



STATE OF CALIFORNIA  
Taxpayers' Rights Advocate Office MS F385  
**FRANCHISE TAX BOARD**  
PO BOX 157  
SACRAMENTO CA 95741-0157

02.01.2024

Dear Mrs. Christine Grab:

Thank you for presenting your issues at the December 2023 Taxpayers' Bill of Rights Hearing. As the Taxpayers' Rights Advocate, your concerns are important to me.

The following responses are provided by the appropriate program areas within the department:

### **Question 1**

Per FTB's Disclosure Department, Jozel Brunett, William Gardner, Laurie McElhatton, Craig Scott, Shane Hofeling and Dennis Haase have been working without properly executed Oaths of Allegiance. So was Bill Hilson. Oaths of Allegiance (STD 689) are required per Government Code sections 1360, 1362-1369 and Section 3 of Article XX of the Constitution of California. Without a fully executed Oath, these people have been/were working for The State of California unlawfully 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.

Per the Secretary of State's Office, none of these people had bonds/insurance policies, either, which are required to be issued under California Government Codes 1450 – 1463. I believe the lack of a bonds/insurance policies confirms that the unexecuted Oaths were not merely "administrative errors" and instead intentional fraud to unlawfully pose as government agents.

Without proper oaths and bonds, none of these people had legal standing for the entirety of their tenure at FTB. Thus, I believe that all legal decisions made by these individuals are void, including Chief Trial Counsel rulings, Technical Advice Memorandums, Responses to Requests for Relief of Penalties, etc.

Likewise, Susan Maples and Jennifer Fowler have been working unlawfully without properly executed oaths and bonds, thus any legal decisions made by either of them must be voided, including all the ATBOR responses made by Susan Maples.

Please describe the action steps being taken by FTB to void these unlawful legal decisions and rectify the gaps created by these voids.

### **Response 1**

FTB disagrees with your claim the named current and former employees have been working without properly executed oaths. FTB reviewed the employee records for

those individuals you claim did not properly execute an Oath of Office and determined all the employees properly executed the Oath of Office before acting in an official capacity. As such, no further actions will be taken.

## **Question 2**

Given that the majority of FTB's legal staff did not execute oaths in which they swore to uphold the laws of the state and federal constitutions, I request that all interpretations of statutes be reviewed by staffers who have been confirmed to have properly executed oaths in order to ensure that FTB policies and procedures follow the laws as written, with no words omitted from and no extra words inserted into the statutes. Remember that omitting or adding words constitutes fraud, and fraud vitiates everything it touches. Questionable interpretations that should be reevaluated include, but are not limited to:

- R&TC 19117 (FTB does not disclose all pertinent information in accordance with this law)
- R&TC Section 21027 (FTB does not process all correspondence in the same time frames no matter which method of delivery)
- R&TC 19363 (FTB does not apply all credit elect payments on the prescribed tax day)  
Treas. Reg. § 1.6654-2 (FTB withholds payments made by married couples instead of applying joint estimated tax payments in the manner the spouses agree to).

## **Response 2**

FTB disagrees with your assertion the majority of FTB's legal staff did not execute oaths in which they swore to uphold the laws of the state and federal constitutions. Please refer to the response to Question 1 for additional information.

## **Question 3**

The Taxpayers' Advocate page has a clause which states "Unfortunately, the Taxpayers' Advocate will not resolve or accept your case for: Constitutionality of the tax system or tax laws."

FTB employees are public servants who are employed by the people of California to serve the people of California. We the people are your employers. Every one of you have signed oaths – or at least you were all supposed to have signed oaths -- swearing to uphold the laws of the state and federal constitutions.

As stated above in Request #2, FTB tends to alter the language found in the statutes in order to change the effect to FTB's favor or convenience. FTB's legal counsel and employees then use these fraudulent misrepresentation of statutes to commit malfeasance worthy of criminal sanctions.

The Taxpayers' Bill of Rights was passed by the legislature in order to prevent such

nefarious practices. It is literally the Taxpayer Advocate's job to protect these constitutional rights of "we the people." I believe that by not addressing issues of constitutionality, Angela Jones and her staff are committing *willful negligence of job duties, malfeasance and treason of oath*. I believe that all of these people should be imprisoned for these crimes against the very people who pay their salaries.

I believe that Selvi Stanislaus and the Board of Directors have also committed *willful negligence of job duties, malfeasance, and treason of oath* by failing to repeal this clause when I first brought it to FTB's attention.

I request this clause be immediately repealed and that the Advocate's office immediately start addressing the matters of constitutionality, especially in regards to malfeasant misinterpretations of the statutes on the books.

### **Response 3**

FTB cannot enact, amend, or repeal laws. You can contact your state legislators regarding any suggested changes to California law. Additionally, FTB previously addressed this issue in the 2022 Taxpayers' Bill of Rights response to you dated February 1, 2022. Please see item 10 of the link below.

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2022-bor-final-responses-grab.pdf>

### **Question 4**

In 2021 and 2022, I requested that FTB disclose the legal codes that it utilizes in order to evade the laws requiring a Superior Court judge's authorization prior to imposing wage garnishment, levies and liens. FTB provided none. The source of their version of the "law" is apparently a secret. Secret law is constitutionally void and to the extent that it is engaged to interfere with the rights secured by the Bill of Rights, trespass and criminal malfeasance.

By not providing any statutes, FTB has tacitly admitted that this practice is an unlawful violation of both state and federal constitutional rights. I request that FTB immediately cease and desist this unlawful practice and comply with the law by getting judicial approval prior to the implementation of collection tools. This also means that all existing wage garnishments, liens and levies that were imposed without the explicit approval of a Superior Court judge must be voided and only reinstated with the approval of a Superior Court judge.

### **Response 4**

FTB disagrees that its issuance of wage garnishments, bank levies, and liens without judicial approval is unlawful. Several California statutes directly authorize FTB to issue these instruments, such as Earnings Withholding Orders for Taxes (commonly known as wage garnishments) under CA Code of Civil Procedure section

706.74; Orders to Withhold (commonly known as levies) under Revenue and Taxation Code (R&TC) section 18670; and liens pursuant to R&TC section 19221 and Gov Code section 7170.

FTB previously addressed this issue both in the 2021 and 2022 Taxpayers' Bill of Rights response to you, dated February 1, 2022 (item 1) and February 1, 2023 (item 2). Please see links below.

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2022-bor-final-responses-grab.pdf>

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2023-Grab-FTB-TBOR-Reply.pdf>

## Question 5

In FTB's 2022 ATBOR Response signed by Brenda Voet (<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2023-Grab-FTB-TBOR-Reply.pdf>), it states:

### **“Disclosure of all payments which are immediately applied**

The following is a list of Personal and/or Business Entities payment types that are applied to the accounts of taxpayers:

- Estimate Payments
- Return Payments
- Bill Payments
- Proposed Assessment Payments Extension Payments
- Suspense Payments
- Amended Return Payments
- Prior Year Estimate Payments
- Prior Year Miscellaneous Payments
- Tax Deposits
- Fiscal Payments
- Accounts Receivable Payments
- Federal and State Offset Payments Collection Payments
- Limited Liability Company (LLC) Tax Voucher LLC Estimated Fee
- Automatic Extension Payments Pass-Through Entity Elective Tax Payment

(Please note the above list is in no specific order)

The timing of when the payments are applied may vary based on how the payments are made, the number of taxpayers the payment is made on behalf of, the method of payment, and whether additional information is needed to apply to the correct amount to the taxpayer's account.”

I request that FTB clarify **exactly when** the payments are applied in each of the above

listed scenarios, along with the specific **California** Revenue and Tax Codes utilized to justify the delay in application of funds. I believe that 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), which states in part:

it is a federal crime, in a matter within the jurisdiction of a government agency, to (1) falsify, conceal or cover up a material fact.

### **Response 5**

FTB applies bill payments on the date they are received. Additionally, FTB previously addressed this issue in its supplemental response to you for the 2022 Taxpayers' Bill of Rights dated February 15, 2023. Please see the link below.

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2023-Supplemental-response-Grab-Reply.pdf>

### **Question 6**

In Grab v FTB, it was disclosed that estimated tax payments which are supposed to be immediately applied to a taxpayer's account as per above, but are instead withheld, are identified as "no payments" in FTB's system. If a taxpayer makes a payment by the prescribed due date and FTB puts it into the "no payment" status, are there any circumstances in which that payment would not be considered to be made timely (ie, if a taxpayer files that year's tax return late)? If there are any circumstances in which this type of payment would not be considered timely, please provide the specific **California** Revenue and Tax Code utilized to justify this position. I believe that 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).

### **Response 6**

It is unclear to what indicators you are referring to as "no payments" indicators. However, FTB previously addressed the issue of withholding payments and their application in its supplemental response to you for the 2022 Taxpayers' Bill of Rights dated February 15, 2023. Please see the link below.

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2023-Supplemental-response-Grab-Reply.pdf>

### **Question 7**

In Grab v FTB, it was disclosed that, for the purpose of calculating interest, FTB only recognizes some of the payments that had been made and only portions of other payments that had been made. Thus, the taxpayer pays more interest than they should to FTB because it falsely appears that the taxpayer had a higher outstanding balance than they actually did. Please provide the criteria and guidelines utilized for

**determining which payments and portions of payments are withheld from/applied to the totals** of payments collected by FTB for the purpose of calculating interest.

I made this request last year. FTB fraudulently responded as if I had asked a different question altogether. In FTB's response, FTB addressed situations in which FTB may pay interest to the taxpayers. I expect FTB to provide full disclosure of the accounting practices utilized to calculate how much interest the taxpayers should be paying to FTB. I believe that 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).

### **Response 7**

FTB does not intend for taxpayers to pay more interest than what is required by law. However, should a taxpayer overpay interest, FTB will take the appropriate actions to correct any overpayment of interest. Additionally, FTB previously addressed this issue in its response to you for the 2020 Taxpayers' Bill of Rights response to you dated January 28, 2021. Please see item 3 of link below.

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2020-bor-final-response-christine-grab.pdf>

### **Question 8**

In FTB's ATBOR Response for 2022, FTB stated that all estimated tax payments are turned over to the State Controller's Office upon receipt. In *Grab v FTB*, it was disclosed that when estimated tax payments are withheld from the taxpayer's account, these withheld funds are identified as "no payments" in FTB's system. Are "no payments" turned over to the State Controller's Office upon receipt of the funds, or are "no payments" kept within FTB's possession until the funds are recognized as a payment? I believe that 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).

### **Response 8**

FTB previously addressed the issue of withholding payments and their application in its supplemental response to you for the 2022 Taxpayers' Bill of Rights dated February 15, 2023. Please see the link below.

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2023-Supplemental-response-Grab-Reply.pdf>

### **Question 9**

In the 2018 Annual Taxpayer Bill of Rights Response issued by FTB and signed by Susan Maples ([https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2018\\_Grab\\_Response.pdf](https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2018_Grab_Response.pdf)), it stated that credit elect payments are not applied to the taxpayer's account until a tax return is actually filed if that taxpayer is married.

In the 2022 Annual Taxpayer Bill of Rights Supplemental Response issued by FTB and signed by Brenda Voet (<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2023-Supplemental-response-Grab-Reply.pdf>), it states that

Part 10.2, Chapter 2, Article 5, of the Revenue and Taxation Code and California Code of Regulations, title 18, sections 18662-0 through 18662-8 govern withholding payments.

I perused these laws and did not see any law that specifically states that credit elects are not applied to the taxpayer's account until a tax return is actually filed if that taxpayer is married.

Is this practice of not applying credit elect payments to married couples accounts until that year's tax return is filed still FTB's official business practice? If so, please identify the specific California Revenue and Tax Code which justifies this practice. If not, please identify the date that this business practice was changed and what the current business practice is regarding **exactly when** credit elects made by married couples are applied to the taxpayers account.

## Response 9

FTB already addressed this issue and disclosed that income tax withheld and estimated tax payments made by married couples are withheld until that year's return is filed. FTB does not have sufficient information for application of payment until a married couple files their return. Absent specific instruction from a taxpayer, FTB may apply payments on tax obligations in any manner it wishes. (Cal. Civ. Code § 1479.) That said, FTB allocates voluntary payments first to tax, then penalty, then interest in that order, starting with the earliest year of liability, unless the taxpayer designates otherwise. This allocation process conforms to procedures adopted by the Internal Revenue Service. (See, Rev. Proc. 2002-26.)

FTB previously addressed this issue in its supplemental response to you for the 2022 Taxpayers' Bill of Rights dated February 15, 2023. Please see of the link below.

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2023-Supplemental-response-Grab-Reply.pdf>

## Question 10

When I first started following FTB, I was confused about FTB's fixation on receiving tax returns from people who FTB knew had no tax liability. Over the years of following FTB activities, it has become clear to me that FTB is utilizing the returns for data collection. What data is FTB procuring from the tax returns from these low-income filers, how does FTB utilize this data, and who does FTB release the data to?

## Response 10

Please review FTB's Privacy Policy Statement, which is a general statement of FTB's policies regarding the handling of personal information.

- [Privacy policy statement | FTB.ca.gov](#)

In addition, review FTB's Privacy Notices on Collection, which provide information on the reasons that personal information is collected, to whom the information may be disclosed, and the policies and laws related to the information collected, such as:

- [FTB 1131 EN-SP Franchise Tax Board privacy notice | FTB.ca.gov](#)

## Question 11

Deputy Chief Counsel Bill Hilson retired in September 2022. Even though he'd only worked nine months, his pay was \$136,000 more – or 66% more -- than he'd ever earned before. Please explain to us taxpayers exactly what Mr. Hilson did to merit so many extra taxpayer dollars.

## Response 11

Bill Hilson was paid in accordance with his employment. Employment compensation is handled through CalHR and not through FTB. CalHR may be able to provide additional information on this subject, subject to privacy rights of the individual.

## Question 12

Last year, I requested that FTB refer to taxpayers as constituents, not clients. FTB still continues to use the words clients and customers, which misrepresents the true relationship between FTB and taxpayers. I again remind FTB that you are all public servants. ***We taxpayers are your employers, not your clients or customers.*** Moving forward, please to refer to taxpayers as “constituents” as that word accurately reflects the relationship between FTB and the people FTB serves.

I'd also like to remind FTB that public servants work at the pleasure of the people, and we the people have the power to revoke our approval and change how the system operates.

Thank you for your attention to my requests. I look forward to speaking at the meeting unhindered and reading your Formal Resolutions to my requests. In all the previous responses that I have gotten, the Legal Department used the Taxpayer Advocate as a shield to protect themselves from liability for any unlawful words in those responses. This year, I request that the Legal Department take responsibility for the words they write and identify the true author of each of the sections. As I have stated before, FTB's culture of throwing others under the bus to protect themselves disgusts me.

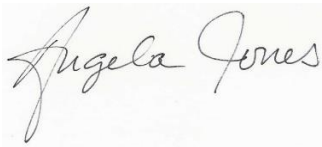


## Response 12

FTB previously addressed this issue in the 2022 Taxpayers' Bill of Rights response to you, dated February 1, 2023. Please see link below.

<https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2023-Grab-FTB-TBOR-Reply.pdf>

Sincerely,

A handwritten signature in black ink that reads "Angela Jones". The signature is written in a cursive style and is positioned above a light gray rectangular background.

Angela Jones  
Taxpayers' Rights Advocate

cc: Malia M. Cohen

Sally J. Lieber

Joe Stephenshaw

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