield to hide their own involvement.

Dollar Amount of Claim and Explanation

I seek restitution of \$10,000 per person Accused for FTB's violation of my rights under California Right R&TC Section 21006(b)(2) and for violating 18 USC §1001 (a)(1) by refusing to disclose the statutes that FTB utilized to establish the policies and procedures regarding NPAs and Protests.

The fifteen Accused have also violated 18 US Code 242 by not allowing me full and free access of information in accordance with my rights, which is a Class A misdemeanor. Since it appears that the purpose of this lack of candor is to prevent an OAL investigation, the fifteen accused have also committed the federal crime of *Obstruction of Justice*. In all, I seek restitution of \$150,000.

Furthermore, I demand that ORIM immediately revoke the insurance policy of the Accused individuals who are still employed by the State of California (Ms. Voet has retired) for violating the above laws. My understanding is that the revocation of their insurance policies will result in immediate termination.

I also demand that Jozel Brunett, Shane Hofeling and Jennifer Fowler all be immediately arrested for the felony crime of illegally *posing as government officials*. *Prima fascia* evidence indicates that all three knowingly committed this felony.

As I documented in the *Grab vs. FTB* court documents previously referenced, in addition to falsely imposing interest via the fraudulent issuance of NPAs, Ms. Fowler's department has four more schemes in place to overcharges even more interest: 1. By not crediting all the

payments the taxpayer made for the purposes of calculating interest; 2. By only crediting part of other payments for the purpose of calculating interest; 3: By adding an additional \$1 per year to the collection bills on top of what already was an overinflated total. I want to reiterate that FTB has never denied any of these allegations to be true.

Jennifer Fowler's fourth scheme goes beyond merely "clerical." As was also documented in *Grab vs. FTB*, in the fourth scheme, Ms. Fowler directs her staff to order taxpayers to remit more money than the bill states is due, then has the staff falsify FTB's internal records to make it appear that was always the correct amount of money due. Again, FTB has never denied these allegations to be true.

I do not believe it was a "mistake" that someone who is knowingly committing crimes against the very people who pay her salary never took an Oath to uphold federal and state laws. I do not believe it was a "mistake" that the Franchise Tax Board failed to procure an insurance policy on her through ORIM as is required under California Government Codes 1450 – 146.

FTB attempts to cover up said unlawful schemes through deception, such as cherry-picking certain words within statutes out of context to try to make these accounting practices falsely appear to be lawful, and via outright fraud, by claiming the laws say something different than they do. Jozel Brunett and Shane Hofeling are two of the people who orchestrate the cover up of the criminal activities via distortion/misinterpretation of statutes.

Jozel Brunett and Shane Hofeling are also the people responsible for authorizing the policy of denying a taxpayer their right to Protest under certain circumstances. I believe that this violation of the Taxpayer Bill of Rights is another way that FTB covers up that the NPAs are being falsely issued as a result of accounting fraud.

If these unorthodox accounting practices/denial of taxpayer rights were lawful, FTB would have explained so in *Grab vs. FTB*. Instead, FTB went to great lengths to hide their egregious accounting irregularities and violations of my rights from the judge. FTB improperly redacted and omitted pertinent court documents, refused to disclose pertinent information regarding accounting policies and procedures, and committed multiple counts of perjury. FTB also tried to silence me from exposing the accounting fraud through retaliation and harassment, including posting my husband's and my social security numbers online with the veiled threat that FTB would do worse to me if I didn't shut up.

I do not believe that it is a coincidence that both the #1 and #2 lawyers at FTB – Ms. Brunett and Mr. Hofeling -- do not have executed Oaths. The people who most fully comprehend the importance of an executed Oath are lawyers. As I documented in the above referenced court documents, FTB has a proven track record of harassing people via exposure of social security numbers, improperly redacting and omitting pertinent documents to hide evidence in court cases, and also setting people up as patsies. Given that these were consistent behaviors patterns amongst FTB staff, I believe that FTB's executives – most likely Ms. Brunett and/or Mr. Hofeling -- were the people who ordered underlings to execute the cover-ups, retaliation and suborning perjury.

Given that Ms. Brunett and Mr. Hofeling have never sworn to uphold the laws of the federal and state constitutions, it is not surprising that they would authorize and cover up policies, procedures, and communications that violate said laws, as well as order underlings to commit crimes. I do not believe it was a "mistake" that the Franchise Tax Board failed to procure an insurance policy on through ORIM on their top lawyers as is required under California Government Codes 1450 – 146.

I believe Ms. Brunett, Mr. Hofeling and Ms. Fowler should all be immediately imprisoned and tried for falsely posing as government agents in order to execute and/or cover up unlawful schemes to overcharge taxpayers via fraudulent issuance of Notice of Proposed Assessments. I believe that The California Franchise Tax Board should also be subject to prosecution for employing multiple foreign agents to execute these schemes. One failure to procure an executed oath/ORIM policy could be a mistake. When it happens three times with three people who are all guilty of violating the terms of said Oath and insurance policy, it is likely intentional evasion of the laws.

Furthermore, I demand that FTB immediately publicly disclose exactly what legal codes are utilized to justify these strange policies and procedures surrounding issuance of NPAs and Protests of NPAs. Once full disclosure is made regarding FTB's policies and procedures, an investigation should be conducted by OAL to determine if these practices are lawful.

If these business practices are determined to be unlawful, I demand that FTB immediately cease and desist these practices and that the fifteen Accused should be criminally prosecuted for *Conspiring to Cover up Criminal Activities, Obstruction of Justice* and, for the employees with properly executed oaths, *Treason of Oath*.

Verification

I declare under penalty of perjury under the State of California that all of the information that I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or

misleading, I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code Section 72).

C. Grab

7-28-2023

Christine N. Grab