

**SUMMARY OF MATTSON EXHIBITS  
for BOE MEETING, AUGUST 30, 2016**

**PowerPoint presentation titled "Mattson BOE Presentation August 30 2016"**

- Slides 1 to 8 summarize how we got to this point and what we believe we have proved
- Slides 9 to 13 are rebuttals to many of the arguments made by the FTB in their most recent Brief
- Slides 14 to 26 summarize our response to the questions from the BOE Staff, with explanatory Exhibits included

**ADDITIONAL EXHIBITS**

**Excel workbook titled "Exhibits A to H (Devil's Knob Time Report for BOE Follow Up)"**

This workbook contains 8 worksheets, marked as Exhibits A through H.

- **Exhibit A** is the original, detailed Time Report I submitted previously, which details the hours we spent traveling to and from the property and working at the property, with references to all receipts we provided and to how we handled the care of our children.
- **Exhibit B** shows how the hours we have reported have changed, slightly, over time. (This also appears in the PowerPoint as Exhibit 2 on slide 15.)
- **Exhibit C** is a modified version of the Time Report (from Exhibit A) in which we removed hours we had previously included for meals, for work on the Downstairs Apartment, and for supply stops that we cannot fully verify (eg grocery stores.)
- **Exhibit D** is a summary of the new, revised hours based on the modifications in Exhibit C. (This also appears in the PowerPoint as Exhibit 5 on slide 21.)
- **Exhibit E** is a further modified version of the Time Report (from Exhibit C) in which, in addition to removing hours we had previously included for meals, for work on the Downstairs Apartment, and for supply stops that we cannot fully verify (eg grocery stores), we also took the extreme step of removing all hours for 3 separate trips for which we had no individual receipts, other than airfare from Delta Airlines. (We did this to show that even in this rather draconian case, we still have over 100 hours of work on the property.)
- **Exhibit F** is a summary of the new, bare minimum hours based on the modifications in Exhibit E. (This also appears in the PowerPoint as Exhibit 8 on slide 26.)
- **Exhibit G** is a summary of the hours worked on the property by other parties, as requested by BOE Staff. (This also appears in the PowerPoint as Exhibit 6 on slide 23.)
- **Exhibit H** is a summary of the Repair Expenses and hours worked by various parties. It shows the breakdown of Labor separate from Materials, Fees and Profit, as derived from the contractor invoices. (This also appears in the PowerPoint as Exhibit 7 on slide 24.)

**STATE BOARD OF EQUALIZATION**

Appeal Name: John & Tara Mattson

Case ID: 816470 ITEM # B3

Date: 8/30/16 Exhibit No: 8.5

(TP) FTB DEPT PUBLIC COMMENT



**TAXPAYER EXHIBIT  
B3  
August 30, 2016  
John A. Mattson and Tara L. Mattson  
816470**

- **Excel workbook titled “Exhibit I (Devil’s Knob Rentals 2006-2009 with Cleans)”**  
This spreadsheet reproduces one we previously submitted that lists all of the renters we had in the 4 tax years, with dates and number of nights. We added information on the price we paid for cleaning and the number of hours per clean, per stay and per year. (The information from this spreadsheet also appears in Exhibit 6 on slide 23 of the PowerPoint.)
- **Excel workbook titled “Exhibit J (Lights and Batteries)”**  
This spreadsheet gives the detailed information regarding the number of light fixtures and bulbs, as well as batteries to be replaced, in the various levels of the property, as further reinforcement of the Time Study we previously provided, and which Mr. Riley took specific exception to in his latest Brief. We felt this was important in order to show how different our case is than the Chapin case cited by Mr. Riley. (This information also appears in the PowerPoint in Exhibits 3 and 4 on slides 18 and 19.)
- **Word document titled “Exhibit K (Time Study Analysis of Lights & Batteries)”**  
This Word document reproduces the Staff summary of Mr. Riley’s citation of the Chapin case, specifically with regard to the time we spent on cleaning and replacing light fixtures, lamps and bulbs and replacing batteries. (This information also appears in the PowerPoint in Exhibit 3 on slide 18.)

**John A. Mattson**  
**Tara L. Mattson**  
**Appeal Case #816470**

State of California  
Board of Equalization  
August 30, 2016

# At Audit, FTB Originally Raised 6 Issues

- 2 issues were eventually dropped by FTB
- 1 issue was resolved by FTB and us, with errors in our favor, leading to a reduction in our previously calculated tax liability for 2006 to 2009 tax years
- 2 issues have been resolved by FTB and us, leading to an overall net increase in our tax liability for the 2006 to 2009 tax years
- 1 remaining issue is the status of the deductions for the Devil's Knob House, which is why we are here
- At Protest, the only issue was proving that the average use period was 7 nights or less, but at Appeal Mr. Riley raised the additional issue of Material Participation (by contesting the proof we had previously provided)

•

•

# Summary of Open Issues

1. Average period of each customer's use is seven days or less during each taxable year
2. Appellants' participated in the activity for more than 100 hours during the tax year and whether appellants' participation is not less than participation by any other individual during the tax year



# Proof of Issue #1

1. Spreadsheet Schedule of all rentals for 2006 to 2009  
**(all use periods were less than 7 days)**
2. Federal Tax Returns for 2006 to 2009  
**(all figures consistent with Spreadsheet in #1)**
3. Copies of entries from contemporaneous, hand-written Rentals book for 2006 to 2009  
**(all rentals were less than 7 days & match Spreadsheet in #1)**
4. Copies of entries from contemporaneous, hand-written Reservations book for 2006 to 2009  
**(all rentals were less than 7 days & match Spreadsheet in #1)**
5. Statement from local Broker that average stay length at Wintergreen is "3 to 4 nights" & his referrals were "2 to 3 days"
6. Google article from 2012 which states that average length of stay (in similar resorts) was 2.35 nights for in-state guests and 3.94 nights for out-of-state guests
7. National Ski Areas Association National Demographic Study from 2004-2005 which states that the average national stay length was 4.8 nights, with a median of 4 nights



# Final Proof of Issue #1

- Provided by Jason Riley, Tax Counsel IV, FTB in “Respondents Additional Brief” of November 3, 2015
- In reference to the e-mail from Wintergreen area Broker Randy Thompson, who attested to the fact that typical Wintergreen stays are 3 to 4 nights, and that his referrals to us were “more 2 to 3 days”

**“Note that the two nights per stay is less than the minimum stay of three days advertised on the VRBO listing, and is less than the two, three-night guests that appellants reported...”**  
**“The average length of renter stays, according to appellants’ supplemental brief...for the 2006 to 2009 period was 4.58 nights.”**

Mr. Riley is now arguing down from our actual average stay of 4.58 nights!

•

•

# Proof of Issue #2

1. Spreadsheet Schedule of all Expenses for 2006 to 2009 **(documenting travel to/from DKL, work performed each trip)**
2. Copies of Credit Card statements for trips to DKL **(consistent with Spreadsheet in #1; originally submitted at Protest)**
3. Original Summary of hours worked 2006-09 (at Protest) **(all years were over 100 hours, but only counted one of us)**
4. Revised Summary of Hours worked 2006-09 (at Appeal) **(accounted for both spouses' hours, "doubled" the total, consistent)**
5. Copies of Credit Card statements, plus receipts, re-submitted after FTB claimed not to have received the original submission **(note that at Protest, Mr. Cerda of FTB accepted our proof of Material Participation based on these records, yet at Appeal Mr. Riley claims these records were never received)**
6. Devil's Knob Time Report spreadsheet for hours worked **(more detailed accounting, tied to receipts, consistent with other records)**
7. Detailed Time Study of standard cleaning and maintenance activities performed during each tax year **(consistent with all other records)**

•

•

# Additional Proof of Issue #2

- Devil's Knob Time Report spreadsheet for hours worked – revised to account for FTB objections (Exhibits 1,2, 5, 8, A, B, C, D, E & F)
  - Removed time spent eating meals
  - Removed time spent away from the property if totally unrelated to work (ie multiple errands on one trip)
  - Removed time spent working solely on the “downstairs apartment”
- Time Study analysis (Exhibits 3, 4, J & K)
  - Details on “light bulb replacement”
  - Calculation of number of light fixtures/bulbs and time spent
- Calculation of hours worked by all parties – less than us (Exhibits 6 , 7, G, H & I)
  - Contractor time – multiple employees involved
  - Contractor bill amounts included large quantities of materials
  - Maids' time (6 hours per clean, maximum of 8 cleans per year)
  - Other parties time (Randy Thompson – gave 2 referrals per year max)

•

•

# Exhibit 1: Modified Time Report

DEVIL'S KNOB TIME REPORT (Modified August 2016)

MODIFICATIONS BASED ON FTB & BOE STAFF COMMENTS

DATE	ACTIVITY	HOURS EACH WORKED			TOTAL HOURS WORKED			REDUCED	REDUCED	REDUCED	NEW	COMMENTS ON REDUCTIONS
		MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	HOURS (MEALS)	HOURS (DS APT)	HOURS (OTHER)	TOTAL HOURS	
12/18/2006	Fly San Jose to Atlanta											
12/19/2006	Atlanta area											GENERAL: Removed 3 hours each for meals (0.5 breakfast, 1 lunch, 1.5 dinner)
12/20/2006	Atlanta area											
12/21/2006	Drive Atlanta to DKL											
12/22/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6		2	20	2 hrs lunch already removed, 2 hrs Barnes&Noble
12/23/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals
12/24/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6		2	20	Removed 1 extra hour each for "Holiday meal"
12/25/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6		2	20	Removed 1 extra hour each for "Holiday meal"
12/26/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals
12/27/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals
12/28/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals
12/29/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6		2	20	2 hrs lunch already removed, 2 hrs Kohls
12/30/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals
12/31/2006	Work 7 AM to 9 PM	10	4	14	20	8	28	6	8		14	Removed Downstairs hours (100%)
<b>TOTAL HOURS AT HOUSE FOR 2006:</b>					<b>272</b>	<b>8</b>	<b>280</b>	<b>60</b>	<b>8</b>	<b>8</b>	<b>204</b>	

- This is a section of the 2006 data – complete file was submitted as a separate Exhibit
- Removed hours for meals, non-supply-related errands, and work on the Downstairs Apartment
- Even with all of these hours removed, our time exceeds 200 hours in each of the 4 tax years

# Summary of FTB Arguments

- If no receipt for a given day, you did not work
- If there aren't many receipts, you did not go to DKL or you did not work very much
- If there are lots of receipts, re-classify them as "leisure"
- If the receipt is in another town, you were not working at the house (even if buying supplies)
- If a receipt is not 100% specific, it must be "Restaurant Dining" (Wintergreen Partners) or "Leisure Activity"
- Lack of information – even for time periods when we were not at DKL – is treated as "unfavorable"
- Cast aspersions on our lifestyle and character for choosing to spend time and money to clean and maintain our property 3,000 miles from CA
- But then accuse us of going there for leisure
- Why would we fly 3000 miles to ski at Wintergreen, when we own a condo and 2 fractional properties at Tahoe, and can drive there in 3.5 hours?
- Bottom line: FTB can try to twist any set of facts to suit its goal

•

•

# FTB Fact Twisting Examples

- Relative to 7 day maximum use period: for 3 years FTB has contended we have not proved this (to their satisfaction) yet now Mr. Riley is arguing that we overstated our use periods
- One receipt from December 29, 2006 for \$36.44 at Ski Barn (in a 12 day stay) is asserted to be for ski rental equipment
  - This expense was actually (as documented) for “Sporting Goods” = Gloves (to work outside)
  - If we really were there to ski, why are there no other expenses for Lift tickets, ski rentals, etc? FTB seems to want to have it both ways
- Receipts for “Wintergreen Partners” are all assumed to be for Dining, when they were actually for unrelated items
  - Association fees, providing contractors access to the home, etc.
  - Dining receipts are classified as “Wintergreen Food & B”(Beverage)
  - Contrary to Mr. Riley's assertion, these dining expenses were reported

# FTB Fact Twisting Examples

- Trips to buy supplies (in Lynchburg & Charlottesville) were originally treated as “not working on DKL” and dismissed; after a Board member suggested that trips for supplies should be allowed, trips are now re-classified as “leisure”
- Alleged verbal request for “bookended” credit card statements
  - We were not aware of this request – why was it not put in writing?
  - We only saved the statements that corresponded to our trips to and work on the DKL property
  - We are not anxious to have Mr. Riley delving even more into our personal lives, finances and character, when it has nothing to do with our work at DKL
  - What could a credit card statement from a month when we were not traveling to Virginia to visit the property possibly show that would be relevant?
  - Mr. Riley simply wants to be able to assert that any “missing” information must contain something “unfavorable” to our case
- Mr. Riley insists (with no evidence) that we could not have been working outside the home, yet in his own dismissal of one of our receipts from Lowe's, he passed right over the purchase of a “tree lopper” in his effort to discredit our trip for supplies

•

•

# FTB Fact Twisting Examples

- Mr. Riley goes to great lengths to cast aspersions on our character and discredit our trips to Virginia to work on the DKL property
  - If we did not offer documentation for the trips he would insist we did not really go
  - Since we provided extensive documentation, he then contends that we travelled to Virginia for "leisure" – why would we do that when we also own 2 fractional vacation properties (plus a rental condo) in Tahoe?
- Mr. Riley then has to solve the problem of where we stayed in Virginia, if not at DKL, so he invented the idea that we stayed in the condo we own in Virginia Beach
  - Why does Mr. Riley suppose we travelled all the way to Virginia Beach to stay in a 2 bedroom condo that is 10 miles from the beach?
  - Mr. Riley ignores that fact that this condo was rented out to a full-time renter for all of the period in question, which is documented on our Federal tax returns and with extensive documentary evidence from our rental agent, Hutcheson Realty
- Mr. Riley first claimed we did not make the trips in question, then when we provided documentation he shifted and claimed we made the trips for leisure, even though there is no evidence of any leisure activities and plenty of documentation that we were there to work on the DKL property

# FTB Fact Twisting Examples

- Mr. Riley specifically asked me to re-open our account with VRBO so he could “give us credit for it” and “cross it off the list”
- I advised Mr. Riley that we no longer use VRBO as a primary source of customers, but he said this didn't matter
  - We found that VRBO customers tend to abuse the property and it was not worth the additional expense and trouble to deal with them
  - We have a sufficient enough “word of mouth” and repeat customer base
- Mr. Riley then claimed, once we re-established the VRBO account, that we were using the property for personal use since we blocked off the dates – even though I told him we would not be using VRBO to market the property

•

•

# Response to Staff Questions (1)

- Average period of each customer's use was proven to be seven days or less during each taxable year
  - 8 different items of proof submitted
  - Rental contracts were not used – not customary for short-term stays
  - Customer testaments were not able to be secured
    - Loss of contact with several customers (after 7 to 10 years)
    - Unwillingness of other customers to participate in a Tax matter
- Our time records did change slightly from Protest to Appeal to BOE Reply Brief – see Exhibit 1

•

•

# Exhibit 2: Evolution of Hours

YEAR	PROTEST PHASE	APPEAL:	APPEAL:	APPEAL:	APPEAL:	APPEAL:	APPEAL:	APPEAL:	APPEAL:	APPEAL:	APPEAL:	CHANGE:
		REPLY BRIEF Oct-14 John, hours at house	REPLY BRIEF Oct-14 Tara, hours at house	REPLY BRIEF Oct-14 Total, hours at house	REPLY BRIEF Oct-14 Marketing activity	REPLY BRIEF Oct-14 TOTAL	FINAL BRIEF Jul-15 John, hours at house	FINAL BRIEF Jul-15 Tara, hours at house	FINAL BRIEF Jul-15 Total, hours at house	FINAL BRIEF Jul-15 Marketing activity	FINAL BRIEF Jul-15 TOTAL	REPLY to FINAL BRIEF
2006	126	126	126	252	28	280	140	140	280	28	308	28
2007	132	132	132	264	34	298	132	132	264	34	298	0
2008	156	156	156	312	32	344	152	152	304	32	336	-8
2009	118	118	118	236	40	276	116	116	232	40	272	-4

- Change from Protest to Appeal Reply Brief was to account for both taxpayers' hours, plus including the marketing activity
- Change from Appeal Reply Brief (October 2014) to Final Brief (July 2015) was minimal and was due to a more precise examination of the records of the total hours worked at the DKL property

# Response to Staff Questions (2)

- Sufficiency of establishing material participation
  - Case law referenced by FTB applies to taxpayers who provided very little documentation and simply guessed at the time they spent
  - We provided voluminous documentation, detailed and contemporaneous records, and specific time estimates
- Establishment of material participation by “reasonable means”
  - As noted above, extensive documentation was kept and provided to FTB
  - How much more detailed, specific and comprehensive could our records be?
  - We cannot produce receipts for periods when we did not purchase items
  - We do not believe there is any level of documentation that would satisfy the FTB in this case

# Response to Staff Questions (3)

- Comparison to *Chapin* case is not valid
  - Taxpayer did not maintain a log or other record of their hours of participation – we provided contemporaneous calendar records
  - Taxpayer employed a rental agent – we handled all rentals, cleaning and maintenance, only minimally using local providers as needed
  - Taxpayer included time spent in travel to and from the rental – we did not include any travel time to and from the property
  - Property in question was a small condominium – our DKL property is a large, 3 bedroom house on 3 levels (not including the Downstairs Apartment and crawl space) with extensive decking, driveway and yard
  - Taxpayer included at least one time estimate that seemed obviously unreasonable (5 hours refreshing flower arrangements) – our time study included no such items
- See Exhibits 3 & 4 for more detailed time analysis

•

•

# Exhibit 3: Time Analysis

**“Citing *Chapin, supra*, respondent contends that there is only a minimal amount of time for changing light bulbs and arranging and plugging in table lamps that could be considered reasonable. Respondent contends that appellants’ estimate of 11 hours to perform such activity in the three levels of the rental and another three hours for such activity in the separate apartment is unreasonable.”**

- Total time for this activity was 8 hours, not 11
- We have now removed hours spent downstairs (but not outside)
- We included time for “cleaning light fixtures” and “cleaning lamps” and not just replacing lamps and bulbs, as mis-characterized by Mr. Riley
- Level 1 contains 75 lamps or light fixtures and 12 items that need batteries replaced; the ceiling lights require a step-stool to clean and to replace bulbs
- Level 2 contains 47 lamps or light fixtures and 9 items that need batteries replaced; the ceiling lights require a ladder to clean and to replace bulbs
- Level 3 contains 33 lamps or light fixtures and 10 items that need batteries replaced; the ceiling lights require a ladder to clean and to replace bulbs
- All smoke alarms require a ladder or step-stool to replace batteries
- The outside contains 22 light fixtures at widely dispersed locations

•

•

# Exhibit 4: Time Analysis

## Level 1

ROOM	Ceiling			Ceiling			TOTAL LIGHTS	Smoke Alarms	Clock/Radios	CD Player Radio	Flash Lights	TOTAL BATTERIES
	Desk Lamps	Light Cans	Table Lamps	Light Globes	Light Fixture	Outdoor Light						
Bunkroom	16	8	1	0	0	0	25	1	4	0	2	7
Bunk Bath	0	2	0	8	1	0	11	0	0	0	0	0
Bunk Closet/Storage	0	4	0	0	0	0	4	0	0	0	0	0
Family Room	0	8	3	0	0	2	13	1	1	1	0	3
Master Bedroom	1	3	3	0	0	0	7	1	0	0	1	2
Master Bath	0	2	0	8	1	0	11	0	0	0	0	0
Storage Closet	0	0	0	0	1	0	1	0	0	0	0	0
Foyer	0	0	0	0	1	1	2	0	0	0	0	0
Stairs	0	0	0	0	1	0	1	0	0	0	0	0
<b>TOTAL LIGHTS</b>	17	27	7	16	5	3	75	3	5	1	3	12

- Detail above for Level 1 – same analysis provided for other levels
- Each light fixture or lamp was thoroughly cleaned & dusted, and light bulbs replaced either as needed or proactively
- Most light fixtures in all levels, plus all smoke alarms, require a ladder or step-stool to access, which takes additional time
- Hourly estimates we provided are completely reasonable

# Response to Staff Questions (4)

- Inclusion of time spent working in downstairs apartment
  - We acknowledge that the time spent maintaining the downstairs living space should not be included, and we have now subtracted those hours from our calculation – we still have well over 100 hours (see Exhibit 5)
  - The time spent working in the crawl space and outside of the home still applies – in our Time Study this was 39 out of 67 hours required to perform the tasks required, so we used 50% of the daylight hours
- Inclusion of time spent on meals and supply trips
  - We believe that time spent taking breaks to eat meals, use the restroom and other “normal” breaks is appropriate to include in the total, just as it would be for an hourly worker
  - However, to be conservative, we recalculated all of our hours with time for meals removed (0.5 hours for breakfast, 1 hour for lunch, 1.5 hours for dinner, per person)
  - For supply trips that included one or more stops to purchase cleaning supplies and/or furnishings, we deducted the time for meals and for stops where no such purchases were made
- New hours calculations are shown in Exhibit 5

•

•

# Exhibit 5: Modified Hours

YEAR	APPEAL:	APPEAL:	APPEAL:	APPEAL:	APPEAL:	REDUCED	REDUCED	REDUCED	MODIFIED
	FINAL	FINAL	FINAL	FINAL	FINAL	HOURS	HOURS	HOURS	HOURS
	BRIEF	BRIEF	BRIEF	BRIEF	BRIEF	BASED ON	BASED ON	BASED ON	BASED ON
	Jul-15	Jul-15	Jul-15	Jul-15	Jul-15	FTB INPUT	FTB INPUT	FTB INPUT	FTB INPUT
	John,	Tara,	Total,	Marketing		Aug-16	Aug-16	Aug-16	Aug-16
	hours at	hours at	hours at	activity	TOTAL	Meals	Downstairs	Other	TOTAL
	house	house	house				Work		
<b>2006</b>	140	140	280	28	<b>308</b>	60	8	6	<b>234</b>
<b>2007</b>	132	132	264	34	<b>298</b>	32	42	0	<b>224</b>
<b>2008</b>	152	152	304	32	<b>336</b>	43	56	0	<b>237</b>
<b>2009</b>	116	116	232	40	<b>272</b>	43	0	2	<b>227</b>

- Removed all hours for meals, for work on the downstairs apartment, for stops where no supply purchases can be proven, and for extra time spent at "holiday meals"
- Total hours are still more than double the minimum standard of 100 hours

# Response to Staff Questions (5)

- Our daughters did not accompany us to the property
  - As noted in our previously submitted "Devil's Knob Time Report" (re-submitted as Exhibit A), our 2 daughters did not accompany us on any trips to the DKL property.
  - The specific arrangements for our daughters' care were detailed in Exhibit A, for each trip
  - Note that in 2009 our oldest daughter was 20 (in March) and our youngest was 13 (in September) so they did not need much supervision
- Discuss the amount of time spent by other parties in relation to our time
  - None of the other parties spent as much as 100 hours at the property in any year, and none spent as much time as we did
  - The contractor's invoice included materials, which made up the vast majority of the total expense, so the FTB's hourly calculations are in error
- Details on time spent by other parties are shown on Exhibits 6 and 7

•

•

# Exhibit 6: Others' Hours

YEAR	MODIFIED BLUE RIDGE							CONTRACTOR INDIVIDUAL HOURS
	APPEAL:	HOURS	MTN	RANDY	MAID	DOUG	CONTRACTOR HOURS	
	FINAL	BASED ON	GETAWAYS	THOMPSON	SERVICE	NELSON		
	BRIEF	FTB INPUT	HOURS	HOURS	HOURS	HOURS		
Jul-15	Aug-16							
TOTAL	TOTAL					\$25/hour	4 man crew	
2006	308	232	44	0	12	5	88	22
2007a	298	224	0	6	30	10	265	66.25
2007b	298	224					100	25
2008	336	237	0	4	24	10	240	60
2009	272	227	0	8	48	3	30	7.5

Randy Thompson spent 2 hours per referral.

Maid service spent 6 hours per clean.

In 2007, 2 separate contractors performed work.

See separate spreadsheet for more details.

- No other individual worked more than 67 hours in any year
- We worked more hours than any other individual

# Exhibit 7: Repair Details

YEAR	REPAIR EXPENSES	NELSON	OTHER	MATERIAL	LABOR	CONTRACTOR	CONTRACTOR		
		BUILDERS INVOICES	CONTRACTOR	FEES PROFIT		HOURS	INDIVIDUAL HOURS		
							\$25/hr	4 man crew	
2006	\$ 1,500	\$ 6,100	\$ -	\$ 3,900	\$ 2,200	88		22	Replace windows
2007a	\$ 10,424	\$ 10,424	\$ -	\$ 3,790	\$ 6,634	265		66	Repair water damage
2007b	\$ 16,097	\$ -	\$ 16,097	\$ 13,597	\$ 2,500	100		25	Replace carpet throughout
2008	\$ 23,154	\$ 23,154		\$ 17,154	\$ 6,000	240		60	Replace roof, partial siding & trim
2009	\$ 2,500	\$ 2,500		\$ 1,750	\$ 750	30		8	Replace windows

Note: In 2006, difference between \$6100 expense and \$1,500 deduction was paid by insurance

- In 2007, 2 different contractors performed work
- Nelson Builders, owned by Doug Nelson, was our primary contractor throughout this period

# Material Participation Summary

- We have provided ample documentation to prove that we materially participated in the DKL property, by spending over 100 hours, and more time than anyone else
- Even after adjusting our hours downward, in response to objections from FTB (which we do not agree with), our total hours are still over 200 in each tax year
- As a thought exercise, we also ran the calculations if we followed the FTB's argument that if there are no specific receipts (other than airfare) for a trip, we should remove all of those hours
- The hours calculations for this are shown in Exhibit 7, and even with this extreme (and unjustified) position, our total hours still exceed 100 in each of the 4 tax years

•

•

# Exhibit 8: Minimum Hours

YEAR	APPEAL:	APPEAL:	APPEAL:	APPEAL:	APPEAL:	HOURS	REDUCED	REDUCED	MODIFIED	NET	MINIMUM
	FINAL	FINAL	FINAL	FINAL	FINAL	BASED	HOURS	HOURS	HOURS	REDUCED	HOURS
	BRIEF	BRIEF	BRIEF	BRIEF	BRIEF	ON FTB	BASED ON	BASED ON	BASED ON	HOURS -	PER FTB
	Jul-15	Jul-15	Jul-15	Jul-15	Jul-15	INPUT	FTB INPUT	FTB INPUT	FTB INPUT	RECEIPTS	INPUT
						Aug-16	Aug-16	Aug-16	Aug-16	Aug-16	Aug-16
	John,	Tara,	Total,	Marketing			Downstairs			No	
	hours at	hours at	hours at	Activity	TOTAL	Meals	Work	Other	TOTAL	receipts	TOTAL
	house	house	house							other than	
										Delta	
2006	140	140	280	28	308	60	8	6	234	0	234
2007	132	132	264	34	298	20	42	0	236	120	116
2008	152	152	304	32	336	36	56	0	244	72	172
2009	116	116	232	40	272	25	0	2	245	96	149

- Removed all hours for meals, for work on the downstairs apartment, for stops where no supply purchases can be proven, and for extra time spent at "holiday meals"
- Also removed hours for trips with no receipts other than airfare
- Total hours are still more than the minimum standard of 100 hours in each of the 4 tax years

# EXHIBIT A

EXHIBIT A: DEVIL'S KNOB TIME REPORT (May 2015)

DATE	ACTIVITY	HOURS EACH WORKED			TOTAL HOURS WORKED			COMMENTS	RECEIPTS
		MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS		
12/18/2006	Fly San Jose to Atlanta							Wintergreen (3) - advance payments	
12/19/2006	Atlanta area							Jersey Mike's, Walgreen's, Garrison's, Intimacy at Phipps, Starbuck's Atlanta	
12/20/2006	Atlanta area							Walgreen's Roswell	
12/21/2006	Drive Atlanta to DKL						Dropped kids in Greenville with grandparents	Homewood Suites Atlanta, Racetrac Alpharetta, Raceway Spartanburg	
12/22/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	Trip to Lynchburg for supplies - 6 hours x 2	Sheetz, Logan's, Target: \$734.98, Barnes & Noble, SuperCenter, Sam's Club (2) Lynchburg
12/23/2006	Work 7 AM to 9 PM	14	0	14	28	0	28		Black Rock Market (bill says 12/22)
12/24/2006	Work 7 AM to 9 PM	14	0	14	28	0	28		Wintergreen Food, Black Rock Market, Logos of Wintergreen, Black Rock Gallery, Wintergreen Partners (3)
12/25/2006	Work 7 AM to 9 PM	14	0	14	28	0	28		Wintergreen Food
12/26/2006	Work 7 AM to 9 PM	14	0	14	28	0	28		Wintergreen Partners (3), Black Rock Market, Blue Ridge Mountain Sports
12/27/2006	Work 7 AM to 9 PM	14	0	14	28	0	28		
12/28/2006	Work 7 AM to 9 PM	14	0	14	28	0	28		Wintergreen Partners (2)
12/29/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	Trip to Lynchburg for supplies - 5 hours x 2	Wintergreen Partners (2), Lowe's, Logan's, Kohl's, Target, Mapco Lynchburg
12/30/2006	Work 7 AM to 9 PM	14	0	14	28	0	28		Ski Barn Roseland (12/29), Wintergreen Partners
12/31/2006	Work 7 AM to 9 PM	10	4	14	20	8	28	Kalow arrived evening	Wintergreen Partners
<b>TOTAL HOURS AT HOUSE FOR 2006:</b>					<b>272</b>	<b>8</b>	<b>280</b>		
DATE	ACTIVITY	HOURS EACH WORKED			TOTAL HOURS WORKED			COMMENTS	RECEIPTS
		MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS		
1/1/2007	Work 6 AM to 10 PM	0	16	16	0	32	32	Kalow in main house	Wintergreen Partners (2)
1/2/2007	Work 6 AM to 2 PM	0	8	8	0	16	16	Kalow in main house	
1/2/2007	Drive DKL to Atlanta							Picked kids up in Greenville	Sheetz Lynchburg, QT Gas, Atlanta Bread Company Atlanta
1/2/2007	Fly Atlanta to San Jose								Enterprise Rent-A-Car Atlanta
7/30/2007	Fly San Jose to Atlanta								
7/31/2007	Atlanta area								
8/1/2007	Atlanta area								
8/2/2007	Atlanta area								
8/3/2007	Drive Atlanta to Va Beach								
8/4/2007	Virginia Beach area							Bought supplies in Virginia Beach	
8/5/2007	Drive Va Beach to DKL							Kids stayed with grandfather	
8/5/2007	Work 1:30 PM to 6:30 PM	5	0	5	10	0	10		
8/6/2007	Work 7 AM to 7 PM	12	0	12	24	0	24		
8/7/2007	Work 7 AM to 7 PM	12	0	12	24	0	24		
8/8/2007	Work 7 AM to 7 PM	12	0	12	24	0	24		
8/9/2007	Work 7 AM to 7 PM	12	0	12	24	0	24		
8/10/2007	Work 7 AM to 2 PM	7	0	7	14	0	14		
8/10/2007	Drive DKL to Dulles							Tara's brother drove kids to DKL	
8/11/2007	Fly Dulles to San Jose								
12/27/2007	Fly San Jose to Norfolk								Delta
12/28/2007	Drive Va Beach to DKL							Kids stayed with grandfather	Home Depot Norfolk (bill says 12/29), Sonic Va Beach
12/28/2007	Work 10 AM to 8 PM	10	0	10	20	0	20		
12/29/2007	Work 7 AM to 9 PM	14	0	14	28	0	28		
12/30/2007	Work 7 AM to 9 PM	10	4	14	20	8	28	Kalow arrived evening	Terminix VA (bill says 12/31)
12/31/2007	Work 7 AM to 5 PM	0	10	10	0	20	20	Kalow in main house	
<b>TOTAL HOURS AT HOUSE FOR 2007:</b>					<b>188</b>	<b>76</b>	<b>264</b>		
		HOURS EACH WORKED			TOTAL HOURS WORKED				

DATE	ACTIVITY	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	COMMENTS
1/1/2008	Work 9 AM to 9 PM	0	12	12	0	24	24	Kalow in main house
1/2/2008	Work 7 AM to 9 PM	0	14	14	0	28	28	Kalow in main house
1/3/2008	Work 7 AM to 9 PM	0	14	14	0	28	28	Trip to Charlottesville for supplies - 8 hours x 2 Kroger, Kroger Gas Charlottesville
1/4/2008	Work 7 AM to 9 PM	0	14	14	0	28	28	Kalow in main house Wintergreen Food
1/5/2008	Work 7 AM to 9 PM	11	3	14	22	6	28	Trip to Charlottesville for supplies - 8 hours x 2 Wintergreen, Lowe's, Sam's, Target, Kroger Charlottesville, Impreial Oil Greenwood VA
1/6/2008	Drive DKL to Atlanta							Close family friend drove kids to DKL Arby's Lynchburg, Kangaroo Express Gaffney
1/7/2008	Atlanta area							TMG Restaurant Norcross
1/8/2008	Atlanta area							Atlanta Bread, Stoney River Atlanta area
1/9/2008	Fly Atlanta to San Jose							Shell Oil, Embassy Suites, Thrifty Car Rental
7/9/2008	Fly San Francisco to Dulles							HMS Host MSP Airport
7/10/2008	Drive Dulles to DKL							Tara's brother & grandfather drove kids to Va Beach Panera Bread, Homewood Suites Herndon VA
7/10/2008	Work 1 PM to 7 PM	6	0	6	12	0	12	Kids stayed with grandfather
7/11/2008	Work 7 AM to 7 PM	12	0	12	24	0	24	
7/12/2008	Work 7 AM to 7 PM	12	0	12	24	0	24	
7/13/2008	Work 7 AM to 1 PM	6	0	6	12	0	12	
7/13/2008	Drive DKL to Virginia Beach							Max & Erma's (bill says 7/10) Surfrider, Starbuck's, Panera Bread Norfolk/VB
7/14/2008	Virginia Beach area							Qdoba, Farm Fresh Norfolk/VB
7/15/2008	Virginia Beach area							7-11, Logan's, Chick-Fil-A, Sonic Norfolk/VB
7/15/2008	Drive Va Beach to Dulles							
7/16/2008	Fly Dulles to San Francisco							Thrifty Car Rental, Embassy Suites Dulles, Max & Erma's & Paradies Detroit Airport CA One Detroit Airport (2) (on July 16 but bill says July 17)
8/19/2008	Fly San Jose to Atlanta							Delta, Atlanta Bread Company
8/20/2008	Fly Atlanta to Norfolk							Smarte Carte Norfolk
8/20/2008	Virginia Beach area							Anna's Linen's Norfolk
8/21/2008	Virginia Beach area							Bought supplies in Virginia Beach Ruby Tuesday VB, Sonic VB (bill says 8/22), OfficeMax Norfolk (bill says 8/22)
8/22/2008	Drive Va Beach to DKL							Kids stayed with grandfather Kroger, Ruby Tuesday Charlottesville (bills says 8/23)
8/22/2008	Work 12:30 PM to 6:30 PM	6	0	6	12	0	12	
8/23/2008	Work 7 AM to 7 PM	12	0	12	24	0	24	
8/24/2008	Work 7 AM to 7 PM	12	0	12	24	0	24	Wintergreen Partners
8/25/2008	Work 7 AM to 7 PM	12	0	12	24	0	24	Wintergreen Food
8/26/2008	Work 7 AM to 1 PM	6	0	6	12	0	12	
8/26/2008	Drive DKL to Va Beach							Impreial Oil Greenwood VA, Purple Cow, Skinny Dip, Home Depot, Hilton VB/Norfolk
8/27/2008	Fly Norfolk to San Jose							Texaco, Hudson News VB/Norfolk, Sushi & Salad, Great Wraps, Hudson News Atlanta Thrifty Car Rental (bill says 8/29, for rental 8/19 to 8/28)
<b>TOTAL HOURS AT HOUSE FOR 2008:</b>					<b>190</b>	<b>114</b>	<b>304</b>	
		<b>HOURS EACH WORKED</b>			<b>TOTAL HOURS WORKED</b>			
DATE	ACTIVITY	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	COMMENTS
5/12/2009	Fly San Jose to Norfolk							Kids stayed in California Delta
5/13/2009	Drive Va Beach to DKL							
5/13/2009	Work 1:30 PM to 7:30 PM	6	0	6	12	0	12	
5/14/2009	Work 7 AM to 9 PM	14	0	14	28	0	28	
5/15/2009	Work 7 AM to 9 PM	9	5	14	18	10	28	
5/16/2009	Work 7 AM to 9 PM	14	0	14	28	0	28	
5/17/2009	Drive DKL to Virginia Beach							
5/17/2009	Fly Norfolk to San Jose							
8/16/2009	Fly San Francisco to Norfolk							Delta
8/17/2009	Drive Va Beach to DKL							Kids stayed with grandfather
8/17/2009	Work 2 PM to 7 PM	5	0	5	10	0	10	
8/18/2009	Work 7 AM to 9 PM	14	0	14	28	0	28	Trip to Charlottesville for supplies - 5 hours x 2 Ruby Tuesday & Harris Teeter Charlottesville

8/19/2009	Work 7 AM to 9 PM	9	5	14	18	10	28	
8/20/2009	Work 7 AM to 9 PM	9	5	14	18	10	28	WG Hardware Nellysford, Blackrock Market
8/21/2009	Work 7 AM to 9 PM	10	4	14	20	8	28	WG Grocers, Wintergreen Partners
8/22/2009	Work 7 AM to 2 PM	7	0	7	14	0	14	
8/22/2009	Drive DKL to Va Beach							7-11 Gas Va Beach
8/23/2009	Fly Norfolk to San Francisco							Hudson News Norfolk
<b>TOTAL HOURS AT HOUSE FOR 2009:</b>					<b>194</b>	<b>38</b>	<b>232</b>	
HOURS SUMMARY with trips divided:								
<b>TOTAL HOURS AT HOUSE FOR 2006:</b>					<b>272</b>	<b>56</b>	<b>328</b>	
<b>TOTAL HOURS AT HOUSE FOR 2007:</b>					<b>188</b>	<b>72</b>	<b>260</b>	
<b>TOTAL HOURS AT HOUSE FOR 2008:</b>					<b>190</b>	<b>70</b>	<b>260</b>	
<b>TOTAL HOURS AT HOUSE FOR 2009:</b>					<b>194</b>	<b>38</b>	<b>232</b>	

# EXHIBIT B

**EXHIBIT B: HOURS REPORTED TO FTB - CHANGE SUMMARY (Prepared August 2016)**

<b>YEAR</b>	<b>PROTEST PHASE</b>	<b>APPEAL: REPLY BRIEF</b>	<b>APPEAL: FINAL BRIEF</b>	<b>CHANGE: REPLY to FINAL BRIEF</b>								
		Oct-14	Oct-14	Oct-14	Oct-14	Oct-14	Jul-15	Jul-15	Jul-15	Jul-15	Jul-15	
	<b>John, hours at house</b>	John, hours at house	Tara, hours at house	Total, hours at house	Marketing activity	<b>TOTAL</b>	John, hours at house	Tara, hours at house	Total, hours at house	Marketing activity	<b>TOTAL</b>	
<b>2006</b>	<b>126</b>	126	126	252	28	<b>280</b>	140	140	280	28	<b>308</b>	<b>28</b>
<b>2007</b>	<b>132</b>	132	132	264	34	<b>298</b>	132	132	264	34	<b>298</b>	<b>0</b>
<b>2008</b>	<b>156</b>	156	156	312	32	<b>344</b>	152	152	304	32	<b>336</b>	<b>-8</b>
<b>2009</b>	<b>118</b>	118	118	236	40	<b>276</b>	116	116	232	40	<b>272</b>	<b>-4</b>

# EXHIBIT C

EXHIBIT C: DEVIL'S KNOB TIME REPORT (Modified August 2016)										MODIFICATIONS BASED ON FTB & BDE STAFF COMMENTS					
DATE	ACTIVITY	HOURS EACH WORKED			TOTAL HOURS WORKED			REDUCED	REDUCED	REDUCED	NEW	COMMENTS ON REDUCTIONS	COMMENTS	RECEIPTS	
		MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	HOURS (MEALS)	HOURS (DS APT)	HOURS (OTHER)	TOTAL HOURS				
12/18/2006	Fly San Jose to Atlanta													Wintergreen (3) - advance payments	
12/19/2006	Atlanta area													Jersey Mike's, Walgreen's, Garrison's, Intimacy at Phipps, Starbuck's Atlanta	
12/20/2006	Atlanta area													Walgreen's Roswell	
12/21/2006	Drive Atlanta to OKL													Homewood Suites Atlanta, Racetrac Alpharetta, Raceway Spartanburg	
12/22/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6		2	20	2 hrs lunch already removed, 2 hrs Barnes & Noble	Trip to Lynchburg for supplies - 6 hours x 2	Sheetz, Logan's, Target, \$734.98, Barnes & Noble, SuperCenter, Sam's Club (2) Lynchburg	
12/23/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals	Black Rock Market (bill says 12/22)		
12/24/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6		2	20	Removed 1 extra hour each for "Holiday meal"	Wintergreen Food, Black Rock Market, Logos of Wintergreen, Black Rock Gallery, Wintergreen Partners (3)		
12/25/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6		2	20	Removed 1 extra hour each for "Holiday meal"	Wintergreen Food		
12/26/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals	Wintergreen Partners (3), Black Rock Market, Blue Ridge Mountain Sports		
12/27/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals			
12/28/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals	Wintergreen Partners (2)		
12/29/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	2 hrs lunch already removed	Trip to Lynchburg for supplies - 5 hours x 2	Wintergreen Partners (2), Lowe's, Logan's, Kohl's, Target, Mapco Lynchburg	
12/30/2006	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals	Ski Barn Roseland (12/29), Wintergreen Partners		
12/31/2006	Work 7 AM to 9 PM	10	4	14	20	8	28	6	8		14	Removed Downstairs hours (100%)	Kalow arrived evening	Wintergreen Partners	
TOTAL HOURS AT HOUSE FOR 2006:					272	8	280	60	8	6	206				
DATE	ACTIVITY	HOURS EACH WORKED			TOTAL HOURS WORKED							COMMENTS			
		MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS								
1/1/2007	Work 6 AM to 10 PM	0	16	16	0	32	32		16		16	Removed Downstairs hours (50%)	Kalow in main house	Wintergreen Partners (2)	
1/2/2007	Work 6 AM to 2 PM	0	8	8	0	16	16		8		8	Removed Downstairs hours (50%)	Kalow in main house		
1/3/2007	Drive OKL to Atlanta													Picked kids up in Greenville	Sheetz Lynchburg, QT Gas, Atlanta Bread Company Atlanta
1/7/2007	Fly Atlanta to San Jose														Enterprise Rent-A-Car Atlanta
7/30/2007	Fly San Jose to Atlanta														
7/31/2007	Atlanta area														
8/1/2007	Atlanta area														
8/2/2007	Atlanta area														
8/3/2007	Drive Atlanta to Va Beach														
8/4/2007	Virginia Beach area													Bought supplies in Virginia Beach	
8/5/2007	Drive Va Beach to OKL													Kids stayed with grandfather	
8/5/2007	Work 1:30 PM to 6:30 PM	5	0	5	10	0	10				10				
8/6/2007	Work 7 AM to 7 PM	12	0	12	24	0	24	3			21	Removed 3 hours for breakfast & lunch			
8/7/2007	Work 7 AM to 7 PM	12	0	12	24	0	24	3			21	Removed 3 hours for breakfast & lunch			
8/8/2007	Work 7 AM to 7 PM	12	0	12	24	0	24	3			21	Removed 3 hours for breakfast & lunch			
8/9/2007	Work 7 AM to 7 PM	12	0	12	24	0	24	3			21	Removed 3 hours for breakfast & lunch			
8/10/2007	Work 7 AM to 2 PM	7	0	7	14	0	14	3			11	Removed 3 hours for breakfast & lunch	Tara's brother drove kids to OKL		
8/10/2007	Drive OKL to Dulles														
8/11/2007	Fly Dulles to San Jose														
12/27/2007	Fly San Jose to Norfolk														Delta
12/28/2007	Drive Va Beach to OKL													Kids stayed with grandfather	Home Depot Norfolk (bill says 12/28), Sonic Va Beach
12/28/2007	Work 10 AM to 8 PM	10	0	10	20	0	20	5			15	Removed 5 hours for lunch and dinner			
12/29/2007	Work 7 AM to 9 PM	14	0	14	28	0	28	6			22	Removed 6 hours for all meals			
12/30/2007	Work 7 AM to 9 PM	10	4	14	20	8	28	6	8		14	Removed Downstairs hours (100%)	Kalow arrived evening	Terminix VA (bill says 12/31)	
12/31/2007	Work 7 AM to 5 PM	0	10	10	0	20	20		10		10	Removed Downstairs hours (50%)	Kalow in main house		
TOTAL HOURS AT HOUSE FOR 2007:					188	76	264	32	42	0	190				
DATE	ACTIVITY	HOURS EACH WORKED			TOTAL HOURS WORKED							COMMENTS			
		MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS	MAIN HOUSE	DOWNSTAIRS & OUTSIDE	TOTAL HOURS								
1/1/2008	Work 9 AM to 9 PM	0	12	12	0	24	24	5	12		7	Removed Downstairs hours (50%), L&D	Kalow in main house		
1/2/2008	Work 7 AM to 9 PM	0	14	14	0	28	28	6	14		8	Removed Downstairs hours (50%), meals	Kalow in main house		
1/3/2008	Work 7 AM to 9 PM	0	14	14	0	28	28	6	10		12	Removed Downstairs hours (50%), meals	Trip to Charlottesville for supplies - 8 hours x 2	Kroger, Kroger Gas Charlottesville	
1/4/2008	Work 7 AM to 9 PM	0	14	14	0	28	28	6	14		8	Removed Downstairs hours (50%)	Kalow in main house	Wintergreen Food	
1/5/2008	Work 7 AM to 9 PM	11	3	14	22	6	28	3	6		19	Removed Downstairs hours, 3 B & L	Trip to Charlottesville for supplies - 8 hours x 2	Wintergreen, Lowe's, Sam's, Target, Kroger Charlottesville, Imperial Oil Greenwood VA	
1/6/2008	Drive OKL to Atlanta													Close family friend drove kids to OKL	Arby's Lynchburg, Kangaroo Express Gaffney
1/7/2008	Atlanta area														TMG Restaurant Norcross
1/8/2008	Atlanta area														Atlanta Bread, Stoney River Atlanta area
1/9/2008	Fly Atlanta to San Jose														Shell OK, Embassy Suites, Thrifty Car Rental
7/9/2008	Fly San Francisco to Dulles														HMS Host MSP Airport
7/10/2008	Drive Dulles to OKL													Tara's brother & grandfather drove kids to Va Beach	Panera Bread, Homewood Suites Herndon VA
7/10/2008	Work 1 PM to 7 PM	6	0	6	12	0	12				12				
7/11/2008	Work 7 AM to 7 PM	12	0	12	24	0	24	3			21	Removed 3 hours for breakfast & lunch			
7/12/2008	Work 7 AM to 7 PM	12	0	12	24	0	24	3			21	Removed 3 hours for breakfast & lunch			
7/13/2008	Work 7 AM to 1 PM	6	0	6	12	0	12	1			11	Removed 1 hour for breakfast			
7/13/2008	Drive OKL to Virginia Beach														Max & Erma's (bill says 7/10) Surftrider, Starbuck's, Panera Bread Norfolk/VB



# EXHIBIT D

EXHIBIT D: SUMMARY OF MODIFIED HOURS (AUGUST 2016)									
YEAR	APPEAL: FINAL BRIEF	APPEAL: FINAL BRIEF	APPEAL: FINAL BRIEF	APPEAL: FINAL BRIEF	APPEAL: FINAL BRIEF	REDUCED HOURS BASED ON FTB INPUT	REDUCED HOURS BASED ON FTB INPUT	REDUCED HOURS BASED ON FTB INPUT	MODIFIED HOURS BASED ON FTB INPUT
	Jul-15	Jul-15	Jul-15	Jul-15	Jul-15	Aug-16	Aug-16	Aug-16	Aug-16
	John, hours at house	Tara, hours at house	Total, hours at house	Marketing activity	TOTAL	Meals	Downstairs Work	Other	TOTAL
2006	140	140	280	28	308	60	8	6	234
2007	132	132	264	34	298	32	42	0	224
2008	152	152	304	32	336	43	56	0	237
2009	116	116	232	40	272	43	0	2	227

# EXHIBIT E





# EXHIBIT F

EXHIBIT F: SUMMARY OF MINIMUM HOURS (AUGUST 2016)											
YEAR	APPEAL: FINAL BRIEF	APPEAL: FINAL BRIEF	APPEAL: FINAL BRIEF	APPEAL: FINAL BRIEF	APPEAL: FINAL BRIEF	REDUCED HOURS BASED ON FTB INPUT	REDUCED HOURS BASED ON FTB INPUT	REDUCED HOURS BASED ON FTB INPUT	MODIFIED HOURS BASED ON FTB INPUT	NET REDUCED HOURS - RECEIPTS	MINIMUM HOURS PER FTB INPUT
	Jul-15	Jul-15	Jul-15	Jul-15	Jul-15	Aug-16	Aug-16	Aug-16	Aug-16	Aug-16	Aug-16
	John, hours at house	Tara, hours at house	Total, hours at house	Marketing Activity	TOTAL	Meals	Downstairs Work	Other	TOTAL	No receipts other than Delta	TOTAL
<b>2006</b>	140	140	280	28	<b>308</b>	60	8	6	<b>234</b>	0	<b>234</b>
<b>2007</b>	132	132	264	34	<b>298</b>	20	42	0	<b>236</b>	120	<b>116</b>
<b>2008</b>	152	152	304	32	<b>336</b>	36	56	0	<b>244</b>	72	<b>172</b>
<b>2009</b>	116	116	232	40	<b>272</b>	25	0	2	<b>245</b>	96	<b>149</b>

# EXHIBIT G



# EXHIBIT H

EXHIBIT H: REPAIR SUMMARY								
YEAR	REPAIR EXPENSES	NELSON BUILDERS INVOICES	OTHER CONTRACTOR	MATERIAL FEES PROFIT	LABOR	CONTRACTOR HOURS \$25/hr	CONTRACTOR INDIVIDUAL HOURS 4 man crew	
2006	\$ 1,500	\$ 6,100	\$ -	\$ 3,900	\$ 2,200	88	22	Replace windows
2007a	\$ 10,424	\$ 10,424	\$ -	\$ 3,790	\$ 6,634	265	66	Repair water damage
2007b	\$ 16,097	\$ -	\$ 16,097	\$ 13,597	\$ 2,500	100	25	Replace carpet throughout
2008	\$ 23,154	\$ 23,154		\$ 17,154	\$ 6,000	240	60	Replace roof, partial siding & trim
2009	\$ 2,500	\$ 2,500		\$ 1,750	\$ 750	30	8	Replace windows
Note: In 2006, difference between \$6100 expense and \$1,500 deduction was paid by insurance								

# EXHIBIT I

EXHIBIT I: CLEANING						
				Total	CLEANING	CLEANING
Renter	Arrival	# Nights	Rate	Rent	FEE	HOURS
Kalow	1/1/2006	6	\$550	\$3,300	375	6
Dejong	2/17/2006	4	\$450	\$1,800	375	6
2006 Total				\$5,100		12
				Total		
Renter	Arrival	# Nights	Rate	Rent		
Kalow	12/31/2006	5	\$550	\$2,750	250	6
Alpert	1/12/2007	4	\$500	\$2,000	250	6
Mason	1/26/2007	3	\$400	\$1,200	250	6
Kinnear	2/1/2007	4	\$450	\$1,800	250	6
Dejong	2/15/2007	5	\$450	\$2,250	250	6
2007 Total				\$10,000	\$1,250	30
				Total		
Renter	Arrival	# Nights	Rate	Rent		
Kalow	12/30/2007	6	\$550	\$3,300	250	6
Alpert	1/11/2008	5	\$450	\$2,250	250	6
Mason	1/25/2008	4	\$425	\$1,700	250	6
Dejong	2/14/2008	5	\$450	\$2,250	250	6
2008 Total				\$9,500	\$1,000	24
				Total		
Renter	Arrival	# Nights	Rate	Rent		
Kalow	12/30/2008	6	\$550	\$3,300	250	6
Alpert	1/15/2009	5	\$500	\$2,500	250	6
Mason	1/23/2009	4	\$425	\$1,700	250	6
Terry	1/30/2009	3	\$475	\$1,425	250	6
Dejong	2/19/2009	5	\$450	\$2,250	250	6
Gilson	6/19/2009	4	\$400	\$1,600	250	6
Kaney	7/2/2009	5	\$425	\$2,125	250	6
Adams	7/24/2009	4	\$400	\$1,600	250	6
2009 Total				\$16,500	\$2,000	48



# EXHIBIT J

EXHIBIT J: LIGHTS AND BATTERIES												
Level 1												
ROOM	Desk Lamps	Ceiling Light Cans	Table Lamps	Light Globes	Ceiling Light Fixture	Outdoor Light	TOTAL LIGHTS	Smoke Alarms	Clock/Radios	CD Player Radio	Flash Lights	TOTAL BATTERIES
Bunkroom	16	8	1	0	0	0	25	1	4	0	2	7
Bunk Bath	0	2	0	8	1	0	11	0	0	0	0	0
Bunk Closet/Storage	0	4	0	0	0	0	4	0	0	0	0	0
Family Room	0	8	3	0	0	2	13	1	1	1	0	3
Master Bedroom	1	3	3	0	0	0	7	1	0	0	1	2
Master Bath	0	2	0	8	1	0	11	0	0	0	0	0
Storage Closet	0	0	0	0	1	0	1	0	0	0	0	0
Foyer	0	0	0	0	1	1	2	0	0	0	0	0
Stairs	0	0	0	0	1	0	1	0	0	0	0	0
TOTAL LIGHTS	17	27	7	16	5	3	75	3	5	1	3	12
Level 2												
ROOM	Desk Lamps	Ceiling Light Cans	Table Lamps	Light Globes	Ceiling Light Fixture	Outdoor Light	TOTAL LIGHTS	Smoke Alarms	Clock/Radios	CD Player Radio	Flash Lights	TOTAL BATTERIES
Kitchen	0	8	0	0	0	2	10	1	1	0	1	3
Pantry	0	2	0	0	0	0	2	0	0	0	0	0
Dining Room	0	4	0	0	6	2	12	0	0	0	0	0
Family Room	0	4	3	0	0	0	7	1	1	1	1	4
Laundry Room	0	3	0	0	0	0	3	1	0	0	0	1
Powder Room	0	2	0	6	0	0	8	0	0	0	1	1
Storage Room	0	2	0	0	0	0	2	0	0	0	0	0
Foyer	0	0	0	0	1	1	2	0	0	0	0	0
Stairs	0	0	0	0	1	0	1	0	0	0	0	0
TOTAL LIGHTS	0	25	3	6	8	5	47	3	2	1	3	9
Level 3												
ROOM	Desk Lamps	In-Ceiling Light Cans	Table Lamps	Light Globes	In-Ceiling Light Fixture	Outdoor Light	TOTAL LIGHTS	Smoke Alarms	Clock/Radios	CD Player Radio	Flash Lights	TOTAL BATTERIES
Master Bedroom	1	4	3	0	1	1	10	1	2	1	2	6
Master Bathroom	0	3	0	10	1	0	14	0	0	0	0	0
Closet/Storage	0	2	0	0	0	0	2	0	0	0	0	0
Office	2	4	0	0	0	0	6	1	1	1	1	4
Stairs	0	0	0	0	1	0	1	0	0	0	0	0
TOTAL LIGHTS	3	13	3	10	3	1	33	2	3	2	3	10
Outside												

AREA	Desk Lamps	In-Ceiling Light Cans	Table Lamps	Light Globes	In-Ceiling Light Fixture	Outdoor Light	TOTAL LIGHTS	Smoke Alarms	Clock Radios	CD Player Radio	Flash Lights	TOTAL BATTERIES
Front Walkway	0	0	0	0	0	4	4	0	0	0	0	0
Level 1 Deck	0	0	0	0	0	4	4	0	0	0	0	0
Level 2 Deck	0	0	0	0	0	3	3	0	0	0	0	0
Stairs	0	0	0	0	0	3	3	0	0	0	0	0
Driveway / Yard	0	0	0	0	0	8	8	0	0	0	0	0
TOTAL LIGHTS	0	0	0	0	0	22	22	0	0	0	0	0

# EXHIBIT K

## EXHIBIT K

**“Citing *Chapin, supra*, respondent contends that there is only a minimal amount of time for changing light bulbs and arranging and plugging in table lamps that could be considered reasonable. Respondent contends that appellants’ estimate of 11 hours to perform such activity in the three levels of the rental and another three hours for such activity in the separate apartment is unreasonable.”**

### **Actual excerpt from Appellants’ Hearing Exhibit**

- Level 1 of main house (2 bedrooms – 1 with 8 bunk beds, 2 bathrooms, family room, storage closets, foyer, stairs)
    - Cleaning light fixtures and lamps 2 hours
    - Replacement of batteries, light bulbs 1 hour
  - Level 2 of main house (1/2 bathroom, family room, dining room, kitchen, pantry, foyer, laundry)
    - Cleaning light fixtures and lamps 2 hours
    - Replacement of batteries, light bulbs 1 hour
  - Level 3 of main house (1 bedroom, 1 bathroom, office, storage area, stairs)
    - Cleaning light fixtures and lamps 1 hour
    - Replacement of batteries, light bulbs 1 hour
  - Downstairs apartment & Outside areas (1 bedroom, 1 bathrooms, kitchenette, crawl space, decks, driveway, yard)
    - Cleaning light fixtures and lamps 1 hour
    - Replacement of batteries, light bulbs 1 hour
- 
- Total time for this activity was 8 hours, not 11
  - We have now removed hours spent downstairs (but not outside)
  - We included time for “cleaning light fixtures” and “cleaning lamps” and not just replacing lamps and bulbs, as mis-characterized by Mr. Riley
  - Level 1 contains 75 lamps or light fixtures and 12 items that need batteries replaced; the ceiling lights require a step-stool to clean and to replace bulbs
  - Level 2 contains 47 lamps or light fixtures and 9 items that need batteries replaced; the ceiling lights require a ladder to clean and to replace bulbs
  - Level 3 contains 33 lamps or light fixtures and 10 items that need batteries replaced; the ceiling lights require a ladder to clean and to replace bulbs
  - All smoke alarms require a ladder or step-stool to replace batteries
  - The outside contains 22 light fixtures at widely dispersed locations