

Location of Taxpayer, 9/21/00 to 12/11/00

DATE	LOCATION
9/20/00	Received 9-page Housing Listing Dated FAX from Patsy Stephens, ERA Realtor in Mt. Dora, FL
9/21/00	Leave California; enroute to Florida
9/22/00	Florida
9/23/00	Florida (Mr. Vigil signs agreement to work; purchases house)
9/24/00	Florida
9/25/00	California (Mr. Vigil calls SC County to request HOE change)
9/26/00	California
9/27/00	California (SC County Tax Assessor mails dated HOE change form)
9/28/00	California (#8299 to CSAA for \$3000 T/C; ATM: \$180 withdrawal)
9/29/00	California
9/30/00	California
10/1/00	Italy
10/2/00	Italy
10/3/00	Italy
10/4/00	Italy
10/5/00	Italy
10/6/00	Italy
10/7/00	Italy
10/8/00	Italy
10/9/00	Italy
10/10/00	Italy
10/11/00	Italy
10/12/00	Italy
10/13/00	Italy
10/14/00	Italy
10/15/00	Italy
10/16/00	Italy
10/17/00	Italy
10/18/00	Italy
10/19/00	California
10/20/00	California
10/21/00	California (Meeting with CPA)
10/22/00	Florida
10/23/00	Florida
10/24/00	Florida
10/25/00	Florida
10/26/00	Florida
10/27/00	Florida
10/28/00	Florida
10/29/00	Florida
10/30/00	Florida
10/31/00	Florida
11/1/00	Florida
11/2/00	Florida
11/3/00	California (ATM: \$120 withdrawal)
11/4/00	California
11/5/00	California
11/6/00	California
11/7/00	California
11/8/00	Florida
11/9/00	Florida
11/10/00	Florida

TAXPAYER EXHIBIT

B4

November 18, 2010

Frank J. Vigil

402865

Location of Taxpayer, 9/21/00 to 12/11/00

11/11/00	Florida
11/12/00	Florida
11/13/00	Florida
11/14/00	Florida
11/15/00	Florida
11/16/00	Florida
11/17/00	Florida
11/18/00	Florida
11/19/00	Florida
11/20/00	Florida
11/21/00	Florida
11/22/00	Florida
11/23/00	Florida
11/24/00	Florida
11/25/00	California (ATM \$38 & \$56 deposits)
11/26/00	California
11/27/00	California
11/28/00	California
11/29/00	California (ATM \$120 withdrawal)
11/30/00	California (Meeting with CPA)
12/1/00	New Mexico
12/2/00	New Mexico
12/3/00	New Mexico
12/4/00	California
12/5/00	California
12/6/00	California (Meeting with CPA)
12/7/00	California (ATM \$220 withdrawal)
12/8/00	California
12/9/00	Florida
12/10/00	Florida
12/11/00	Florida

Timeline of Key Events in 1999-2000:

- August 1999: Mr. Vigil begins working as a consultant to small high-tech start-up ventures. Compensation for such consulting is in the form of equity (vs. cash) in the ventures; thus, it could take several years (if ever) for a liquidity event to occur and Mr. Vigil to finally convert his equity into dollars. Example of Nav3D: Mr. Vigil consulted for Nav3D in spring of 2000; when Nav3D was acquired by Mercury Systems in mid-2006, Mr. Vigil was able to convert his equity into \$5978.51
- April 2000: Mr. Vigil purchases a new Honda CRV
- Spring 2000: After several months of work with a friend from college (Dr. Marty Yee) on a start-up focusing on preventive medicine for employees in corporations, Mr. Vigil & Mr. Yee work with law firm McCutcheon Doyle to create a viable corporate structure for the new venture. The legal work results in two entities being created: Preventive Medicine Associates (a professional corporation wholly owned by medical professionals -- Dr. Yee -- to deliver preventive medical services) and Inspired Wellness (to contract with corporations on behalf of PMA for those preventive medicine services). Dr. Yee continues his full-time medical practice throughout this time while Mr. Vigil invests \$50,000 to fund this start-up venture.
- May 2000: Inspired Wellness is incorporated in California.
- 6/6/00: Mr. Vigil signs and files the Statement By Domestic Stock Corporation for Inspired Wellness to the CA Secretary of State's office. In it, Mr. Vigil lists himself as the Agent for Service of Process in California.
- June 2000: Mr. Vigil orders custom office furniture (two standalone Cherry wood cabinet & bookcase combinations with locked storage drawers) to be built.
- June 2000: Judge renders decision in Vigil Arbitration case against ZapMe!
- July 2000: Preventive Medicine Associates is incorporated in California.
- August 2000: No clients have signed on for Inspired Wellness' services.
- August 2000: Mr. Vigil makes the final payment for custom office furniture (two standalone Cherry wood cabinet & bookcase combinations with locked storage drawers), which is delivered in August.
- August 2000: Mr. Vigil plans a 3-week vacation to Italy for October 2000.
- August 2000: Steve Shamrock, formerly CEO of Kids Unlimited, Inc., the company behind Cyberplay stores, invites Mr. Vigil for dinner in Palo Alto. Over dinner, Mr. Shamrock recruits Mr. Vigil to join his latest venture, AxessPoint, to deliver video-based training to employees' office PCs in medium and large corporations using their existing legacy IT network infrastructure. Mr. Vigil listens to Mr. Shamrock's pitch, learns about the interest level in such a product from several Fortune 500 companies with whom Mr. Shamrock had explored the concept, reads the business plan and comes to believe the product has great potential. So much so Mr. Vigil loans Mr. Shamrock \$500,000 on 8/25/00 with principal, interest and equity in repayment. Mr. Vigil informs Mr. Shamrock that, in order to join him at AxessPoint, Mr. Vigil would have to complete existing work commitments for his consulting clients as

BOE Case 402865: Appeal of Frank J. Vigil

well as end his involvement in his preventive medicine venture with Dr. Yee. Mr. Shamrock agrees in principle and Mr. Vigil starts working on ending his existing work commitments and developing a work agreement with AxessPoint along with exploring moving to Florida for AxessPoint.

- 8/31/00: With Intel's stock price at **\$74.87** per share, Mr. Vigil's Intel stock in his Schwab account has a market value of **\$5.68M** with a **margin loan balance of \$2.71M**, for a loan-to-value ratio of **47.6%**; *if it exceeds 50%, margin calls are issued and stock must be sold within 3 days to satisfy the margin call.*
- September 2000: Mr. Vigil completes the terms of the contractor agreement with Mr. Shamrock, pursues home purchase options in Florida, winds down other work commitments and begins working with AxessPoint.
- 9/20/00: After contacting ERA Keith Shamrock Realty, Inc., in Florida to look for homes in the Mt. Dora & Eustis area, Mr. Vigil receives a 9-page FAX listing of residences for sale from the realtor.
- 9/21/00 to 9/24/00: Mr. Vigil is in Florida
- 9/21/00: Mr. Vigil arrives in Florida with the full intention of leaving California to work at AxessPoint for a few years and, if successful, then move to Santa Fe, NM, for retirement.
- 9/22/00: After the stock market closed on 9/21/00, Intel stock dropped precipitously from \$61.48 per shares at market close to open at \$46.75 and close at \$47.94 per share the next day, Friday, 9/22/00. At this time, Mr. Vigil is heavily leveraged against the Intel stock held in his account because he had borrowed as much money as possible against those Intel shares, and had no cash available in his account. Consequently, Charles Schwab issues an immediate and significant margin call. In these situations, Schwab contacts clients via all means available: phone calls and urgent letters sent to all addresses listed in the account. As the client takes action to address the margin calls, the account moves back to good standing. However, if the stock continues to drop (as it did in this case with Intel stock), then Schwab continually issues more margin calls, requiring the client to take action to get the account back in good standing.
- 9/23/00: Mr. Vigil meets with Mr. Shamrock at AxessPoint's offices in Mt. Dora Florida, and they both sign the final consulting agreement. Mr. Shamrock arranges for Mr. Vigil to meet with one of his executives, Ron Young, about buying his home (which is for sale and just a block away from Mr. Shamrock's residence) directly from the seller and, thus, avoiding 6-7% in realtor fees. Mr. Shamrock informs Mr. Vigil that the Youngs have a second home and can no longer afford their home in Eustis, so they want to sell it. Mr. Vigil meets with Ron & Anita Young at their Eustis home and after viewing it and negotiating a price, agrees to purchase their home directly from them. Mr. Vigil writes the purchase agreement (by cutting and pasting from a 1999 Home Purchase Agreement Mr. Vigil had in his notebook PC, which he had used to similarly buy a home directly from his best friend in NM) and the Youngs and Mr. Vigil sign the purchase agreement.
- 9/25/00 to 9/30/00: Mr. Vigil is in California
- 9/25/00: Because he has purchased the home in Florida from the Youngs, Mr. Vigil contacts the Santa Clara County Assessor's office to remove the Homeowner's exemption from 1900 Noel Drive in Los Altos, CA. Santa Clara County then mails a customized form letter dated 9/27/00 for Mr. Vigil to complete, sign and return.

BOE Case 402865: Appeal of Frank J. Vigil

- 9/25/00: To satisfy a margin call from Schwab, Mr. Vigil is forced to sell some Intel stock. Selling the underlying stock is the only choice Mr. Vigil has when the share price drops. As the stock market suffers through the “dot-com” bust, the decline in Intel’s share price continues unabated, falling through the rest of 2000 (from \$61.48 on 9/21/00 to \$47.94 on 9/22/00 to \$30.06 on 12/29/00). As the Intel share price plummets, Schwab issues successive margin calls to Mr. Vigil and he has no choice but to sell his Intel shares many times during this period.

<u>Date</u>	<u>Total Assets</u>	<u>Margin Loan Outstanding</u>	<u>Margin % of TA</u>	<u>Account Value</u>
8/31/00	\$5,680,504.50	(\$2,705,180.62)	-47.62%	\$2,975,324.44
9/30/00	\$2,621,798.14	(\$1,185,753.84)	-45.23%	\$1,436,044.30
10/31/00	\$1,596,639.35	(\$831,665.63)	-52.09%	\$ 764,973.72
11/30/00	\$1,588,450.38	(\$944,934.07)	-59.49%	\$ 643,516.31
12/31/00	\$752,724.39	\$0.00	0.00%	\$ 752,724.39

As this table summarizes, through successive sales of Intel stock from 9/25/00 to 12/8/00, Mr. Vigil finally worked his way out of any margin in his account by the end of December 2000.

- 9/28/00: Mr. Vigil receives the customized form letter dated 9/27/00 from the Santa Clara County Assessor’s office. He completes the form, signs and mails it back on 9/29/00. Apparently, Santa Clara County processes Homeowner’s exemption changes at the end of the month in which it is received by the county. Because Mr. Vigil’s Homeowner’s exemption change was received by Santa Clara County after the first of October 2000, the county “batch processed” the change at the end of October, which explains the date stamp of 10/31/00 (Exhibit “D” / “T”, 1 of 1).
- 9/30/00: With Intel's stock price at **\$41.56** per share, Mr. Vigil's Intel stock in his Schwab account has a market value of **\$2.62M** with a **margin loan balance of \$1.19M**, for a loan-to-value ratio of **45.2%**; *if it exceeds 50%, margin calls are issued and stock must be sold within 3 days to satisfy the margin call.*
- 10/1/00 to 10/18/00: Mr. Vigil is in Italy
- 10/19/00 to 10/21/00: Mr. Vigil is in California
- 10/22/00 to 11/2/00: Mr. Vigil is in Florida
- 10/27/00: Dr. Marty Yee completes, signs and files the Statement By Domestic Stock Corporation for Preventive Medicine Associates, Inc. to the CA Secretary of State’s office. In it, he erroneously lists Mr. Vigil as the Agent for Service of Process residing in California (he simply copies the information from the same document filed on 6/6/00 for Inspired Wellness).
- 10/31/00: With Intel's stock price at **\$45.00** per share, Mr. Vigil's Intel stock in his Schwab account has a market value of **\$1.60M** with a **margin loan balance of \$0.83M**, for a loan-to-value ratio of **52.1%**; *if it exceeds 50%, margin calls are issued and stock must be sold within 3 days to satisfy the margin call.*
- 11/3/00 to 11/7/00: Mr. Vigil is in California.
- 11/7/00: Mr. Vigil votes in California

BOE Case 402865: Appeal of Frank J. Vigil

- 11/8/00 to 11/24/00: Mr. Vigil is in Florida
- 11/25/00 to 11/30/00: Mr. Vigil is in California
- 11/25/00: Mr. Vigil receives renewed driver's license via mail from California DMV.
- 11/30/00: With Intel's stock price at **\$38.06** per share, Mr. Vigil's Intel stock in his Schwab account has a market value of **\$1.59M** with a **margin loan balance of \$0.94M**, for a loan-to-value ratio of **59.5%**; *if it exceeds 50%, margin calls are issued and stock must be sold within 3 days to satisfy the margin call.*
- 12/1/00 to 12/3/00: Mr. Vigil is in New Mexico
- 12/4/00 to 12/8/00: Mr. Vigil is in California
- 12/9/00 to 12/11/00: Mr. Vigil is in Florida
- 12/11/00: Escrow closes on Mr. Vigil's home purchase in Eustis, Florida. With the new home and address officially Mr. Vigil's, he opens a bank account at the First National Bank of Mt. Dora.
- 12/31/00: With Intel's stock price at **\$38.06** per share, Mr. Vigil's Intel stock in his Schwab account has a market value of **\$0.75M** with a **margin loan balance of \$0**, for a loan-to-value ratio of **0%**.
- January 2001: Mr. Vigil files a Declaration of Domicile with the state of Florida, registers his Honda Civic with the state of Florida, applies for a Florida driver's license (surrendering the California driver's license he has in his possession), and files an Ad Valorem Tax Exemption with the state of Florida.

Analysis (with weighting on a scale of 1 to 10)

Facts benefiting the Taxpayer, Mr. Vigil:

- **Weighting = 10;** Mr. Vigil invests \$500,000 into AxessPoint on 8/25/00 with principal, interest and equity repayment
- **Weighting = 10;** While Mr. Vigil was working for AxessPoint in the first few weeks of September in California, he started preparing for his move to Florida. Mr. Vigil contacted a realtor in the Mount Dora area and requested listings of 3-bedroom, 2-bath homes in the area; he received a nine-page listing via FAX from the Florida realtor on September 20, 2000
- **Weighting = 10;** Mr. Vigil accepts full-time work with AxessPoint in Mt. Dora, Florida, on 9/22/00 as he believes it offers him a great opportunity to, if successful, retire early; Mr. Vigil and Mr. Shamrock sign the consulting agreement on 9/23/00.
- **Weighting = 10;** Mr. Vigil, the same day as formally accepting full-time work, purchases a home in Eustis (adjacent to Mt. Dora), Florida, on 9/23/00 as it was for sale by a known AxessPoint executive (Ron Young), came largely furnished, minimized transaction costs (no realtors involved), and was built by Shamrock's father's company
- **Weighting = 10;** Mr. Vigil consecutively sells Intel shares to cover margin calls from 9/25/00 until 12/8/00 when his Schwab margin loan balance finally hits zero. *(By contrast, on 8/31/00 his Intel stock value is \$5.7M with a margin loan balance \$2.7M for a loan-to-value ratio of 48%; if it exceed 50%, margin calls are issued and stock must be sold within 3 days.)*
- **Weighting = 10;** Because he has purchased the home in Florida, Mr. Vigil contacts the Santa Clara County Assessor's office on 9/25/00 to remove the Homeowner's exemption from 1900 Noel Drive in Los Altos, CA. Santa Clara County then mails a customized form letter dated 9/27/00 for Mr. Vigil to complete, sign and return.
- **Weighting = 7;** Of 81 total days between 9/21/00 and 12/11/00, Mr. Vigil spent his time as follows: outside of CA for 56 days (69%) and in CA for 25 days (31%) [Mr. Vigil was in FL for 35 days (43%), Italy for 18 days (22%), and NM for 3 days (4%)]. Wrapping up Mr. Vigil's consulting work and other business prior to accepting job on 9/22/00 with AxessPoint, and meeting with his CPA, required some time in CA.
- **Weighting = 10;** Mr. Vigil claimed Homeowner's exemption in FL
- **Weighting = 6;** FL declaration of domicile that Mr. Vigil was a permanent resident
- **Weighting = 9;** Mr. Vigil registered 1992 Honda Civic in FL
- **Weighting = 9;** Mr. Vigil obtained FL driver's license
- **Weighting = 10;** Mr. Vigil had Real Estate holdings in 3 states: primary residence in FL, rentals and land in NM & rental in CA (and treated the CA house on Noel Drive as an investment)
- **Weighting = 10;** Mr. Vigil purchased a home furnished, and thus only had to move personal possessions, minimizing distractions from starting his new job immediately with AxessPoint
- **Weighting = 6;** Mr. Vigil's Dentist is located in NM
- **Weighting = 6;** Mr. Vigil's Accountant, located in CA, also handled Mr. Vigil's mother's tax returns, even though she was a resident of NM

Facts benefiting the FTB:

- **Weighting = 10;** Mr. Vigil voted in CA in November 2000
- **Weighting = 6;** Mr. Vigil received a CA driver's license renewal via mail in November 2000
- **Weighting = 3;** Of 81 total days between 9/21/00 and 12/11/00, Mr. Vigil spent his time as follows: in CA for 25 days (31%) and outside of CA for 56 days (69%) [Mr. Vigil was in FL for 35 days (43%), Italy for 18 days (22%), and NM for 3 days (4%)]. Wrapping up Mr. Vigil's consulting work and other business prior to accepting job on 9/22/00 with AxBessPoint, and meeting with his CPA, required some time in CA.
- **Weighting = 1;** Mr. Vigil kept the CA house on Noel Drive and did not rent it out
- **Weighting = 3;** Mr. Vigil kept one of his two vehicles in CA
- **Weighting = 5;** FTB claims not to have enough evidence where Mr. Vigil was located outside of CA between 9/21/00 and 12/11/00
- **Weighting = 4;** Mr. Vigil closed escrow on his home in FL on 12/11/00
- **Weighting = 3;** Mr. Vigil opened a Bank Account in FL on 12/11/00
- **Weighting = 3;** FL declaration of domicile on 1/31/01 in which Mr. Vigil (incorrectly completed and) indicated he was a permanent resident as of close of escrow 12/11/00
- **Weighting = 1;** Mr. Vigil claimed Homeowner's exemption in FL on 1/26/01
- **Weighting = 1;** Mr. Vigil registered 1992 Honda Civic in FL on 1/26/01
- **Weighting = 1;** Mr. Vigil obtained FL driver's license on 1/26/01
- **Weighting = 0;** Mr. Vigil's involvement with Inspired Wellness and Preventative Medicine Associates after 9/21/00 (irrelevant and misleading information, of similar ilk to Mr. Vigil not driving his newer Honda CRV to FL; Mr. Vigil after 9/22/00 accepting the job formally not changing his 10/1/00 flights to Italy to leave from FL instead of CA; why purchase a new car in CA in March 2000 if you are leaving to FL in September 2000?; why purchase custom cherry wood office furniture and finish paying for it in August 2000 if you are leaving to FL in September 2000?; etc.)

Narrative (including how Taxpayer was treated by FTB in this case):

Appellant became a California nonresident as of September 21, 2000, when he moved to Florida with the intention of leaving California permanently. Any residency case must be determined based on facts and not speculation or innuendo. Appellant has presented evidence throughout the audit and protest and in his Opening Brief on appeal and in his Reply Brief on appeal that he changed his domicile from California to Florida on September 21, 2000, and became a California nonresident on that day. Respondent, on the other hand, has offered nothing in its brief and reply brief but unsupported assertions, misstatements of fact, misinterpretations of documents, introduction of irrelevant documents and facts, and intentional omissions of material facts favorable to Appellant.

In fact, this appeal is written by Appellant himself because he can no longer afford to be represented by counsel in this appeal. By June, 2008, Appellant legal costs greatly exceeded the cost estimate given by his attorneys, Jeffrey Vesley and Annie Huang of Pillsbury Winthrop Shaw Pittman, LLP, to cover the entire appeal process, including the appeal in front of the California Board of Equalization. Because the Respondent employed a strategy of continuing to bring up unsupported assertions, misstatements of fact, misinterpretations of documents, introduction of irrelevant documents and facts, and intentional omissions of material facts favorable to Appellant, Appellant attorneys were compelled to respond, resulting in increased legal costs to Appellant. When Appellant stopped being represented by Jeffrey Vesley and Annie Huang in June 2008, his legal fees to Pillsbury Winthrop Shaw Pittman, LLP, alone exceeded \$120,000.

As stated in Appellant Reply Brief dated May 27, 2008, at the heart of this matter is the issue whether people have the right to move out of California without Respondent treating them as “guilty until proven innocent.” In the present case, the tenor of Respondent’s Reply Brief (continuing from that of the Respondent’s Brief) and the unfounded attacks on Appellant’s credibility lead one to think that Respondent does not believe Appellant (or for that matter, any individual) would have any legitimate reason to leave California except to avoid paying California tax, and therefore it is automatically suspect behavior. This approach by the Respondent, representing the State of California Franchise Tax Board, is unfair and abusive to Appellant. For a tax dispute of \$245,677, Appellant accrued legal costs to defend himself of half of that amount AFTER the audit was completed. A large portion of the \$120,000+ in legal costs incurred by Appellant for representation by Pillsbury Winthrop Shaw Pittman, LLP, was spent responding to every unwarranted and unfounded allegation and assertion listed by Respondent.

For example, in Respondent’s Reply Brief, the Respondent alleges “And while in his Reply the Appellant argues that as his legal issues were winding down it was unnecessary to notify his attorneys of his new contact information in Florida, the truth is that he was awaiting an arbitrator’s award on a potentially multi-million dollar lawsuit, a lawsuit which seriously placed his credibility in question.” This statement completely ignores the facts of the arbitration, facts to which the Respondent is oblivious – yet this does not prevent Respondent from speculating negatively against the Appellant. The arbitration decision was handed down in July of 2000. What was being waited for from the Arbitrator was the decision on allocating the costs of the arbitration proceedings between both parties. There was no “multi-million dollar” decision being waited for. When the arbitration cost allocation information was handed down in the autumn of 2000, the arbitration attorneys for the Appellant simply contacted Appellant via telephone. Additionally, the Arbitration result had no bearing on Appellant’s credibility despite the Respondent’s unfounded allegation. It simply meant the Appellant would finally be compensated beyond earning the minimum wage rate for one year of service as President and Chief Operating Officer of the start-up company.

This is but one small example of egregious behavior exhibited by Respondent – behavior which was exhibited by the FTB through the entire audit and protest process. To illustrate the Respondent’s propensity for irrelevant

BOE Case 402865: Appeal of Frank J. Vigil

documents and facts focuses on the Respondent (and FTB auditors') seemingly single-minded focus on Appellant being listed as the registered agent for Inspired Wellness throughout 2000. Despite numerous explanations throughout the audit and protest process backed by evidence showing Inspired Wellness never launched as a successful business because Appellant was offered and accepted a job to work in Florida with AxessPoint, Respondent dwells on the Appellant not notifying the State of California of a change in registered agent for a company that never earned a dime of revenue because it went under due to neglect and lack of interest once Appellant moved to Florida in September of 2000. That a web page has an incorrect statement that Appellant "sits on the board of AxessPoint" (when in fact Appellant does not and never did "sit of the board of AxessPoint") is meaningless, yet it does not stop Respondent from touting this misinformation as evidence against Appellant.

Furthermore, in Respondent's Reply Brief, the Respondent alleges "Then, in justifying leaving his newly purchased Honda CRV in California while taking his well-aged Honda Civic to Florida, Vigil states that the older Honda was more economical, thus was the likely choice to take to Florida but if such economics were truly an issue, this begs the questions: Why purchase the CRV in the first place; after all, it was only several months old at the time?" This line of reasoning is outlandish and illogical. The simple facts are the older Honda Civic (38 MPG highway) was purchased in 1992 while the newer Honda CRV (23 MPG highway) was purchased in March of 2000. Appellant accepted the job in Florida and moved to Florida on September 21, 2000. What bearing does making the Honda CRV purchase in March of 2000 have to do with accepting a job in Florida and moving to Florida six month later? Respondent behaves as if more pages in his briefs means he is correct, irrespective of how incorrect, unfair or wrong-headed his assertions, allegations and arguments may be.

Appellant could go on and on about this unfair behavior by Respondent, which led to Appellant spending money to defend against such baseless allegations, unsupported assertions, misstatements of fact, misinterpretations of documents, introduction of irrelevant documents and facts, and intentional omissions of material facts favorable to Appellant. Beyond what has already been addressed, Appellant must respond to some of the allegations, assertions and misinterpretations in Respondent's Reply Brief.

- In the arbitration matter, Appellant was required to go to Arbitration to receive payment above the minimum wage actually paid to Appellant for the one year in which he was the President and COO of the company. While the Appellant did not receive as much compensation as he sought from the Arbitration proceedings, he did receive a significant sum as the value of the stock he earned working for the company.
- In the agreement to work for AxessPoint, Respondent correctly reports "Mr. Vigil was to receive monthly compensation of \$14,000 plus a bonus..." yet questions "if he did agree to such compensation, and he worked for the last several months of 2000 for AxessPoint, why were these alleged earnings not reported in Vigil's 2000 tax returns..." As stated in the Appellant's declaration and Steve Shamrock's declaration, the Appellant was never paid by AxessPoint for work performed because the financing was never completed due to the financial and economic meltdown associated with the so-called "dot-com bust" in October 2000.
- Regarding the document Shamrock located to illustrate the financing he was securing for AxessPoint (\$16M in financing from Euro Capital Markets), this was but one early version of a financing document from one of many financial sources with which Shamrock was in conversations. That this was the one financing document located after eight years by Shamrock is clear evidence of his efforts to obtain financing for AxessPoint, and not a reflection of the only financing opportunity available to Shamrock in September of 1999, (just 6 months prior to the height of the so-called "dot-com boom") which the Respondent would erroneously try to lead the Board to believe.

If the facts in this case are considered with an objective and neutral view, it will become evident to this Board that Appellant left California for other than temporary and transitory purposes to pursue a potentially great business opportunity on September 21, 2000.