

Tuesday, December 18, 2012

The Board met at its offices at 450 N Street, Sacramento, at 10:43 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee, Mr. Runner and Mr. Chiang present.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matters: *Josie Rowe, 538662 (GH)*, and, *Gateway Auto Center, Inc., 437262 (AS)*.

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, Mr. Chiang not participating in *California Insurance Company, 457613 (ET)*; the Board made the following orders:

Josie Rowe, 538662 (GH)

Action: The Board took no action.

Jagjit Singh Bhandal, 535641 (KH)

7-1-06 to 7-22-08, \$555.21 Tax

Action: Redetermine as recommended by the Appeals Division.

Next Level Data/Tele Systems, Inc., 539065 (CH)

10-1-06 to 9-30-09, \$54,108.66 Tax, \$5,410.90 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

American Gas, Inc., 494267 (KH)

4-1-05 to 3-31-08, \$77,840.07 Tax, \$7,842.71 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Jamestown Health and Medical Supply Company, LLC, 557146, 607904 (JH)

1-1-07 to 12-31-09, \$15,224.72 Tax

Action: Redetermine and deny the claim for refund as recommended by the Appeals Division.

Omar Ali Ahmed, 556522 (CH)

9-1-07 to 9-14-09, \$11,486.44 Tax, \$1,208.77 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Enktaiwan Gombogav, 547721(CH)

6-1-08 to 12-31-09, \$16,107.80 Tax, \$1,610.81 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Emile Eissa Kishek, 569349 (BH)

7-1-04 to 6-30-07, \$3,709.78 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Jin Kun Kang and Sarah Kang, 626174 (ET)

7-18-12, \$1,214.36 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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Abdo Ahmed Al-Rowhani, 624813 (ET)

7-12-12, \$1,916.29 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Samuel Adamyan, 624718 (ET)

5-1-12, \$6,230.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Iqbal Singh Dhillon, 626171(ET)

4-11-12, \$175.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Daniel Wallace and Grisel M. Wallace, 420232 (UT)

12-12-03, \$4,966.00 Interest

Action: Deny the petition for rehearing as recommended by the Appeals Division.

California Insurance Company, 457613 (ET)

1-1-04 to 12-31-05, \$603,385.00 Tax

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Mr. Chiang not participating.

Gateway Auto Center, Inc., 437262 (AS)

1-1-03 to 9-30-05, \$64,676.73 Tax, \$6,467.66 Negligence Penalty

Action: The Board took no action.

DKL Intertrading, Inc., 436179 (AP)

7-1-03 to 6-30-06, \$12,591.72 Tax

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Buy Rite Auto Wholesale, 523718 (KH)

1-1-05 to 12-31-07, \$3,270.82 Tax, \$00.00 Negligence Penalty

Action: Deny the petition for rehearing as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board made the following orders:

Barbara Barrett, 575240

2005, \$4,532.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Mary Bennefield, 595111

2009, \$1,142.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Hanoch Ben-Tal, 585514

2007, \$126.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Marla J. Crites, 574408

2007, \$2,454 Tax, \$354.50 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Nancy Freedman, 571360

2004, \$1,118.00 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Angeleen Gutierrez, 592537

2007, \$428.00 Assessment

Action: Modify the action with concession of the Franchise Tax Board.

Bertha M. Hilliard, 536980

2006, \$899.00 Tax, \$224.75 Late Filing Penalty

Action: Modify the action with concession of the Franchise Tax Board.

Henry K. Kellogg, 569048

2009, \$218.29 Assessment

Action: Sustain the action of the Franchise Tax Board.

Jamie Munger, 575391

2006, \$296.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Semur P. Rajan and Usha M. Rajan, 586564

2007, \$595.00 Assessment

Action: Modify the action with concession of the Franchise Tax Board.

David J. Reeves and Tara L. Reeves, 560606

2006, \$177.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Shiling Shen, 588317

2008, \$945.25 Late Filing Penalty

2009, \$410.56 Late Payment Penalty, \$143.49 Estimated Tax Penalty

2008-2009, \$404.99 Interest

Action: Sustain the action of the Franchise Tax Board.

Melissa Stevens, 603937

2006, \$219.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Anthony R. Terrones, 568988

2006, \$1,340.16 Assessment

Action: Sustain the action of the Franchise Tax Board.

Tiffani N. Trunell, 592008

2009, \$737.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Manik R. Bose and Davika Bose, 574066

2001, \$632.99 Claim for Refund

2002, \$525.00 Claim for Refund

Action: Deny the petition for rehearing.

William Justice and Lisa Blinderman, 573575

2005, \$7,871.00 Claim for Refund

2006, \$8,086.00 Claim for Refund

2007, \$6,521.00 Claim for Refund

2008, \$7,571.00 Claim for Refund

Michael L. Panek and Tracy Panek, 585508

2009, \$4,361.00 Claim for Refund

David Stirling, 585513

2007, \$5,243.00 Claim for Refund

Mark Cronin and Lois Cronin, 586117

2007, \$1,216.00 Claim for Refund

2009, \$2,799.00 Claim for Refund

Action: Deny the petition for rehearing.

SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES AND DENIALS OF CLAIMS FOR REFUND, CONSENT

The Board deferred consideration of the following matter: *HSBC Card Services, Inc., 504741 (OH)*.

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board made the following orders:

Nassau Lens Company West, Inc., 547871 (OH)

7-1-05 to 9-30-08, \$225,296.13

Action: Approve the redetermination as recommended by staff.

Chong's, Inc., 573956 (AS)

1-1-08 to 9-30-10, \$154,868.86

Action: Approve the redetermination as recommended by staff.

Redondo Brothers, Inc., 586624 (AS)

1-1-08 to 9-30-10, \$155,279.79

Action: Approve the redetermination as recommended by staff.

Global Jewelry, Inc., 603880 (AP)

1-1-08 to 3-31-09, \$225,373.03

Action: Approve the redetermination as recommended by staff.

Ralphs Grocery Company, 632712 (AA)

2-26-12 to 3-24-12, \$440,340.00

Action: Approve the relief of penalty as recommended by staff.

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Food 4 Less of California, Inc., 632715 (AA)

6-26-12 to 3-24-12, \$114,660.00

Action: Approve the relief of penalty as recommended by staff.

CSK Auto, Inc., 632721 (OH)

4-1-12 to 4-30-12, \$249,250.50

Action: Approve the relief of penalty as recommended by staff.

International Business Machines Corp., 632709 (OH)

1-1-12 to 3-31-12, \$208,420.30

Action: Approve the relief of penalty as recommended by staff.

Xerox Corporation, 632720 (OH)

4-1-12 to 6-15-12, \$416,524.08

Action: Approve the relief of penalty as recommended by staff.

Trader Joe's Company, 632724 (AP)

7-1-11 to 9-30-11, \$312,225.50

Action: Approve the relief of penalty as recommended by staff.

Wesco Distribution, Inc., 632718 (OH)

4-1-12 to 6-30-12, \$152,471.90

Action: Approve the relief of penalty as recommended by staff.

Living Spaces Furniture, LLC, 632711 (AA)

1-1-12 to 3-31-12, \$166,265.40

Action: Approve the relief of penalty as recommended by staff.

First Solar Electric, Inc., 632722 (OH)

1-1-12 to 6-30-12, \$1,646,914.10

Action: Approve the relief of penalty as recommended by staff.

Hudson Ranch Power I, LLC, 632706 (FH)

6-1-10 to 12-31-10, \$152,953.70

Action: Approve the relief of penalty as recommended by staff.

BMW Financial Services NA, LLC, 514926 (OH)

10-1-06 to 12-31-09, \$1,545,271.28

Action: Approve the denial of claim for refund as recommended by staff.

Bunzl Distribution California, LLC, 527976 (EA)

1-1-08 to 12-31-11, \$58,609.53

Action: Approve the denial of claim for refund as recommended by staff.

HSBC Card Services, Inc., 504741 (OH)

10-1-08 to 12-31-10, \$2,170,332.02

Action: The Board took no action.

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**SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,
CONSENT**

The Board deferred consideration of the following matter: *HSBC Card Services, Inc., 504741 (OH)*.

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board made the following orders:

Russell Guerard West, 489130 (UT)

4-3-01 to 4-3-01, \$249,279.25

Action: Approve the credit and cancellation as recommended by staff.

Amjad Hussain, 627132 (EA)

7-27-07 to 12-31-08, \$303,135.59

Action: Approve the credit and cancellation as recommended by staff.

Threshold Technologies, Inc., 630363 (EH)

7-1-07 to 6-30-10, \$126,133.08

Action: Approve the credit and cancellation as recommended by staff.

Bottling Group, LLC, 529205 (OH)

10-5-03 to 6-16-07, \$1,239,568.51

Action: Approve the credit and cancellation as recommended by staff.

Warehouse of Cars, Inc., 630093 (EA)

10-1-08 to 12-31-08, \$132,231.57

Action: Approve the credit and cancellation as recommended by staff.

The Masonry Group CA, Inc., 630388 (EH)

1-1-03 to 12-31-08, \$333,977.32

Action: Approve the credit and cancellation as recommended by staff.

Hydro-Aire Company, 625828 (AC)

1-1-08 to 12-31-10, \$129,919.88

Action: Approve the refund as recommended by staff.

Bentley Prince Street, Inc., 626514 (AP)

10-1-08 to 9-30-11, \$117,423.43

Action: Approve the refund as recommended by staff.

Torrance Memorial Hospital Medical Center, 474052 (AS)

10-1-05 to 12-31-09, \$341,183.55

Action: Approve the refund as recommended by staff.

INSYNC Media, 389012 (AS)

10-1-03 to 12-31-06, \$515,259.85

Action: Approve the refund as recommended by staff.

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Peter Pan Motors, Inc., 531132 (BH)

1-1-07 to 6-30-11, \$572,699.21

Action: Approve the refund as recommended by staff.

Peet's Coffee & Tea, Inc., 598177 (CH)

7-1-09 to 12-31-10, \$712,592.02

Action: Approve the refund as recommended by staff.

Hanson Permanente Cement, Inc., 626522 (CH)

10-2-05 to 6-28-08, \$111,542.76

Action: Approve the refund as recommended by staff.

California Controlled Atmosphere, 626175 (DF)

10-1-08 to 9-30-11, \$140,911.91

Action: Approve the refund as recommended by staff.

City of Riverside, 561664 (EH)

10-1-07 to 12-31-10, \$115,684.02

Action: Approve the refund as recommended by staff.

Europa Auto Imports, Inc., 531102 (FH)

1-1-07 to 6-30-11, \$274,955.46

Action: Approve the refund as recommended by staff.

GMG Motors, Inc., 531098 (FH)

1-1-07 to 6-30-11, \$541,182.32

Action: Approve the refund as recommended by staff.

Hydo-Scape Products, Inc., 602489 (FH)

7-1-11 to 12-31-11, \$273,220.00

Action: Approve the refund as recommended by staff.

Professional Hospital Supply, Inc., 601107 (EH)

10-1-08 to 12-31-11, \$241,255.86

Action: Approve the refund as recommended by staff.

General Atomics, 621362 (FH)

1-1-07 to 6-30-10, \$232,334.17

Action: Approve the refund as recommended by staff.

Relentless Pursuit Enterprises, 531100 (FH)

1-1-07 to 6-30-11, \$126,458.16

Action: Approve the refund as recommended by staff.

Alza Corporation, 609339 (JH)

1-1-07 to 12-31-10, \$356,639.93

Action: Approve the refund as recommended by staff.

The Golden 1 Credit Union, 602486 (KH)

10-1-11 to 3-31-12, \$228,200.00

Action: Approve the refund as recommended by staff.

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Mark Andy, Inc., 603324 (OH)

7-1-11 to 9-30-11, \$121,662.00

Action: Approve the refund as recommended by staff.

Aeroflex Colorado Springs, Inc., 602488 (OH)

10-1-11 to 12-31-11, \$127,668.00

Action: Approve the refund as recommended by staff.

Ford Motor Company, 625763 (OH)

9-7-11 to 6-21-12, \$196,709.00

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA, LLC, 626550 (KH)

1-30-12 to 8-20-12, \$435,934.22

Action: Approve the refund as recommended by staff.

Toyota Motor Sales, U.S.A., Inc., 626180 (AS)

9-7-11 to 7-2-12, \$117,759.00

Action: Approve the refund as recommended by staff.

BMW of North America, 628639 (OH)

6-21-12 to 8-9-12, \$1,185,413.53

Action: Approve the refund as recommended by staff.

Juniper Networks, Inc., 612256 (GH)

7-1-05 to 6-30-09, \$2,343,209.33

Action: Approve the refund as recommended by staff.

Selectrucks of Los Angeles, LLC, 564700 (EH)

7-1-10 to 9-30-10, \$140,085.00

Action: Approve the refund as recommended by staff.

Tesoro Refining and Marketing Company, 478413 (OH)

10-1-05 to 12-31-09, \$1,109,450.94

Action: Approve the refund as recommended by staff.

BMW Financial Services NA, LLC, 514926 (OH)

10-1-06 to 12-31-09, \$4,085,584.44

Action: Approve the refund as recommended by staff.

Marc Jacobs International, LLC, 603328 (OH)

10-1-11 to 12-31-11, \$100,339.00

Action: Approve the refund as recommended by staff.

Union Pacific Railroad Company, 601320 (OH)

7-1-11 to 9-30-11, \$427,035.00

Action: Approve the refund as recommended by staff.

W.L. Hickey Sons, Inc., 575153 (GH)

4-1-09 to 12-31-10, \$114,469.02

Action: Approve the refund as recommended by staff.

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Fibrebond West, Inc., 605540 (OH)

10-1-11 to 12-31-11, \$159,889.59

Action: Approve the refund as recommended by staff.

Americredit Financial Service, Inc., 605545 (OH)

10-1-11 to 3-31-12, \$682,152.00

Action: Approve the refund as recommended by staff.

Fuelcell Energy, Inc., 553662 (OH)

7-1-10 to 9-30-10, \$101,425.54

Action: Approve the refund as recommended by staff.

Bunzl Distribution California, LLC, 527976 (EA)

1-1-08 to 12-31-11, \$121,248.82

Action: Approve the refund as recommended by staff.

ACC Consumer Finance, LLC, 602487 (FH)

10-1-09 to 3-31-12, \$305,442.00

Action: Approve the refund as recommended by staff.

New Albertsons, Inc., 569506 (OH)

7-1-09 to 12-31-09, \$574,960.27

Action: Approve the refund as recommended by staff.

Sierra Lynx Drilling Company, LLC, 624691 (OH)

7-1-08 to 12-31-11, \$179,361.39

Action: Approve the refund as recommended by staff.

HSBC Card Services, Inc., 504741 (OH)

10-1-08 to 12-31-10, \$16,769,818.00

Action: The Board took no action.

International Family Entertainment, Inc., 625041 (OH)

10-1-07 to 12-31-09, \$114,612.04

Action: Approve the refund as recommended by staff.

Goodman Networks, Inc., 571353 (CH)

1-1-08 to 12-31-09, \$348,724.80

Action: Approve the refund as recommended by staff.

DBSI, Inc., 575262 (OH)

4-15-09 to 9-30-10, \$429,284.88

Action: Approve the refund as recommended by staff.

United Industries Corporation, 625577 (OH)

1-1-02 to 12-31-10, \$106,813.76

Action: Approve the refund as recommended by staff.

Kinecta Federal Credit Union, 636158 (AS)

1-1-10 to 12-31-11, \$549,826.96

Action: Approve the refund as recommended by staff.

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**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,
CONSENT**

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board made the following order:

SunAmerica Annuity & Life Assurance, 593201 (ET)

1-1-07 to 12-31-10, \$303,950.69

Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTERS, ADJUDICATORY

Hung Van Pham, 486918 (BH)

1-1-05 to 9-14-06, \$37,864.00 Tax, \$4,772.65 Negligence Penalty

Considered by the Board: June 27, 2012

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Elizabeth Shuttters, Inc., 538185 (EH)

10-1-05 to 9-30-08, \$1.00 or more Claim for Refund

Considered by the Board: May 31, 2012

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Mr. Runner and duly carried, Mr. Horton, Ms. Steel and Mr. Runner voting yes, Ms. Yee and Mr. Chiang voting no, the Board ordered that the petition for rehearing be granted.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS,
ADJUDICATORY**

Williams-Sonoma, Inc. & Subsidiaries, 519857

2002, \$42,499.00 Claim for Refund

2003, \$83,969.00 Claim for Refund

2004, \$37,792.00 Claim for Refund

Considered by the Board: June 26, 2012

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board adopted a decision granting the petition for rehearing.

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SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY

HSBC Automotive Finance, Inc., 425873 (FH)

1-1-05 to 12-31-07, \$1,526,991.48

Considered by the Board: November 14, 2012

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board approved the refund as recommended by staff.

HSBC Automotive Finance, Inc., 462820 (FH)

1-1-08 to 6-30-10, \$11,740,278.58

Considered by the Board: November 14, 2012

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board approved the refund as recommended by staff.

PROPERTY TAXES MATTERS, ADJUDICATORY**Petitions for Reassessment of Unitary Value**

Pacific Gas and Electric Company (135), 620706

2012, \$23,340,000,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted unitary value be reduced to \$22,785,000,000.00 as recommended by staff.

Southern California Gas Company (149), 621370

2012, \$3,552,400,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted unitary value be reduced to \$3,523,900,000.00 as recommended by staff.

Chevron U.S.A., Inc. (429), 620606

2012, \$55,200,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted unitary value be reduced to \$53,800,000.00 as recommended by staff.

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Cricket Communications, Inc. (2762), 621096

2012, \$115,700,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted unitary value be reduced to \$98,000,000.00 as recommended by staff.

Globalstar USA, LLC (2772), 621175

2012, \$3,550,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted unitary value be reduced to \$2,593,000.00 as recommended by staff.

Cox California Telecom, LLC (7640), 621314

2012, \$100,800,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted unitary value be reduced to \$87,200,000.00 as recommended by staff.

NTT America, Inc. (7732), 620515

2012, \$20,800,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted unitary value be reduced to \$18,800,000.00 as recommended by staff.

U.S. Telepacific Corporation (7757), 621094

2012, \$135,400,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted unitary value be reduced to \$126,800,000.00 as recommended by staff.

Petitions for Penalty Abatement on Unitary Value

SMF Pipeline (491), 612573

2012, \$511,000.00 Penalty

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the request for penalty abatement be granted as recommended by staff.

West Isle Line, Inc. (808), 621112

2012, \$27,700.00 Penalty

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the request for penalty abatement be granted as recommended by staff.

China Telecom Americas Corporation (8015), 621330

2012, \$268,000.00 Penalty

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the request for penalty abatement be granted as recommended by staff.

Petition for Reassessment of Nonunitary Value

Southern California Gas Company (149), 632209

2012, \$73,771,898.00 Nonunitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 Board-adopted nonunitary value be reduced to \$55,007,789.00 as recommended by staff.

LEGAL APPEALS PROPERTY TAXES MATTERS, ADJUDICATORY

Petitions for Reassessment of Unitary Value

San Diego Gas & Electric Company (141), 621339

2012, \$7,032,600,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, Ms. Steel voting no, the Board ordered that the 2012 unitary value be reduced to \$6,869,100,000.00 as recommended by the Appeals Division.

Sunrise Power Company, LLC (1137), 621337

2012, \$264,300,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, December 18, 2012

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and duly carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, Ms. Steel voting no, the Board ordered that the 2012 unitary value be reduced to \$255,600,000.00 as recommended by the Appeals Division.

Lodi Gas Storage, LLC (198), 621368

2012, \$229,100,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 unitary value be reduced to \$223,200,000.00 as recommended by the Appeals Division.

Wild Goose Storage, LLC (195), 621177

2012, \$252,600,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 unitary value be reduced to \$240,600,000.00 as recommended by the Appeals Division.

Verizon California, Inc. (201), 621308

2012, \$3,248,700,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 unitary value be reduced to \$3,010,700,000.00 as recommended by the Appeals Division.

Chevron Pipeline Company (479), 621334

2012, \$53,400,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board ordered that the 2012 unitary value be reduced to \$42,350,000.00 as recommended by the Appeals Division.

Crimson Pipeline, LP (490), 620973

2012, \$19,600,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, Ms. Steel voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

Tuesday, December 18, 2012

Pacific Pipeline System, LLC (486), 621310

2012, \$34,500,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, Ms. Steel not participating in accordance with Government Code section 87105, the Board ordered that the petition be denied as recommended by the Appeals Division.

Plains West Coast Terminals, LLC (488), 621257

2012, \$6,270,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, Ms. Steel not participating in accordance with Government Code section 87105, the Board ordered that the petition be denied as recommended by the Appeals Division.

Southern California Edison Company (148), 614402

2012, \$18,119,500,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Mr. Chiang voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

Dynegy Moss Landing, LLC (1103), 621104

2012, \$569,000,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Mr. Chiang voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

High Desert Power Trust 2000-A (1127), 620705

2012, \$278,600,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Mr. Chiang voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

Delta Energy Center, LLC (1128), 620699

2012, \$381,500,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, December 18, 2012

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Mr. Chiang voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

Pastoria Energy Facility (1131), 620700

2012, \$372,300,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Mr. Chiang voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

Calpine Construction Finance Company, LP (1132), 620702

2012, \$173,800,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Mr. Chiang voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

Metcalf Energy Center, LLC (1133), 620703

2012, \$282,200,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Mr. Chiang voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

Otay Mesa Generating Company, LLC (1134), 620704

2012, \$367,900,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Mr. Chiang voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be denied as recommended by the Appeals Division.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Audit

Calpop.Com, Inc. (8132)

2010, \$1,790,000.00 Escaped Assessment, \$179,000.00 Penalties, \$429,600.00 In-lieu Interest

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

Tuesday, December 18, 2012

Board Roll Changes

2009, 2010, 2011 and 2012 State-Assessed Property Rolls

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board approved corrections to the 2009, 2010, 2011 and 2012 Board Rolls of State-Assessed Property as recommended by staff ([Exhibit 12.1](#)).

Exhibits to these minutes are incorporated by reference.

OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Mr. Chiang voting yes, the Board approved the Offer in Compromise Recommendations of *Berkeley Patients Group, Inc.*; *California Building Specialties, Inc.*; *Michael Montgomery Digges*; and, *FHF Enterprises, LLC*; as recommended by staff.

The Board recessed at 10:57 a.m. and reconvened at 11:20 a.m. with Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Scott L. Stringer and Irene Stringer, 609814, 610020

2005, \$306,390 Assessment

2005, \$5,253 Assessment

For Appellants:

Scott L. Stringer, Taxpayer

G. Scott Haislet, Attorney

For Franchise Tax Board:

David Gemmingen, Tax Counsel

Ciro Immordino, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellants have shown error in respondent's proposed assessment based on \$3,000,000 in gain from property transactions, or whether such gain should be deferred based on a "like-kind" exchange pursuant to Internal Revenue Code section 1031.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 12.2](#))

Respondent's Exhibit: Miscellaneous Documents ([Exhibit 12.3](#))

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board submitted the appeal for decision.

The Board recessed at 1:32 p.m. and reconvened at 2:50 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Tuesday, December 18, 2012

Estate of Charles W. Mosser (Dec'd) and Annabelle Mosser, 600452

2005, \$67,311 Assessment

2006, \$222,192 Assessment

For Appellants:

Neveo Mosser, Witness

Donald L. Feurzeig, Attorney

For Franchise Tax Board:

Daniel Biedler, Tax Counsel

Bill Hilson, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether distributions in 2005 and 2006 from appellants' San Francisco hotel (their wholly-owned S-Corporation) can be characterized as passive income to appellants.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board submitted the appeal for decision.

SALES AND USE TAX APPEALS HEARINGS

Awad & Rasheed, Inc., 553801 (CH)

7-1-09 to 9-30-09, \$ \$2,695.00 Tax, \$296.47 Negligence Penalty

Ahmad Abdul Rasheed, Abed A. Awad, Gamella A. Awad, Basima A. Rasheed, 553811 (CH)

10-1-06 to 6-30-09, \$31,998.47 Tax, \$3,397.62 Negligence Penalty

For Petitioners: Peter R. McIntyre, Representative

For Sales and Use Tax Department: Scott Lambert, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether adjustments are warranted to unreported taxable sales.
Whether petitioners were negligent.

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

QED Automation, LLC, 506559 (KH)

5-1-05 to 12-31-07, \$24,220.04 Tax, \$2,551.51 Finality Penalty

For Taxpayer: John Tarter, Representative

For Sales and Use Tax Department: Larry Mendel, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the transactions in dispute qualify as nontaxable research and development contracts.
Whether relief of the finality penalty is warranted.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the administrative protest be submitted for decision.

Tuesday, December 18, 2012

PUBLIC HEARINGS**2013 Timber Yield Tax Rate**

Section 38202 of the Revenue and Taxation Code requires an annual adjustment of the timber yield tax rate ([Exhibit 12.4](#)).

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the timber yield tax rate of 2.9 percent for 2013 as recommended by staff.

Timber Harvest Values and Modified Harvest Values

David Yeung, Principal Property Appraiser, State-Assessed Properties Division, Property and Special Taxes Department, was available to answer questions regarding the timber harvest values and modified harvest values. On or before December 31, 2012, the Board shall estimate the immediate harvest values of and adopt schedules for timber harvested between January 1, 2013, and June 30, 2013. Additionally, the Board may modify immediate harvest values to reflect material changes in timber values that result from fire or other catastrophic cause for any area or part thereof in which damaged timber is located. (Rev. & Tax. Code, § 38204.) ([Exhibit 12.5](#).)

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the timber harvest values and modified harvest values as recommended by staff.

Ms. Yee thanked the Timber Advisory Committee for their good work.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 5:06 p.m. and reconvened immediately in closed session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 5:25 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Mr. Horton announced the appointment of Barbara Owens to the position of Chief, Internal Audit Division.

Tuesday, December 18, 2012

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD DECEMBER 18, 2012

Scott L. Stringer and Irene Stringer, 609814, 610020

John Johnson, Appeals Division, Legal Department, stated for the record that the taxpayer is in agreement as to the Case ID: 610020.

Final Action: Mr. Runner moved to reverse that action of the Franchise Tax Board with regard to the remaining items in dispute. The motion was seconded by Ms. Steel but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board sustained the action of the Franchise Tax Board with regard to the remaining items in dispute.

Estate of Charles W. Mosser (Dec'd) and Annabelle Mosser, 600452

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board reversed the action of the Franchise Tax Board.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD DECEMBER 18, 2012

Awad & Rasheed, Inc., 553801 (CH)

Ahmad Abdul Rasheed, Abed A. Awad, Gamella A. Awad, Basima A. Rasheed, 553811 (CH)

Final Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the pilferage be adjusted to 4 percent, allow 1 percent for self consumption of cigarettes, and that the petition otherwise be redetermined as recommended by the Appeals Division.

QED Automation, LLC, 506559 (KH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board ordered that no adjustment be made in the administrative protest as recommended by the Appeals Division.

FINAL ACTION ON SPECIAL TAXES APPEALS HEARING HELD DECEMBER 18, 2012

Ashraf Alfonose Youssef, 358704 (ET)

10-1-99 to 4-30-02, \$1,102,804.38 Tax, \$275,701.11 Fraud Penalty

For Petitioner: Waved Appearance

For Property and Special Taxes Department: Pamela Mash, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner is liable for tax on purchases and distributions of untaxed tobacco products and whether any adjustment is warranted.

Whether the Department has proven fraud by clear and convincing evidence.

Tuesday, December 18, 2012

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

The Board recessed at 5:45 p.m. in memory of the following: Barbara Alby, former Acting Board Member, Second District; Alice May Friederichs, mother of former BOE Executive Director Kristine Cazadd; and, the victims and families of those killed in the tragic shooting at Sandy Hook Elementary School in Newtown, Connecticut on Friday, December 14, 2012.

The foregoing minutes are adopted by the Board on August 13, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Claudia A. Torrijos, 573718; Ken Belanger and Karla Solis, 607835; Kevin Shey, 607386; Tri Minh Phan, 539025 (KH); and, East Coast Foods, Inc., 444779 (AS).*

Wednesday, December 19, 2012

The Board met at its offices at 450 N Street, Sacramento, at 9:38 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SPECIAL PRESENTATION

Presentation of Retirement Resolution to Kristine Cazadd

On behalf of the Board, Mr. Horton read into the record and presented to Kristine Cazadd, Former Executive Director, and Special Consultant to the current Executive Director, a retirement resolution, extending its sincere and grateful appreciation for her dedicated service to the State Board of Equalization and the State of California. Members made complementary remarks regarding their experiences with Ms. Cazadd and her exceptional work with the Board of Equalization, describing her as a knowledgeable and dedicated individual with a can-do attitude and wished her well in her retirement. Cynthia Bridges, Executive Director, presented a gift to Ms. Cazadd as a token of appreciation and thanked her for being a great mentor. Ms. Cazadd made complementary remarks about the agency, describing her service to constitutional officers as unique and interesting. She thanked the Members and then thanked staff for their dedication, loyalty and good work.

Presentation of Board Resolution to Alice May Friederichs (Deceased)

On behalf of the Board, Ms. Yee presented to Kristine Cazadd a Board Resolution in memory of her mother, Alice May Friederichs, award-winning renowned artist, who passed away suddenly December 12, 2012 at the age of 84. Ms. Yee shared some of Alice's artistic achievements, noting that she received awards for her work in prestigious competitions—recently the Memorial Award for her painting, *Dancing Cranes*, at the California Watercolor Biennial Competition and Exhibition at the Triton Museum in Santa Clara ([Exhibit 12.6](#)).

Exhibits to these minutes are incorporated by reference.

SALES AND USE TAX APPEALS HEARING

David A. Bartel, 518470 (KH)

7-1-07 to 12-20-07, \$39,422.00 Tax, \$600.00 Failure to File Penalty, \$3,942.20 Late Payment Penalty

For Petitioner:

R. Todd Luoma, Attorney

For Sales and Use Tax Department:

Monica Silva, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner is personally liable as a responsible person for the unpaid liabilities of Tracy Chevrolet, Inc., pursuant to Revenue and Taxation Code section 6829.

Whether the payment from escrow, which was applied to Tracy Chevrolet's liabilities for 3Q07, should have been applied to liabilities for 4Q07.

Whether relief of the penalties for a late prepayment and late payment of a return is warranted.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Wednesday, December 19, 2012

CHIEF COUNSEL MATTERS**RULEMAKING****Sales and Use Tax Regulation 1620, *Interstate and Foreign Commerce***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to amend Sales and Use Tax Regulation 1620 to make the regulation consistent with statutory changes to Revenue and Taxation Code section 6248 ([Exhibit 12.7](#)).

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the section 100 changes to Regulation 1620 as recommended by staff.

OTHER CHIEF COUNSEL MATTERS**Discussion and request for direction regarding the implementation of AB 2323**

Grant Thompson, Tax Counsel, Legal Department, made introductory remarks regarding staff's request for direction for implementing AB 2323, which effective January 1, 2013, requires the BOE to publish and make available on its Internet website a written formal opinion, a written memorandum opinion, or a written summary decision for each decision of the Board, as specified, in which the amount in controversy is \$500,000 or more, within 120 days of the date upon which the Board rendered its decision, and to include specified information in the published opinion ([Exhibit 12.8](#)).

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, for purposes of determining the amount in controversy with respect to tax, the Board approved staff recommendation to only include disputed tax.

Upon motion of Ms. Mandel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, for purposes of determining the amount in controversy with respect to interest, the Board approved staff recommendation to only include interest that is expressly contested.

Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, for purposes of determining the amount in controversy with respect to penalties, the Board approved staff recommendation to only include penalties that are expressly contested.

Upon motion of Mr. Runner, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, for purposes of determining the amount in controversy with respect to when the amount is to be determined, the Board approved staff recommendation to identify potentially covered appeals as early as practicable and make final determination of amount in controversy as of the date the Board's decision will become final.

Wednesday, December 19, 2012

Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, for purposes of determining the amount in controversy with respect to property tax, the Board approved staff recommendation to determine based on the change in annual tax with respect to valuation at issue (1 percent of contested valuation amount).

Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, for purposes of determining the amount in controversy with respect to local tax reallocation, the Board approved staff recommendation to determine based on the total reallocation amount that is at issue.

Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, with respect to the general business tax and franchise and income tax appeals process, the Board approved staff recommendation to follow the general procedures for handling AB 2323 appeals, as outlined in Section II of Chief Counsel's memorandum "Enactment of AB 2323" dated December 4, 2012 (see Exhibit 12.8), including, but not limited to, staff's opinion that the date the Board renders its decision for purposes of AB 2323 is the date the Board's determination of the matter becomes final and effective.

Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, with respect to the scope of covered decisions, the Board approved staff recommendation to generally draft decisions *narrowly*, with discretion to draft more broadly based on Board discussion and/or specific issues.

Upon motion of Ms. Mandel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, with respect to revisions to the BOE's *Rules for Tax Appeals*, the Board approved staff recommendation to begin the rulemaking process, including an interested parties process as to any action items for which the Board does not provide present guidance.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come (Exhibit 12.9).

Gay Carlson, Business Taxes Compliance Specialist, Centralized Collection
Section, Headquarters
Kristine Cazadd, Executive Director, Headquarters
Rebecca Davis, Office Services Manager I, Cashier Section, Administration
Department, Headquarters

Wednesday, December 19, 2012

Barbara Fisher, Assistant Division Chief, Human Resources Division,
Administration Department, Headquarters
Eileen Frutos (Amendment), Business Taxes Representative, Ventura Office
John Hamlin, Data Processing Manager IV, Technology Services Department,
Headquarters
Shirley J. Johnson, Tax Counsel III, Supervisor, Appeals Division, Legal
Department, Headquarters
Stephen Lau, Supervising Tax Auditor II, Van Nuys Office
Deanna Lorenzana, Business Taxes Compliance Specialist, Ventura Office
John A. Montoya, Business Taxes Specialist II/Appeals Conference Auditor,
Appeals Division Legal Department, Headquarters
Judith Pierce, Business Taxes Specialist II, Business Taxes Committee and
Training Section, Headquarters
Sonia Provencal, Associate Personnel Analyst, Examination and Recruitment
Section, Human Resources Division, Administration Department,
Headquarters
Phil Shipley, Data Processing Manager III, Technology Services Department,
Headquarters
Cathy Stroh, Staff Services Manager II, Appeals Division, Legal Department

Action: Approve the Board Meeting Minutes of June 4, 2012, June 25-27, 2012, and July 24-26, 2012.

Action: Approve 2013 revision of Assessors' Handbook Section 531, *Residential Building Costs* ([Exhibit 12.10](#)).

Action: Approve 2013 revision of Assessors' Handbook Section 534, *Rural Building Costs* ([Exhibit 12.11](#)).

Action: Adopt *Affidavit of Cotenant Residency*, form BOE-58-H ([Exhibit 12.12](#)).

Action: Adopt revisions to *Change in Ownership Statement, Death of Real Property Owner*, form BOE-502-D ([Exhibit 12.13](#)).

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein ([Exhibit 12.14](#)).

Wednesday, December 19, 2012

OTHER ADMINISTRATIVE MATTERS**Executive Director's Report**

Eric Steen, CROS Project Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

David Gau, Deputy Director, Property and Special Taxes Department, provided a presentation regarding agency efficiency and effectiveness ([Exhibit 12.15](#)).

Mr. Runner requested that all presentations include at least a hard copy of the information being presented. He also requested that staff continue using the spreadsheet that was used in this item. Ms. Yee requested staff to combine the spreadsheet with the current version of this presentation.

Property and Special Taxes Deputy Director's Report

David Gau, Deputy Director, Property and Special Taxes Department, provided an update regarding the Fire Prevention Fee Program and introduced a representative of the Department of Forestry and Fire Protection (Cal Fire) Dean Cromwell, Chief, Planning and Risk Analysis, who provided information on Cal Fire operations ([Exhibit 12.16](#)).

Ms. Yee requested an update on the issue of embedded software in January 2013.

Administration Deputy Director's Report

Liz Houser, Deputy Director, Administration Department, provided an update on the Headquarters Facilities and Fairfield office relocation ([Exhibit 12.17](#)).

Liz Houser, Deputy Director, Administration Department, provided information regarding the Governor's 1012/13 Budget. There was no update on the 2013/14 Budget.

Mr. Horton directed staff to inquire whether the Personal Leave Program can be renegotiated for the remaining months of the agreement.

Liz Houser, Deputy Director, Administration Department, presented for Board discussion a Legislative Budget Change Proposal *Proposition 30: Ramp Up*, for the additional 0.25 percent sales and use tax rate increase ([Exhibit 12.18](#)).

Liz Houser, Deputy Director, Administration Department, introduced Barbara Taylor, Project Executive, Financial Information System for California (FI\$Cal Project), who provided an update on the FI\$Cal Project, which is a statewide financial system that will impact BOE's budgeting, accounting, procurement and cash management systems ([Exhibit 12.19](#)).

Wednesday, December 19, 2012

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
DECEMBER 19, 2012**

Point of Contact, Inc., 494400 (CH)

11-1-08 to 3-31-09, \$2,191.63 Tax, \$0.00 Penalty

For Petitioner: Waived Appearance

For Sales and Use Tax Department: Erin Dendorfer, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether taxpayer is a qualified charitable organization entitled to exemption from tax on its gross receipts from retail sales of tangible personal property.

Whether adjustments are warranted to the amount of unreported taxable sales.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

David A. Bartel, 518470 (KH)

Final Action: Mr. Runner moved to apply the last \$10,000 payment to the liability period where taxpayer was presumed to be personally liable as a responsible person. The motion was seconded by Ms. Steel but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

The Board adjourned at 2:02 p.m.

The foregoing minutes are adopted by the Board on August 13, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Amador Patino and Gerardo Javier Guzman, 532069, 549106 (CH); La Primavera Products Services, Inc., 550549 (CH); and, Manh Van Le, 538190 (KH).*