

# MOLINARO HORSE OPERATION CHRONOLOGY

**STATE BOARD OF EQUALIZATION**



**TAXPAYER EXHIBITS**

**B1**

**April 22, 2014**

bert J. Molinaro and Carol E. Molinaro  
**715378**

Appeal Name: Molinaro

Case ID: 715378 ITEM #. B1

Date: 4-22-14

Exhibit No: \_\_\_\_\_

**TP      FTB      DEPT      PUBLIC COMMENT**

Phase I  
First 22 Years 1973-1994

- 1973 — Began with one horse; purchase 18 horses for \$143,000 (average \$8,000)
- 1978 — Purchased horse farm (\$170,000) and further improved it
- 1989 — Sold horse farm for \$4 million profit; overall \$3.4 million profit in Phase I

Phase II  
Last 12 Years 1995-2006

- Nov. 1994 — Trainer recommended major increase in quality and quantity; Molinaros agreed and purchased over 80 horses for \$2 million from November 1994 through December 2006
- 1995 — \$50,000 profit
- 1996 — Cash flow "breakeven" year
- 1996-2002 — "Profound Secret" won \$515,000
- 1999 — IRS audit of horse operation (also reviewed 1997, 1998 & 2000). No hobby loss issue raised.

The 9th and 10th consecutive loss years since the 1995 profit year and the 1996 breakeven year and are well within "start-up stage" of the Phase II modifications. Losses also resulted from seven involuntary conversions during 2004-2006.

Appeal Years  
2005 - 2006

- 2004 — "That'debeme," a breeding mare, suffered a ruptured intestine and was euthenized.  
"Lucky Mudd" fractured sesamoid bone; given away.
- 2005 — "Marion's Prospect" suffered a career-ending bowed tendon; given away 2005.  
"Brite Bounty," suffered a career-ending fractured sesamoid bone; given away.  
"Far Out" suffered a career-ending suspensory ligament injury; given away.  
"Another Gear" broke down; given away.
- 2006 — "Pickinup" suffered a career-ending fractured sesamoid bone; given away.

**Comparison with Collins, 86 SBE 047, 3-4-85**  
**Under the Factors of Treas. Reg. §1.183-2(b)**

	<u>Collins</u>	<u>Molinaros</u>
1. Businesslike Operation. Treas. Reg. §1.183-2(b)(1)	Accurate books, separate bank account, used CPA, changed Operations (to eliminate boarding); all found "Business-like."	Accurate books, separate bank account, use of CPA, 1994 change in Operations (to dramatically increase quantity and quality of horses); used corporate form and had 17 employees.
2. Expertise and Consultation. Treas. Reg. §1.183-2(b)(2)	19 years of experience and consultation with trainer considered favorably.	33 years of experience and consultation with trainer.
3. Time Devoted. Treas. Reg. §1.183-2(b)(3)	3000 hours per year considered favorably	1500-2500 hours per year including 150 visits annually to the training facility and 40 visits to active race tracks.
4. Expectation of Appreciation. Treas. Reg. §1.183-2(b)(4)	Substantial farm appreciation recognized as profit. Board also addressed the "tremendous profit potential" of Thoroughbreds.	Farm sold for \$4 million profit in 1989 after 11-year use and improvement as horse farm; Thoroughbreds also involved.
5. Success in Similar Businesses. Treas. Reg. §1.183-2(b)(5)	No issue	Highly profitable outside businesses
6. History of Profits and Losses. Treas. Reg. §1.183-2(b)(6)	No profit ever in 19 consecutive years from commencement to first year at issue; no unforeseen hardships.	No profit in 9 years prior to first year at issue; previous profits in 1989 (\$4 million on farm sale) and 1995 (\$50,000 operating profit); several unforeseen casualties.
7. Occasional Profits. Treas. Reg. §1.183-2(b)(7)	No profits but Board recognized "tremendous profit potential" of Thoroughbred horses, and found a highly speculative activity.	Two past profit years; also involved Thoroughbreds; and operating revenues in 1995-2006 were \$2.6 million—greatest, by far, of any published case.
8. Other Income. Treas. Reg. §1.183-2(b)(8)	Outside income was not substantial.	Substantial outside income from businesses, but operated the same as horse activity.
9. Personal Pleasure or Recreation. Treas. Reg. §1.183-2(b)(9)	Board found "no substantial" personal pleasure or recreation elements.	No farm owned since 1989; never owned or rode pleasure horses; FTB doesn't identify any personal pleasure or recreational aspects.