

Tuesday, June 24, 2014

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:33 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.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Ellen Gruber, 728277

2005, \$2,688.59 Claim for Refund

2006, \$6,471.47 Claim for Refund

For Claimant:

Ellen Gruber, Taxpayer

Ike Song, Representative

For Franchise Tax Board:

Eric Yadao, Tax Counsel

Karen Smith, Tax Counsel

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

Issues: Whether appellant has shown reasonable cause for the abatement of the late filing and late payment penalties.

Whether appellant has demonstrated that the Franchise Tax Board (FTB or respondent) erred by not abating the underpayment of estimated tax penalties.

Whether the Board has jurisdiction to review respondent's denial of interest abatement under Revenue & Taxation Code (R&TC) section 19112, and if so, whether respondent properly determined not to abate interest.

Whether the collection cost recovery fees or the lien fees may be abated.

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.

Richard A. Hall, 533898

2003, \$157,185.00 Assessment

For Appellant:

Richard Hall, Taxpayer

Lisa Nelson, Attorney

For Franchise Tax Board:

Leah Thyberg, Tax Counsel

Michael Cornez, Tax Counsel

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

Issue: Whether appellant has established that a \$1,476,000 distribution to appellant from appellant's partnership was a bona fide loan.

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 submitted the appeal for decision.

The Board recessed at 11:03 a.m. and reconvened at 11:12 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

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Ilona Foyer, 569037

2001, \$24,296.00 Tax, \$4,859.00 Accuracy-Related Penalty, \$1,542.74 Post-Amnesty Penalty

2002, \$13,731.00 Tax, \$2,746.00 Accuracy-Related Penalty, \$798.67 Post-Amnesty Penalty

For Appellant:

Ilona Foyer, Taxpayer

Solis Cooperson, Attorney

For Franchise Tax Board:

Maria Brosterhous, Tax Counsel

Karen Smith, Tax Counsel

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

Issues: Whether appellant can substantiate her Schedule C cost of goods sold amounts for 2001 and 2002.

Whether appellant can substantiate her business expense deductions for 2001 and 2002.

Whether appellant omitted gross income in excess of 25 percent for 2002 (and if so, by what amount), such that the extended six-year statute of limitations applies for the FTB to issue the Notice of Proposed Assessment (NPA) dated August 25, 2008, which assesses additional tax for omitted gross income.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 6.1](#))

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 submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

Mr. Horton introduced and welcomed new intern for Ms. Steel's office, Nick Chen, University of Kansas.

The Board recessed at 12:03 p.m. and reconvened at 1:33 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

PUBLIC HEARINGS

Timber Harvest Values and Modified Harvest Values

David Gau, Chief Deputy Director, made introductory remarks regarding the timber harvest values and modified harvest values. On or before June 30, 2014, the Board shall estimate the immediate harvest values of and adopt schedules for each species or sub-classification of timber harvested between July 1 and December 31, 2014. 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. Revenue and Taxation Code section 38204 ([Exhibit 6.2](#)).

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

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, the Board approved the timber harvest values and modified harvest values as recommended by staff.

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Business Taxpayers' Bill of Rights Hearings

Todd Gilman, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, made introductory remarks regarding the Business Taxpayers' Bill of Rights hearings. Individuals have the opportunity to present ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs, including sales and use taxes, environmental fees, fuel taxes, and excise taxes, and any problems identified in the Taxpayers' Rights Advocate's Annual Report ([Exhibit 6.3](#)).

Mr. Gilman entered into the record written comments from Lane Hadlock, Manager II, Packaging Corp. of America, Boise Admin. Office ([Exhibit 6.4](#)).

Speakers: David Michael Holden, Former Corporate Officer of Corona Pizza ([Exhibit 6.5](#))
John Francis Kelly, Owner, *Kelly's Tux Shop*, and California Resident ([Exhibit 6.6](#))
Joseph Love, Owner of Love's Software & Computer Service ([Exhibit 6.7](#))
Keith Renty, California Resident
Mark Grossan, Vice President, Hydro-Med, Inc.
Norwood Clark, Business Owner
Fredrick J. Burns, Owner, Fred Burns Art Craft

Property Taxpayers' Bill of Rights Hearings

Todd Gilman, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, made introductory remarks regarding the Property Taxpayers' Bill of Rights hearings. Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs, including state and county property tax programs, and any problems identified in the Taxpayers' Rights Advocate's Annual Report ([Exhibit 6.8](#)).

Mr. Gilman entered into the record written comments from Robert Skillin, and Linda C. Arnett ([Exhibit 6.9](#)).

Speakers: Thomas Crandell, California Resident ([Exhibit 6.10](#))
Larry Ward, Los Angeles County Assessor
Joyce Geeting, City of Ventura Resident ([Exhibit 6.11](#))

The Board recessed at 3:33 p.m. and reconvened at 3:49 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

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CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Youram Nassir and Shirin Farzadmehr, 739070

2011, \$93,479.92 Claim for Refund

For Appellant:

Allan Vizvary, Representative

For Franchise Tax Board:

Eric Yadao, Tax Counsel

Karen Smith, Tax Counsel

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

Issue: Whether appellants have shown reasonable cause for the abatement of the late filing penalty.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 6.12](#))

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 submitted the appeal for decision.

Willard M. Christine, 743543

2006, \$1,168.00 Assessment

For Appellant:

Willard M. Christine, Taxpayer

For Franchise Tax Board:

Karen Smith, Tax Counsel

Eric Yadao, Tax Counsel

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

Issue: Whether appellant has established error in respondent's proposed assessment.

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.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

The Board deferred consideration of the following matter: *Proposed Revisions to Compliance Policy and Procedure Manual, Chapter 5, Returns.*

With respect to the Administrative Matters, Consent Agenda, upon a single 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 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 6.13](#)).

Brenda Hail, Business Taxes Compliance Specialist, Legal Department
Jullie Stricker, Business Taxes Compliance Specialist, Investigations Division of
Southern California

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Action: Approve the Board Meeting Minutes of May 22, 2014.

Action: Approve corrected Board Meeting Minutes of October 31, 2013 ([Exhibit 6.14](#)).

Action: Approve proposed revisions to Audit Manual, Chapter 4, *General Audit Procedures* ([Exhibit 6.15](#)).

Action: Approve proposed revisions to Compliance Policy and Procedures Manual, Chapter 7, *Collections* ([Exhibit 6.16](#)).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Cynthia Bridges, Executive Director, provided a report regarding time extensions to Amador, Colusa, Glenn, Humboldt, Inyo, Lassen, Los Angeles, Madera, Mendocino, Monterey, Nevada, San Benito, San Joaquin, Santa Cruz and Sonoma Counties to complete and submit the 2014/15 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 ([Exhibit 6.17](#)).

Cynthia Bridges, Executive Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

Administration Deputy Director's Report

Edna Murphy, Deputy Director, Administration Department, provided an update on the Governor's 2014/15 Budget, which included an update on the headquarters facilities.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 4:36 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 4:39 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

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**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARINGS HELD JUNE 24, 2014**

Ellen Gruber, 728277

Final Action: Upon motion of Mr. Runner, seconded by Ms. Mandel duly carried, Ms. Steel, Mr. Runner and Ms. Mandel voting yes, Mr. Horton and Ms. Yee voting no, the Board ordered that the underpayment of estimated tax penalty be abated, otherwise sustained the action of the Franchise Tax Board as modified by its concessions to abate the 2005 late filing penalty and 2006 late payment penalty.

Richard A. Hall, 533898

Final Action: Upon motion of Ms. Steel, seconded by Mr. Runner and duly carried, Ms. Steel, Mr. Runner and Ms. Mandel voting yes, Mr. Horton and Ms. Yee voting no, the Board reversed the action of the Franchise Tax Board.

Ilona Foyer, 569037

Final Action: Ms. Steel moved to modify the action of the Franchise Tax Board if the taxpayer provides a declaration as to the \$57,000 of loan repayments to reduce the amount of unreported income for the 2002 tax year, and otherwise sustain the action of the Franchise Tax Board. The motion failed for lack of a second.

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, the Board ordered Appeal Division staff to hold a conference with the parties and provide its recommendation to the Board.

Youram Nassir and Shirin Farzadmehr, 739070

Final 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 sustained the action of the Franchise Tax Board.

Willard M. Christine, 743543

Final Action: Upon motion of Mr. Runner, seconded by Ms. Steel and duly carried, Mr. Horton, Ms. Steel and Mr. Runner voting yes, Ms. Yee and Ms. Mandel voting no, the Board reversed the action of the Franchise Tax Board.

The Board recessed at 5:07 p.m.

The foregoing minutes are adopted by the Board on August 5, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *Rajparkash Singh, 608445; Unified Precious Metals, Inc., 606172; Semyon Shekhter and Elena Shekhter, 740750; Rob Zakir and Raya Zakir, 624832; Executive Director's Report, Summons to Annual Meeting of the Board and County Assessors and proposed meeting location; and, Chief Counsel's Report, A report on the constitutionality of the Board of Equalization's Taxpayer Bill of Rights.*

Wednesday, June 25, 2014

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:33 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.

Mr. Horton stated that the meeting will close in memory of Christa Fears, mother of John Fears, Business Taxes Administrator for the Culver City District Office.

SALES AND USE TAX APPEALS HEARING

Local Tax Reallocation Hearing

City of Fillmore, 626418

01/01/09 to Current, \$2,489,919.00 Tax

For Petitioner:

Joseph A. Vinatieri, Attorney

For Notified Jurisdiction City of San Diego:

Mary Lewis, Representative

Eric Myers, Attorney

Paul Prather, Attorney

For Taxpayer Owens & Minor:

Grace DenHartog, Representative

Camilla Savage, Representative

Richard Drooyan, Attorney

Eric J. Miethke, Attorney

For Sales and Use Tax Department:

Scott Claremon, Tax Counsel

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

Issue: Whether the local sales tax on sales made on and after January 1, 2009, under master contracts entered into beginning October 1, 2007, was incorrectly allocated to petitioner.

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.

The Board recessed at 10:45 a.m. and reconvened at 10:59 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARINGS

Andrew Steven Roganson, 538417, 737457 (AC)

06/08/06 to 12/31/08, \$6,328.42 Tax, \$214.31 Failure-to-File Penalty

For Claimant/Taxpayer:

Andrew Roganson, Taxpayer

For Sales and Use Tax Department:

Andrew Kwee, Tax Counsel

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

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

Whether relief of the failure to file penalty is warranted.

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 ordered that the petition be submitted for decision.

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Seyednasrollah Mirghafouri, 574269 (EA)

10/01/06 to 09/30/09, \$53,154.48 Tax

For Petitioner:

Seyed Mighafouri, Taxpayer

For Sales and Use Tax Department:

Marc Alviso, Hearing Representative

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

Issues: Whether a reduction to the amount of unreported taxable sales is warranted.
Whether additional adjustments to the amount of disallowed claimed exempt sales in interstate commerce are warranted.

Ted Matthies, Business Taxes Specialist III, Appeals Division, Legal Department, advised the Board of the revised recommendation of the Appeals Division to allow an \$8,000.00 reduction to the amount of disallowed claimed exempt 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 submitted for decision.

The Board recessed at 12:01 p.m. and reconvened at 12:13 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Jeffrey Scott Mankins, 467919, 760227.*

With respect to the Legal Appeals 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:

Alchemy Restaurant Group, LLC, 598242 (FH)

01/07/09 to 12/31/10, \$1,210.53 Tax

Action: Redetermine as recommended by the Appeals Division.

Duwop, LLC, 573923 (AC)

07/01/07 to 06/30/10, \$15,460.27 Tax, \$1,620.81 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Sami Z. Elias, 588528 (FH)

12/08/06 to 12/31/06, \$368.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Jose Luis Franco, 607398 (EH)

10/01/08 to 09/30/11, \$18,077.90 Tax, \$0.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

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Herbal Love Caregivers/Blvd., Inc., 495223 (AS)

05/30/06 to 12/31/06, \$17,797.00 Tax, \$1,779.70 Failure-to-File Penalty

Action: Redetermine as recommended by the Appeals Division.

Hospitality Furniture Group, Inc., 547391 (BH)

04/01/05 to 03/31/08, \$15,175.71 Tax, \$0.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

I.I. Fuels, 572009 (EA)

04/01/07 to 03/31/10, \$39,813.57 Tax, \$0.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Jeffrey Scott Mankins, 467919, 760227 (FH)

04/01/06 to 03/14/07, \$24,610.73 Tax, \$2,229.20 Failure-to-File Penalty

Action: The Board took no action.

Medical Caregivers Co-Op, Inc., 573076 (AP)

07/01/07 to 06/30/10, \$179,985.61 Tax, \$0.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Micro Matrix Systems, 606809 (EH)

04/01/08 to 03/31/11, \$9,715.52 Tax

Action: Redetermine as recommended by the Appeals Division.

Motus Brothers Restaurant Group, 548321, 551304 (EA)

01/01/98 to 12/31/07, \$264,519.76 Tax, \$154,412.20 Fraud Penalty, \$49,006.95 Amnesty Double Fraud Penalty, \$13,426.24 Amnesty Double Finality Penalty, \$33,787.80 Amnesty Interest Penalty

Action: Redetermine as recommended by the Appeals Division.

Nativity Medical, Inc., 552586 (AS)

01/20/08 to 12/31/09, \$41,551.97 Tax

Action: Redetermine as recommended by the Appeals Division.

Hugo Alfredo Orellana and Dora Alicia Orellana, 525118 (AC)

04/01/06 to 06/30/09, \$65,151.02 Tax, \$16,287.80 Fraud Penalty

Action: Redetermine as recommended by the Appeals Division.

Raul C. Ramirez, 494773 (EH)

04/12/05 to 12/31/07, \$9,716.50 Tax

Action: Redetermine as recommended by the Appeals Division.

Nusrat Siddique and Tania Khondoker, 521063 (AC)

04/01/06 to 03/31/09, \$8,951.50 tax, \$895.18 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

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Smart Office Interiors, 556752 (GH)

01/01/07 to 12/31/07, \$0.00 Tax, \$0.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Janis De La Torre, 594888 (STF)

4/01/07 to 09/30/08, \$713.00 Tax

Janis De La Torre, 594889 (STF)

4/01/07 to 09/30/08, \$78.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Raku Japanese Restaurant, Inc., 593204 (AC)

01/01/08 to 12/31/10, \$0.00 Tax, \$51,999.15 Failure to Remit Collected Tax Penalty

Action: Redetermine as recommended by the Appeals Division.

Sodhi Singh Bains, 785893 (STF)

May 8, 2013 Seized Date, \$60.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Miguel Torres-Campos, 745234 (STF)

March 11, 2013 Seized Date, \$5,739.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Rouaida Hanna Charestan, 781909 (STF)

June 10, 2013 Seized Date, \$5,824.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Tony & Mathew, Inc., 785014 (STF)

October 8, 2013 Seized Date, \$248.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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 Mr. Runner, 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:

John M. Amaral and Doreen A. Amaral, 595890

2009, \$472.83 Claim for Refund

Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

Marcos S. Armenta and Renee M. Armenta, 739040

2009, \$990.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Mary E. Bissell, 722300

2010, \$1,314.75 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Arthur Black, 721471

2008, \$863.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Breitburn Management Company, LLC, 488021

2006, \$6,000.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Cards Limited Liability Company, 734183

2011, \$48.00 Late Payment Penalty, \$288.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Robert L. Chase, Jr., 709616

2010, \$212.00 Late Filing Penalty, \$6,212.00 Demand Penalty

Action: Sustain the action of the Franchise Tax Board.

Velma Chavis, 728963

2008, \$28,250.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kenneth Cook and Margery Cook, 727426

2008, \$11,308.00 Claim for Refund

2009, \$16,906.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Carl Covitz and Aviva Covitz, 725800

2007, \$12,027.00 Tax, \$2,405.40 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Dustin S. Currey, 734186

2004, \$5,865.00 Tax, \$1,173.00 Accuracy-Related Penalty, \$1,466.25 Late Filing Penalty

2005, \$4,284.00 Tax

Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

De Tolosa Ranch Limited Partnership, 716926

2010, \$848.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Cari Foote and Ronald Foote, 729691

1999, \$10,617.93 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Gary N. Hall, 574103

2006, \$4,030.00 Assessment, \$806.00 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

Mark A. Hanacek and Lismer C. Ramos Hanacek, 596689

2006, \$1,614.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Headcount Management, 605760

2008, \$2,000.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kliewer-Olivero, Inc., 738581

2010, \$864.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Karen Knecht, 719341

2006, \$2,415.56 Claim for Refund

2007, \$4,380.31 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Bradley McPhee and Patricia Tagliolini, 730133

2007, \$8,877.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

John D. Moore and Karen K. Moore, 724749

2008, \$564.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Shaunie O'Neal, 739994

2010, \$4,518.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

James P. Pezanoski, 703879

2008, \$3,121.00 Assessment, \$780.25 Late Filing Penalty, \$780.25 Demand Penalty, \$88.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board.

Redwood Warehousing, 739998

2010, \$1,728.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Zhen Z. Song (Jenjen Song), 533716

2007, \$4,312.00 Assessment

Action: Modify the action of the Franchise Tax Board.

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The Trade Machine Corporation, 711988

2010-2011, \$780.86 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Todd Felciano Construction Company, 720755

2009, \$100.00 Claim for Refund

2010, \$432.00 Late Filing Fee

Action: Sustain the action of the Franchise Tax Board.

Lance Townley, 608600

2007, \$1,932.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Lorraine Vondeauxplette, 612828

2006, \$26,578.00 Tax, \$6,644.50 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Young.Ward, Attorneys, 741807

2011, \$432.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Young Ward & Lothert, A Partnership, 732523

2011, \$432.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Stacy Zimmerman, 624793

2007, \$892.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Rick Burningham, 688096

2010, \$2,105.50 Assessment

Action: Deny the petition for rehearing.

Paul S. Entin, 575896

2008, \$11,803.96 Claim for Refund

Action: Deny the petition for rehearing.

Masami Hirata, 606576

2006, \$1,577.00 Assessment

Action: Deny the petition for rehearing.

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SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES, DENIALS OF CLAIMS FOR REFUND, AND, GRANT-ONE DAY INTEREST RELIEF, CONSENT

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties, Denials of Claims for Refund, and, Grant-One Day Interest Relief, 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 Ms. Mandel voting yes, the Board made the following orders:

Corpro Companies, Inc., 734719 (OH)

10/01/08 to 09/30/11, \$1,739,739.83

Action: Approve the redetermination as recommended by staff.

Lucky Stores, Inc., 362673 (OH)

02/01/02 to 02/03/05, \$150,395.16

Action: Approve the redetermination as recommended by staff.

OCE Financial Services, Inc., 719336 (OH)

04/01/07 to 06/30/11, \$550,425.59

Action: Approve the redetermination as recommended by staff.

Unger Construction, Co., 576303 (KH)

10/01/07 to 06/30/10, \$131,675.45

Action: Approve the redetermination as recommended by staff.

Fisher Scientific Co., LLC, 803460 (OH)

10/01/13 to 12/31/13, \$340,517.30

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

Victoria's Secret Stores, LLC, 800654 (OH)

10/01/13 to 12/31/13, \$1,052,221.60

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

Burlington Coat Factory of California, LLC, 800656 (OH)

10/01/13 to 12/31/13, \$749,999.60

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

Sony Electronics, Inc., 742010 (OH)

01/01/05 to 06/30/05, \$1,265,974.57

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

Larry Harmon & Associates, P.A., 552853 (KH)

01/01/09 to 03/31/11, \$16,294,480.00

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

Wednesday, June 25, 2014

Advanced Fixtures, Inc., 799659 (OH)

10/01/13 to 12/31/13, \$251.57

Action: Approve the one day interest relief as recommended by staff.

Med Exchange International, Inc., 799660 (OH)

10/01/13 to 12/31/13, \$184.55

Action: Approve the one day interest relief as recommended by staff.

Roku, Inc., 799678 (GH)

05/01/13 to 07/31/13, \$251.05

Action: Approve the one day interest relief as recommended by staff.

TD Oil & Gas, LLC, 799680 (CH)

10/01/13 to 12/31/13, \$159.01

Action: Approve the one day interest relief as recommended by staff.

HD Supply Repair & Remodel, LLC, 799666 (OH)

06/03/13 to 07/09/13, \$7,757.70

Action: Approve the one day interest relief as recommended by staff.

Cellerant Therapeutics, Inc., 803465 (BH)

10/01/13 to 12/31/13, \$10.67

Action: Approve the one day interest relief as recommended by staff.

Sullivan Solar Power of California, Inc., 799665 (FH)

10/01/13 to 12/31/13, \$345.70

Action: Approve the one day interest relief as recommended by staff.

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

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, 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 Ms. Mandel voting yes, Ms. Steel not participating in accordance with Government Code section 87105 in *ConocoPhillips Company, 797631*; Ms. Mandel not participating in accordance with Government Code section 87105 in *DirectTV Operations, Inc., 313706*; and, *DirectTV, LLC, 334363*; the Board made the following orders:

Elizabeth Lamont, 510412 (AS)

10/01/06 to 06/04/07, \$187,362.85

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

Circuit City Stores West Coast, Inc., 514179 (OH)

07/01/05 to 11/09/08, \$4,083,153.04

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

Wednesday, June 25, 2014

Pro-Motors Corp., 797417 (EA)

01/01/08 to 07/28/08, \$128,971.66

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

Siemens Healthcare Diagnostics, Inc., 724810 (OH)

01/01/12 to 12/31/12, \$161,220.14

Action: Approve the refund as recommended by staff.

Intermetro Industries Corp., 577345 (OH)

04/01/08 to 03/31/10, \$207,324.29

Action: Approve the refund as recommended by staff.

Payless Shoe Source, Inc., 796194 (OH)

01/01/09 to 12/31/11, \$135,527.00

Action: Approve the refund as recommended by staff.

Sony Electronics, Inc., 742010 (OH)

01/01/05 to 06/30/05, \$1,131,997.06

Action: Approve the refund as recommended by staff.

PetSmart, Inc., 795787 (OH)

04/01/09 to 03/31/12, \$111,581.62

Action: Approve the refund as recommended by staff.

ConocoPhillips Company, 797631 (OH)

04/01/09 to 06/30/12, \$1,109,139.19

Action: Approve the refund as recommended by staff. Ms. Steel not participating in accordance with Government Code section 87105.

Vacco Industries, 568182 (AP)

01/01/08 to 12/31/11, \$109,436.99

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA, LLC, 796445 (KH)

08/22/13 to 12/17/13, \$272,807.00

Action: Approve the refund as recommended by staff.

BMW of North America, 799092 (OH)

09/04/12 to 09/12/12, \$557,058.00

Action: Approve the refund as recommended by staff.

BMW of North America, 800355 (OH)

10/08/12 to 01/18/13, \$293,822.68

Action: Approve the refund as recommended by staff.

Wednesday, June 25, 2014

US Bank NA, 578458 (OH)

04/01/08 to 12/31/12, \$880,267.81

Action: Approve the refund as recommended by staff.

RSC Equipment Rental, Inc., 794475 (OH)

01/01/09 to 12/31/11, \$104,407.90

Action: Approve the refund as recommended by staff.

Owens & Minor Distribution, Inc., 609185 (OH)

01/01/09 to 06/30/11, \$230,570.08

Action: Approve the refund as recommended by staff.

Ally Financial, Inc., 598236 (OH)

01/01/09 to 12/31/11, \$8,020,885.05

Action: Approve the refund as recommended by staff.

Arrowhead Central Credit Union, 772182 (EH)

01/01/13 to 12/31/13, \$143,298.00

Action: Approve the refund as recommended by staff.

DirecTV Operations, Inc., 313706 (AS)

10/01/00 to 11/12/02, \$1,689,253.65

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Best Buy Stores, LP, 791349 (OH)

01/01/08 to 12/31/11, \$580,689.31

Action: Approve the refund as recommended by staff.

Clorox Service Company, 798787 (CH)

01/01/07 to 12/31/09, \$243,168.04

Action: Approve the refund as recommended by staff.

Americredit Financial Service, Inc., 734431 (OH)

01/01/13 to 12/31/13, \$1,680,527.00

Action: Approve the refund as recommended by staff.

Balboa Thrift & Loan Association, 772561 (FH)

01/01/13 to 09/30/13, \$110,074.00

Action: Approve the refund as recommended by staff.

United Auto Credit Corporation, 791477 (EA)

04/01/10 to 06/30/13, \$356,319.00

Action: Approve the refund as recommended by staff.

Wednesday, June 25, 2014

DirecTV, LLC, 334363 (AS)

11/13/02 to 12/31/05, \$716,745.18

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

KC Employees Federal Credit Union, 769184 (DF)

07/01/11 to 06/30/12, \$136,615.00

Action: Approve the refund as recommended by staff.

Arista Networks, Inc., 726795 (GH)

04/01/08 to 03/31/11, \$164,465.93

Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTER, ADJUDICATORY

Benalex Windows & Doors Corp., 446664 (AA)

07/01/04 to 06/30/07, \$0.00 Tax, \$0.00 Penalty

Considered by the Board: February 27, 2013

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

Action: Upon motion of Mr. Runner, seconded by Ms. Steel 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.

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

SEL Retail Operations, 735345 (OH)

07/01/02 to 06/30/05, \$5,296,062.94

Considered by the Board: Summary Decision (Rev. & Tax. Code, § 40)

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 Ms. Mandel voting yes, the Board adopted the written summary decision as presented by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**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 Ms. Mandel voting yes, the Board approved the Offer in Compromise Recommendations of *Natividad Escobedo Alfaro; Alice Bowler; Irene Bracamonte; Michael J. Brick; Khurshid K. Choudhry; Michael E. Dolinar; Lisa A. Dolinar; Guillermo Zamora Gutierrez; Alice J. Kilgore; Guillermina Rodriguez; Hassan Abdelrahim Talli;* and, *Waldeck's, Inc.*; as recommended by staff.

Wednesday, June 25, 2014

FINAL ACTION ON SALES AND USE TAX APPEALS: LOCAL TAX REALLOCATION HEARING HELD JUNE 25, 2014

City of Fillmore, 626418

Final Action: Upon motion of Mr. Runner, 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 the petition be granted as recommended by the Appeals Division. The Board's decision was not held in abeyance pending adoption of a summary decision for publication.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD JUNE 25, 2014

Andrew Steven Roganson, 538417, 737457 (AC)

Final Action: (Rescinded and ordered expunged on October 14, 2014.)

Seyednasrollah Mirghafouri, 574269 (EA)

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 ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division.

The Board recessed at 12:22 p.m.

The foregoing minutes are adopted by the Board on August 5, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *PCS Wireless, Inc., 572015; Golden Tran III, Inc., 579091; Eva Marie Tice, 484005; Garo Apo Garabedian, 522650; Osteria Panevino, Inc., 529994, and, Pamela Jane Everett, 426785.*

Thursday, June 26, 2014

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:30 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.

SALES AND USE TAX APPEALS HEARING

Raymond Harry Simmons, 531521 (AS)

10/01/06 to 01/18/07, \$142,123.00 Tax, \$19,740.70 Failure-to-File Penalty

For Petitioner: Ray Simmons, Taxpayer

For Sales and Use Tax Department: Kevin Smith, 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 Crenshaw Motors, Inc. pursuant to Revenue and Taxation Code section 6829.

Whether petitioner has established reasonable cause sufficient for relieving the failure-to-file penalties originally assessed against Crenshaw.

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 ordered that the petition be submitted for decision.

SPECIAL TAXES APPEALS HEARINGS

Nyoka Edy, 563276 (STF)

01/01/05 to 09/30/08, \$6,055.00 Tax

Nyoka Edy, 563277 (STF)

01/01/05 to 09/30/08, \$1,110.00 Tax

For Petitioner: Nyoka Edy, Taxpayer

Susan Ackley, Witness

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 the cigarette and tobacco products tax because she distributed in California untaxed cigarettes purchased from an out-of-state vendor.

Whether petitioner is liable for the use tax because she purchased cigarettes from an out-of-state vendor for storage, use, or other consumption in California.

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.

The Board recessed at 10:47 a.m. and reconvened at 11:04 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Thursday, June 26, 2014

CIGARETTE LICENSING PENALTY APPEAL HEARING

Benny Le Huynh, 640263 (STF)

July 13, 2012 Date of Citation

For Appellant:

Benny Huynh, Taxpayer

Nancy Huynh, Witness

Mau Huynh, Witness

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

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

Issue: Whether the penalty imposed for appellant's alleged violations of Business and Professions Code sections 22974 and 22974.3, subdivision (a)(4), are appropriate.

Action: (Motion expunged.)

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 its previous motion to submit the petition for decision be expunged.

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.

The Board recessed at 11:41 a.m. and reconvened at 11:44 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD JUNE 26, 2014

Raymond Harry Simmons, 531521 (AS)

Final Action: 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, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

FINAL ACTION ON SPECIAL TAXES APPEALS HEARINGS HELD JUNE 26, 2014

Nyoka Edy, 563276 (STF)

Nyoka Edy, 563277 (STF)

Final Action: Ms. Steel moved that the petition be redetermined as recommended by the Appeals Division and that staff inform the taxpayer of the Offer in Compromise program. The motion was seconded by Mr. Runner. Ms. Steel withdrew her motion.

Mr. Runner moved that the petition be granted. The motion was seconded by Ms. Mandel but failed to carry, Mr. Runner and Ms. Mandel voting yes, Mr. Horton, Ms. Steel and Ms. Yee voting no.

Upon motion of Ms. Steel, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Steel, Ms. Yee and Ms. Mandel voting yes, Mr. Runner voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

Thursday, June 26, 2014

**FINAL ACTION ON CIGARETTE LICENSING PENALTY APPEAL HEARING HELD
JUNE 26, 2014**

Benny Le Huynh, 640263 (STF)

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 determined that staff properly imposed the penalty.

Mr. Horton adjourned the Board meeting at 11:53 a.m. in memory of Christa Fears, mother of John Fears, Business Taxes Administrator for the Culver City District Office.

The foregoing minutes are adopted by the Board on August 5, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *Leonard J. Silberman, 607254*; and, *Dastigir G. Omar, 609881*.