

ALABAMA TAX TRIBUNAL

CORT ROWLAND,	§	
Taxpayer,	§	DOCKET NO. INC. 19-1357-JP
v.	§	
STATE OF ALABAMA	§	
DEPARTMENT OF REVENUE.		

POST-TRIAL PRELIMINARY ORDER

This appeal involves final assessments of 2015 and 2016 individual income tax and a denied refund of individual income tax for 2017. Prior to the trial on the merits, the Alabama Tax Tribunal remanded this case to the Alabama Department of Revenue to allow the parties the opportunity to resolve issues directly, without incurring unnecessary expense or delay. The case was removed from remand, however, when the Revenue Department notified the Tax Tribunal that the Taxpayer did not respond to the Department's contact attempts. The Tax Tribunal then directed the Taxpayer to produce certain information to the Tax Tribunal by a certain date, but the Taxpayer's representative later informed the Tax Tribunal that he was having trouble doing so electronically. Therefore, the Tax Tribunal remanded the case to the Revenue Department a second time. Later, the Revenue Department notified the Tax Tribunal that the information submitted by the Taxpayer on remand was the same information that had been submitted to the Revenue Department at the preliminary assessment stage.

The case then was set for trial, which was conducted on August 26, 2021. Brad Howell represented the Taxpayer. Cort Rowland appeared and testified. Margaret

McNeill represented the Revenue Department. Morgan Beckman also appeared on behalf of the Revenue Department, and Tina Smith, a Revenue Department examiner, appeared and testified.

The Taxpayer stated at trial that the issues to be decided related to losses claimed from the sale of two parcels of property in 2015; casualty losses related to four parcels of property in 2015; and a casualty loss for one parcel of property in 2017. The Revenue Department asserted that the Taxpayer had not presented adequate documentation prior to trial to support the claimed losses. And the Revenue Department maintained at the close of the trial that the Taxpayer had not proven his claims for relief except as to a few expenses.

Also at the close of the trial, the Taxpayer requested the opportunity to submit additional documentation to the Tax Tribunal regarding certain expenses that were discussed during trial. Therefore, the case was remanded to the Alabama Department of Revenue a third time; however, the parties were unable to settle any issues. And the Taxpayer did not submit any additional documentation to the Tax Tribunal after trial regarding his claimed expenses. On September 27, 2022, the parties requested that the Tax Tribunal decide the case on the testimony presented at the August 26, 2021, hearing.

Facts

Mr. Rowland testified that he is an electrical engineer who purchases, refurbishes, and then leases property, but that he never purchases properties at fair market value. In fact, he stated at trial that he purchased the properties at issue at

foreclosure sales and that none of the properties were in livable condition when purchased.

During the trial, the Taxpayer referenced losses from the sales of the two properties in 2015; casualty losses regarding the four properties in 2015; and a casualty loss regarding one property in 2017. All were reported on Schedule D of the Taxpayer's Alabama returns, but audit adjustments were made by the Revenue Department.

Concerning the sale of properties in 2015, Mr. Rowland specifically addressed a parcel located at 138 Sequoia Boulevard ("the Sequoia property"). He introduced an exhibit indicating that he had purchased the Sequoia property for \$137,907, that he had sold the property for \$150,000, and that he had expenses in the amount of \$12,093 that were not allowed. The expenses included fencing, a deck, title fees, utilities, a kitchen upgrade, plumbing, and an attorney's fee. The Revenue Department agreed at trial to the expenses for the fence and the deck, but did not agree to the expenses for utilities, the kitchen upgrade, plumbing, or attorney's fees, primarily because of the lack of supporting documentation.

On cross-examination, Mr. Rowland admitted that he had not reported the sale of the Sequoia property on his tax return. He also admitted that he had reported a \$10,000 loss on the property but was now claiming a \$27,050 loss.¹

Mr. Rowland next addressed the properties for which he had claimed casualty

¹The Taxpayer also challenged the disallowance of an expense on another property for the year 2015. However, the Taxpayer produced no documentation with respect to that expense.

losses in 2015: 3606 Flamingo Drive (“the Flamingo property”); 648 Villa Crest Avenue (“the Villa Crest property”); 811 Lynmore Avenue (“the Lynmore property”); and 554 Nelson Street (“the Nelson property”). With respect to the Flamingo property, he testified that, on June 9, 2015, the tenant caused a fire that resulted in a total loss of the house. According to Mr. Rowland, the Villa Crest property, the Lynmore property, and the Nelson property had been vandalized, causing the casualty losses reported on his tax return.

After Mr. Rowland was audited by the Revenue Department, he requested that Beverly Davis, a realtor, assist him in determining the casualty losses for the Flamingo property, the Villa Crest property, the Lynmore property, and the Nelson property. Mr. Rowland testified that Ms. Davis had set the values of the properties immediately prior to the loss and immediately after the loss, although her attempted valuations were done approximately five years after the loss events. According to the information provided to the Taxpayer by Ms. Davis, the properties had been subjected to casualty losses as follows: \$27,050 for the Flamingo property; \$35,350 for the Villa Crest property; \$18,000 for the Lynmore property; and \$19,500 for the Nelson property. Mr. Rowland also introduced printouts from the Bibb County, Georgia, website showing sales prices for the properties throughout the years as well as tax-assessor valuations.

Concerning 2017, Mr. Rowland testified that property located at 4157 Mikado Avenue (“the Mikado property”) had been vandalized. He submitted exhibits indicating that he had paid \$1,000 for repairs to the Mikado property; however, he

testified that he had actually spent more than \$1,000. Mr. Rowland claimed a casualty loss for 2017 for that property.

Tina Smith testified that the Revenue Department had disallowed the utilities claimed on the Sequoia property because that property was not a rental property. Also, the Revenue Department had disallowed the plumbing expenses because there was not sufficient information to prove that those expenses were paid for that property. Ms. Smith stated that a check written by the Taxpayer was written to an individual and that there was no invoice that corresponded to the payment. Ms. Smith also testified that there was no documentation to prove that the kitchen expenses or attorney's fee occurred in relation to the sale of that property.

Ms. Smith stated that the Revenue Department agrees to a basis of \$14,000 for the Flamingo property. But she testified that the Taxpayer did not provide proof of the claim of a \$27,050 loss or the payment of \$10,000 relating to that property. She also testified that the Revenue Department had allowed a cost basis of \$6,000 for the Lynmore property because that was the amount reported as paid for the property on a depreciation schedule. According to Ms. Smith, the Revenue Department had not allowed any cost basis for the Villa Crest property because there was no information submitted by the Taxpayer regarding the purchase price of the property and no information found online. She testified that she had used a cost basis of \$7,000 for the Nelson property because that was the original purchase price of the property, but that an appraisal was never presented, nor was any police report or photos presented to prove theft or vandalism.

As to the casualty loss claimed by the Taxpayer concerning the Mikado property, the Revenue Department objected to the use of the opinion of Ms. Davis because she is a realtor and not a real estate appraiser and because her report was not issued close in time to the loss event.

Prior to trial, this case was remanded to the Alabama Department of Revenue twice to allow the Taxpayer the opportunity to present proof to the Revenue Department of the claimed losses and expenses so as to resolve these issues by agreement. During the trial, the Taxpayer had the opportunity to submit proof of the expenses but did not do so adequately, or at all. He stated at various points in his testimony that he may be able to provide records concerning certain expenses, but he did not do so despite the case being remanded a third time for that purpose.

Therefore, the Taxpayer's request for relief is denied for lack of evidence. The Revenue Department is directed to recalculate the Taxpayer's liability based on the concessions agreed to by the Revenue Department as specified in this Order. The Revenue Department's recalculation is due to the Tax Tribunal no later than **April 21, 2023**. A final order then will be entered.

Entered March 8, 2023.

/s/ Jeff Patterson

JEFF PATTERSON

Chief Judge

Alabama Tax Tribunal

jp:ac

cc: Brad Howell, Esq.
Cort Rowland
Margaret Johnson McNeill, Esq.