

Thursday, July 17, 2014

The Board met at its offices at 450 N Street, Sacramento, at 10:02 a.m., with Ms. Steel, Vice Chairwoman, and Ms. Yee present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

The Board recessed at 10:03 a.m. and reconvened at 10:40 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SPECIAL PRESENTATION

On behalf of the Board, Mr. Horton presented Liz Houser, Deputy Director, Administration Department, a retirement resolution, extending his appreciation for her tremendous leadership and making an impact in such a short period of time for each Board Member and the Executive Team. Members made complementary remarks regarding their experiences with Ms. Houser and complimented her excellent work with the Board of Equalizations field offices and district offices. The Members also expressed appreciation for the work she has done on improving employee programs that will benefit the agency for years to come. Ms. Houser made complimentary remarks about the agency and how honored she is to serve the Board, expressed her gratitude for working at an agency that treats their employees with respect and thanked the Members and those she had the pleasure to work with.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Quiller Barnes and Patricia Barnes, 717969
1996, \$21,963.40 Claim for Refund

For Appellants:

Quiller Barnes, Taxpayer
Endy Ukoha-Ajike, Representative

For Franchise Tax Board:

David Muradyan, Tax Counsel
Fred Campbell-Craven, Tax Counsel

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

Issue: Whether appellants' claim for refund is barred by the applicable statute of limitations.

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

With respect to the Administrative 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 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 7.1](#)).

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LaVern Harvey, Business Taxes Representative, Sales and Use Tax Department,
Sacramento Out-of-State Office
Liz Houser, Deputy Director, Administration Department, Headquarters
Steven C. Kamlin, Tax Auditor, Sales and Use Tax Department, San Diego
Office
Judy M. Knight, Staff Services Manager I, Health and Safety Section,
Administration Department, Headquarters
Mike Lorenz, Supervising Tax Auditor III, San Francisco Office

Action: Adopt Property Tax Form BOE-571-W, *2015 Wind Generation Property Statement*, as presented by staff ([Exhibit 7.2](#)).

Exhibits to these minutes are incorporated by reference.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Fr. Bishoy Abdel and Niven A. Escan, 600054
2004, \$2,845.00 Assessment

For Appellants:

Fr. Bishoy Abdel, Taxpayer

For Franchise Tax Board:

Jean Cramer, Tax Counsel

Mary Yee, Tax Counsel

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

Issues: Whether appellants have shown error in respondent's proposed assessment that was based on a final federal determination.

Whether interest 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.

SALES AND USE TAX APPEALS HEARINGS

Pahwa & Associates, Inc., 531030 (CH)

04/01/06 to 03/31/09, \$30,826.26 Tax

For Petitioner:

Inder Pahwa, Taxpayer

Indy Pahwa, Representative

Al Hibbard, Representative

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

Issue: Whether additional adjustments to the amount of disallowed claimed exempt sales of food are warranted.

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 12:40 p.m. and reconvened at 1:23 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

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Amador Patino and Gerardo Javier Guzman, 532069, 549106 (CH)
 01/01/07 to 06/30/07, \$20,948.66 Tax, \$2,094.86 Negligence Penalty
 07/01/07 to 06/30/08, \$44,857.26 Tax, \$4,485.74 Negligence Penalty, \$4,485.73 Finality Penalty
 La Primavera Products Svcs., Inc., 550549 (CH)
 07/01/08 to 03/31/10, \$90,745.40 Tax, \$9,074.56 Negligence Penalty, \$9,074.54 Finality Penalty
 For Petitioners/Taxpayers: Amador Patino, Taxpayer
 Michan Evonc, Representative
 For Sales and Use Tax Department: Scott Lambert, Hearing Representative
 Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
 Issue: Whether adjustments to the audited amounts of unreported taxable sales are 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.

Jaswinder Kaur, 537383, 699250 (DF)
 05/04/06 to 03/31/09, \$75,710.80 Tax, \$7,571.12 Negligence Penalty
 For Taxpayer: Sher Singh, Representative
 Jagdeep Ghangas, Witness
 Jasleen Kaur, Witness
 For Sales and Use Tax Department: Marc Alviso, Hearing Representative
 Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
 Issues: Whether taxpayer is responsible for the audit liability.
 Whether taxpayer was negligent.
 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.

H&O, Inc., 547859, 709260 (GH)
 01/01/06 to 12/31/08, \$27,862.24 Tax
 H&O, Inc., 559975 (GH)
 06/01/07 to 06/30/07, \$3,058.00 Tax
 For Petitioners/Claimants: Omar Kassa, Taxpayer
 Shermin Alam, Representative
 Khorshed Alam, Representative
 For Sales and Use Tax Department: Scott Lambert, Hearing Representative
 Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue in matters of 547859 and 709260:
 Whether adjustments are warranted to the amount of unreported taxable sales.
Issue in the matter of 559975:
 Whether any additional adjustments to the unpaid tax liability are warranted.
 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.

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Rigoberto Lopez Nunez, 559883 (DF)

07/01/06 to 01/31/10, \$117,378.17 Tax, \$11,737.85 Negligence Penalty

For Petitioner: Rigoberto Lopez, Taxpayer

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

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

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

Whether petitioner was negligent.

Whether relief of interest 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.

Jialing Wang, 436517, 546372 (JH)

01/01/04 to 03/31/07, \$29,465.55 Tax, \$5,892.89 Finality Penalty, \$2,946.55 Negligence Penalty

04/01/07 to 03/31/10, \$7,908.80 Tax, \$790.91 Negligence Penalty

For Petitioner/Claimant: Jialing Wang, Taxpayer

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 the amounts of unreported taxable sales.

Whether petitioner was negligent.

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.

Chaoyun Li and Laxiu Tian, 436192, 546378 (JH)

11/08/04 to 03/31/07, \$41,822.55 Tax, \$3,555.81 Negligence Penalty, \$626.46 Failure-to-file Penalty

04/01/07 to 03/31/10, \$36,327.64 Tax, \$3,632.80 Negligence Penalty

For Petitioners: Chaoyun Li, Taxpayer

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 the amounts of unreported taxable sales.

Whether petitioner was negligent.

Whether both Chaoyun Li and Laxiu Tian are liable as partners for the audit liabilities.

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.

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SPECIAL TAXES APPEALS HEARINGS

Daniel Frank Allen, 546385, 547969 (STF)

04/01/02 to 06/30/09, \$9,115.00 Fee, \$0.00 Penalty

For Petitioner/Claimant:

Daniel Allen, Taxpayer

Nanci Allen, Representative

For Property and Special Taxes Department: Erin Dendorfer, Tax Counsel

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

Issues: Whether adjustments are warranted to the amount of unreported California tire fee.

Whether relief of interest 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.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 6:13 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 pending litigation (Gov. Code § 11126(e)), settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 6:19 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD JULY 17, 2014

Quiller Barnes and Patricia Barnes, 717969

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 Board but directed staff to notify appellants that they should consider the tax treatment of any distributions from appellants' Putnam Investments account in years following the 1996 year in order to determine if such distributions were reported correctly.

Fr. Bishoy Abdel and Niven A. Escan, 600054

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 sustained the action of the Franchise Tax Board.

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**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
JULY 17, 2014**

Pahwa & Associates, Inc., 531030 (CH)

Final Action: (Motion expunged.)

Amador Patino and Gerardo Javier Guzman, 532069, 549106 (CH)

La Primavera Products Svcs., Inc., 550549 (CH)

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 ordered that the finality penalty be removed as conceded by staff and that the petition otherwise be redetermined as recommended by the Appeals Division.

Jaswinder Kaur, 537383, 699250 (DF)

Final Action: Ms. Yee moved that the petition be redetermined as recommended by the Appeals Division. Ms. Steel made a substitute motion that the negligence penalty be deleted, and that the petition otherwise be redetermined as recommended by the Appeals Division. The substitute motion was seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes.

H&O, Inc., 547859, 709260 (GH)

H&O, Inc., 559975 (GH)

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 audited taxable minimart sales be reduced by 28 percent for the third and fourth quarters of 2007 and that the petition otherwise be redetermined as recommended by the Appeals Division.

Rigoberto Lopez Nunez, 559883 (DF)

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 negligence penalty be deleted, and that the petition otherwise be redetermined as recommended by the Appeals Division.

Jialing Wang, 436517, 546372 (JH)

Final Action: (Motion expunged.)

Chaoyun Li and Laxiu Tian, 436192, 546378 (JH)

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 audited taxable sales be recalculated based on a credit card sales ratio (inclusive of debit card transactions) of 33.66 percent, and that the petition otherwise be redetermined as recommended by the Appeals Division.

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FINAL ACTION ON SPECIAL TAXES APPEALS HEARING HELD JULY 17, 2014

Daniel Frank Allen, 546385, 547969 (STF)

Final Action: Ms. Steel moved that the interest be abated and that the petition otherwise be redetermined as recommended by the Appeals Division. The motion was seconded by Mr. Runner 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 recessed at 6:38 p.m. and reconvened at 6:45 p.m. with Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel present.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD JULY 17, 2014

Pahwa & Associates, Inc., 531030 (CH)

Final Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board ordered that its previous motion be expunged.

The Board deferred consideration of the matter to the August 2014, Culver City Board meeting.

Jialing Wang, 436517, 546372 (JH)

Final Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board ordered that its previous motion be expunged.

The Board deferred consideration of the matter to the August 2014, Culver City Board meeting.

PUBLIC HEARINGS**Proposed Adoption of Sales and Use Tax Regulation 1525.4, *Manufacturing and Research & Development Equipment***

Andrew Kwee, Tax Counsel, Legal Department, made introductory remarks regarding Regulation 1524.4, which implements Revenue and Taxation Code section 6377.1's partial exemption for the sale and use of equipment used primarily in manufacturing and research and development ([Exhibit 7.3](#)).

Speaker: Therese Twomey, Fiscal Policy Director, California Taxpayers Association

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board adopted Regulation 1525.4 as published.

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LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Kiwi Stair, Inc.*, 602125.

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

Ronald Avedisian, 434518 (AC)

04/01/04 to 02/13/07, \$2,805,008.60 Tax, \$702,002.21 Fraud Penalty

Action: Redetermine as recommended by the Appeals Division.

Behnard & Associate, Inc., 588418 (AP)

07/01/06 to 09/30/09, \$1,439,314.17 Tax, \$143,931.47 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Capital Cookery, Inc., 536609 (KH)

01/01/06 to 06/30/09, \$189,700.56 Tax, \$18,970.09 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Partnership of Bridget Riley Hicks and Fred Hicks, 558251 (UT)

11/01/07, \$3,625.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Rory O'Brien, 625197 (UT)

July 30, 2012, \$1,387.00 Claim for Refund

Action: Deny the claim for refund as recommended by the Appeals Division.

Rogelio Ortiz, 489267 (KH)

01/01/05 to 11/30/06, \$24,741.08 Tax, \$6,223.40 Late Payment Penalties

Action: Redetermine as recommended by the Appeals Division.

Davood Rahnama, 562888, 579013 (DF)

10/01/06 to 03/31/08, \$29,605.07 Tax, \$2,960.52 Negligence Penalty

04/01/08 to 12/14/09, \$33,676.31 Tax, \$3,367.63 Negligence Penalty, \$3,367.63 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

RDB Enterprises, Inc., 603902 (KH)

05/13/10 to 09/30/11, \$156,213.22 Tax, \$15,621.32 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

T.B.A. Enterprises, Inc., 532453 (AR)

04/01/05 to 03/31/08 \$83,590.82 Tax, \$8,359.09 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Harry K. Vernon, 562640 (UT)

05/15/08, \$4,750.00 Tax

Action: Redetermine as recommended by the Appeals Division.

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Kiwi Stair, Inc., 602125 (KH)
10/01/07 to 09/30/10, \$24,976.80 Tax
Action: The Board took no action.

Marizzelly De Jesus Aburto, 782694 (STF)
August 14, 2013, \$140.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Moon Joo Kim, 782688 (STF)
October 10, 2013, \$24.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

In & Out Food Mart, Inc., 785012 (STF)
August 21, 2013, \$275.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Mian, Inc., 784989 (STF)
September 5, 2013, \$8.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Magnum Breeze II, Inc., 538790 (EH)
10/01/06 to 12/31/09, \$173,880.66 Tax, \$1,884.61 Failure-to-File Penalty
Action: Deny the petition for rehearing as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Daniel F. Dong, 734198*; and, *Alberto A. Delpino, 576143*.

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. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board made the following orders:

Kristina L. Burke, 762690
2003, \$18,763.00 Tax, \$1,877.00 Accuracy Related Penalty
Action: Sustain the action of the Franchise Tax Board as modified by its concessions.

Daniel F. Dong, 734198
2011, \$1,885.00 Assessment
Action: The Board took no action.

Connie M. Quijada, 728755
2001, \$2,322.30 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

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James V. Robertson, 731567

2010, \$13,510.00 Tax, \$3,377.50 Late Filing Penalty, \$3,377.50 Demand Penalty, \$88.00 Filing Enforcement Fee

Erik L. Hayes, 731576

2009, \$23,750.00 Tax, \$5,937.50 Late Filing Penalty, \$5,937.50 Demand Penalty, \$82.00 Filing Enforcement Fee

Jintau E. Two, 731578

2010, \$1,634.00 Tax, \$408.50 Late Filing Penalty, \$408.50 Demand Penalty, \$88.00 Filing Enforcement Fee

Benjamin F. Killen, 731591

2010, \$2,806.00 Tax, \$701.50 Late Filing Penalty, \$701.50 Demand Penalty, \$88.00 Filing Enforcement Fee

Eldo M. Klingenberg, Jr., 731595

2010, \$1,832.00 Tax, \$458.00 Late Filing Penalty, \$458.00 Demand Penalty, \$88.00 Filing Enforcement Fee

Carol Grant, 731600

2010, \$1,667.00 Tax, \$416.75 Late Filing Penalty, \$416.75 Demand Penalty, \$88.00 Filing Enforcement Fee

Richard T. Grant, Jr., 731604

2009, \$10,456.00 Tax, \$2,614.00 Late Filing Penalty, \$2,614.00 Demand Penalty, \$82.00 Filing Enforcement Fee

David C. Williams, 732520

2010, \$9,560.00 Tax, \$2,390.00 Late Filing Penalty, \$2,390.00 Demand Penalty, \$88.00 Filing Enforcement Fee

Dan Pickell, 730124

2010, \$2,309.00 Tax, \$577.25 Late Filing Penalty, \$577.25 Demand Penalty, \$88.00 Filing Enforcement Fee

John B. Holloway, 726945

2010, \$5,709.00 Tax, \$1,427.25 Late Filing Penalty, \$1,427.25 Demand Penalty, \$88.00 Filing Enforcement Fee

Champion Wiseman, 727532

2010, \$1,321.00 Tax, \$330.25 Late Filing Penalty, \$330.25 Demand Penalty, \$88.00 Filing Enforcement Fee

Marianne Pretscher-Johnson, 738918

2010, \$1,923.00 Tax, \$480.75 Late Filing Penalty, \$480.75 Demand Penalty, \$88.00 Filing Enforcement Fee

Steven Ertelt, 738690

2010, \$1,997.00 Tax, \$499.25 Late Filing Penalty, \$499.25 Demand Penalty, \$88.00 Filing Enforcement Fee

Rodney Walker, 727664

2010, \$1,221.00 Tax, \$305.25 Late Filing Penalty, \$305.25 Demand Penalty, \$88.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty to each appeal of *David C. Williams, 732520*; and, *John B. Holloway, 726945*; and impose a \$5,000.00 frivolous appeal penalty to each of the remaining appeals.

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April Williams, 722869

1999, \$8,242.59 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ross Peck and Lois Peck, 681037

2001, \$5,350.35 Tax

2002, \$363.48 Tax

2003, \$6,263.27 Tax

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

Joyce Bandele, 732680

2008, \$2,760.00 Tax, \$552.00 Accuracy-Related Penalty

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

Bay Area Gun Vault, LLC, 631038

2010, \$4,763.41 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Commerce Avenue, LLC, 663753

2010, \$121.91 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Alberto A. Delpino, 576143

2006, \$1,086.00 Assessment

Action: The Board took no action.

Randeep S. Dhillon and Kamalpreet Sidhu, 594206

2003, \$6,485.00 Tax, \$1,621.25 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

John Thomas Gaiser, 605297

2008, \$50,814.00 Tax, \$12,703.50 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Bahram K. Ganjineh, 592007

2006, \$195.00 Tax, \$39.00 Accuracy-Related Penalty, \$100.00 Delinquent Filing Penalty

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

Steven Garff and April Garff, 711211

2008, \$743.00 Assessment

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

Robert R. Jimenez, 600984

2004, \$1,924.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Kevin Jones, 712951

2009, \$351.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Roosevelt Madison and Paula Madison, 593006

2007, \$176,542.74 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Chiyoung Min, 636183

2006, \$119.00 Claim for Refund

2007, \$527.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Sean M. Panter, 693108

2010, \$1,285.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Lynn Rivell, 602165

2000, 2001 and 2004, \$19,880.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Elizabeth A. Stelzner, 661825

2008, \$4,151.00 Assessment

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

John K. Tollison and Kimberly Tollison, 596464

2010, \$1,197.95 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Harold L. Votey, Jr., 654986

2010, \$1,069.25 Claim for Refund

2011, \$546.29 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Daniel F. Wald, 626421

2008, \$156.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Troy Jolliff, 638354

2003, \$4,689.00 Tax

Action: Deny the petition for rehearing.

Ezzelino Pozzato, 604862

2007, \$24,540.00 Claim for Refund

Action: Deny the petition for rehearing.

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SALES AND USE TAX MATTERS, RELIEF OF PENALTIES, AND, GRANT-ONE DAY INTEREST RELIEF, CONSENT

With respect to the Sales and Use Tax Matters, Relief of Penalties, 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. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board made the following orders:

Coach, Inc., 804812 (OH)

01/01/14 to 01/31/14, \$218,638.34

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

Abel Chevrolet Pontiac Buick, Co., 804844 (JH)

10/01/13 to 12/31/13, \$656.52

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

S.B. Restaurant, Co., 804816 (EA)

07/29/13 to 08/25/13, \$3,415.57

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

Jeffrey Sean Samuels, 804843 (SO)

07/01/13 to 09/30/13, \$102.44

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

SABA Holding Company, 804842 (OH)

10/01/13 to 12/31/13, \$1,631.65

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. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, Ms. Mandel not participating in accordance with Government Code section 87105 in *Wells Fargo Auto Finance, LLC, 605537*, the Board made the following orders:

Aero Union Corporation, 803775 (KH)

07/01/11 to 09/30/11, \$104,313.36

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

Gilead Sciences, Inc., 807484 (BH)

07/01/09 to 12/31/12, \$297,505.11

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

LBS Financial Credit Union, 785719 (EA)

01/01/13 to 12/31/13, \$165,347.00

Action: Approve the refund as recommended by staff.

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Harris Corporation, 740001 (OH)

04/01/10 to 06/30/13, \$468,256.42

Action: Approve the refund as recommended by staff.

Halo Motor Company, 668920 (FH)

07/01/09 to 06/30/13, \$1,205,217.00

Action: Approve the refund as recommended by staff.

Trimble Navigation, LTD, 782218 (GH)

04/01/07 to 06/30/10, \$141,668.45

Action: Approve the refund as recommended by staff.

NWA Fuel Services Corporation, 610540 (OH)

01/01/09 to 06/30/09, \$174,830.54

Action: Approve the refund as recommended by staff.

Inyo Crude, Inc., 594166 (DF)

01/01/09 to 06/30/11, \$378,444.04

Action: Approve the refund as recommended by staff.

Ameron International Corporation, 803394 (EH)

10/01/10 to 12/31/12, \$114,939.37

Action: Approve the refund as recommended by staff.

Mountain Counties Supply, Co., 800674 (KH)

10/01/10 to 09/30/13, \$297,678.22

Action: Approve the refund as recommended by staff.

Database Marketing Group, Inc., 799972 (EA)

10/01/11 to 12/31/13, \$191,239.06

Action: Approve the refund as recommended by staff.

E-One, Inc., 758246 (OH)

04/01/13 to 06/30/13, \$108,863.00

Action: Approve the refund as recommended by staff.

Samsung Telecomm America, LLC, 782231 (OH)

10/01/12 to 12/31/12, \$346,912.97

Action: Approve the refund as recommended by staff.

Avis Rent A Car System, LLC, 803392 (OH)

10/01/08 to 12/31/10, \$630,304.21

Action: Approve the refund as recommended by staff.

Rockwell Collins, Inc., 802791 (OH)

01/01/10 to 12/31/12, \$109,021.00

Action: Approve the refund as recommended by staff.

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Fastcredit Financial, Inc., 636336 (AS)

10/01/09 to 03/31/13, \$142,321.85

Action: Approve the refund as recommended by staff.

Wells Fargo Auto Finance, LLC, 605537 (CH)

07/01/10 to 09/30/12, \$1,379,598.95

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

TSI Semiconductors America, LLC, 758243 (KH)

01/01/13 to 03/31/13, \$159,442.00

Action: Approve the refund as recommended by staff.

Carfinance Capital, LLC, 783418 (EA)

01/01/13 to 12/31/13, \$190,458.00

Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTERS, ADJUDICATORY

Mark J. Weidhaas and Richard A. Weiner, 577043 (UT)

09/10/10, \$0.00 Tax

Considered by the Board: November 19, 2013

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

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

Akop Jack Chichyan, Vicken Djeredjian, and Mnatsakan Mike Grigoryan, 388129 (STF)

10/01/00 to 02/28/02, \$2,815,668.00 Tax, \$703,917.00 Fraud Penalty, \$281,566.80 Failure-to-File Penalty

Considered by the Board: November 15, 2012

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

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Sean Brunske, 597425

2004, \$15,551.00 Assessment

Considered by the Board: Hearing Notice Sent – No Response

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

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board adopted a decision sustaining the action of the Franchise Tax Board.

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Charles P. Franklin, 417829

2000, \$96,210.00 Assessment

Considered by the Board: November 17, 2010

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

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Camino Medical Group, Inc., 719011

2005, \$1,028,094.13 Claim for Refund

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

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

Action: The Board deferred consideration of the matter to the August 2014, Culver City Board meeting.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Mandel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board approved the Offer in Compromise Recommendations of *Accettura Bros., Inc.*; *Khachik Chris Chibilyan*; *Inmar West Company, Inc.*; *Cory Anthony Iturribarria*; *Yong Heui Lee*; and, *Rocio Ramos*; as recommended by staff.

CHIEF COUNSEL MATTERS

RULEMAKING

Section 100 Changes

Sales and Use Tax Regulation 1684, *Collection of Use Tax by Retailers*

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 identify the operative dates of Revenue and Taxation Code section 6203, and of the 2012 amendments to Regulation 1684, as re-enacted by Statutes 2011, chapter 313 ([Exhibit 7.4](#)).

Action: Upon motion of Mr. Runner, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel absent, the Board approved authorization to make Rule 100 changes to Regulation 1684 as recommended by staff.

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Cynthia Bridges, Executive Director, provided a report regarding a time extension to Napa County to complete and submit the 2014/15 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 ([Exhibit 7.5](#)).

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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.

Property and Special Taxes Deputy Director's Report

Joe Fitz, Chief, Research and Statistics Section, Legislative and Research Division, reported that the 2014/15 private railroad car tax rate is set at \$1.106 in accordance with the computation under the provisions Revenue and Taxation Code, section 11403 ([Exhibit 7.6](#)).

Dick Reisinger, Manager, State-Assessed Properties Division, Property and Special Taxes Department, made introductory remarks regarding the 2014 private railroad car roll ([Exhibit 7.7](#)).

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Ms. Steel absent, the Board adopted the 2014 private railroad car roll as recommended by staff.

Dick Reisinger, Manager, State-Assessed Properties Division, Property and Special Taxes Department, made introductory remarks regarding the 2014 state-assessed property roll ([Exhibit 7.8](#)).

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Ms. Steel absent, the Board adopted the 2014 state-assessed property roll as recommended by staff.

The Board adjourned at 7:00 p.m.

The foregoing minutes are adopted by the Board on September 23, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *James Emmitt, 717136; Rudolph Buriani and Norma Jean Buriani, 668146; Arthur McLaughlin & Associates, Inc., 446374; Sagar Emporium, Inc., 562126 and Rohan and Sagar, Inc., 561882; Andrew J. Laspino, 393823 and Patricia M. Laspino, 393822; Oak Tree Alternative Care, A California Non-Profit Mutual Benefit Corporation, 597897; Capital City Restaurants, Inc., 522640; Sandy Seybert, 598180 and Sandy Seybert, 598183; WCN, Inc., 491680; Executive Director's Report, Summons to annual meeting of the Board and County Assessors and proposed meeting location; Property and Special Taxes Deputy Director's Report, Assessment Practices Survey Program – Presentation of Modernization Reforms; and, Administration Deputy Director's Report, Facilities Update.*