

Wednesday, January 21, 2015

The Board met at its offices at, 450 N Street, Sacramento, at 10:05 a.m., with, Ms. Ma and Ms. Harkey present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by William M. Connell, Military Veteran, American Legion Post 49, owner of All American Surf Dog.

PUBLIC COMMENTS

Speakers: Richard Powers, Military Veteran, Artist, USMC ([Exhibit 1.1](#))
Michael C. Warnken, Military Veteran
William M. Connell, Military Veteran, American Legion Post 49, owner of All American Surf Dog ([Exhibit 1.2](#))

Exhibits to these minutes are incorporated by reference.

The Board recessed at 10:25 a.m. and reconvened at 12:03 p.m. with Ms. Ma, Ms. Harkey and Ms. Stowers present.

The Board recessed at 12:05 p.m. and reconvened at 12:34 p.m. with Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, Ms. Ma and Ms. Harkey abstaining on *Approval of Board Meeting Minutes of December 18, 2014*, Mr. Horton absent, 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 1.3](#)).

David Bacon, Senior Programmer Analyst (Specialist), Technology Services Department, Headquarters
Richard Bengston, Associate Tax Auditor, Sales and Use Tax Department, Houston Out-of-State District Office
Carl Bessent, Tax Counsel III (Specialist), Appeals Division, Legal Department, Headquarters
Alice Cantu, Business Taxes Compliance Specialist, Sales and Use Tax Department, Fresno District Office

Wednesday, January 21, 2015

Quirino “Willie” Jacques, Business Taxes Specialist, Sales and Use Tax
Department, Fresno District Office
Rhonda Krause, Business Taxes Specialist II, Taxpayers’ Rights Advocate
Office, Executive Department, Headquarters
Rudy Mendez, Supervising Tax Technician III, Sales and Use Tax Department,
Sacramento Out-of-State District Office

Action: Approve the Board Meeting Minutes of December 18, 2014.

Action: Adopt Property Tax Form BOE-305-AH, *Application for Changed Assessment*, as recommended by staff ([Exhibit 1.4](#)).

OTHER ADMINISTRATIVE MATTERS

Executive Director’s Report

Approval of Board Meeting date change.

Action: (Motion expunged later in the day.)

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.

The Board recessed at 12:38 p.m. and reconvened immediately in closed session with Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers 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 1:40 p.m. and reconvened immediately in open session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS

Executive Director’s Report (Continued)

Cynthia Bridges, Executive Director, was available to answer questions regarding the proposed change to the August Board Meeting dates in Culver City ([Exhibit 1.5](#)).

Action: Upon motion of Mr. Runner, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that its previous motion regarding approval of proposed Board Meeting dates for August be expunged.

Upon motion of Mr. Runner, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board changed the August 18-20, 2015 Culver City Board Meeting dates to August 25-27, 2015.

Wednesday, January 21, 2015

The Board recessed at 1:42 p.m. and reconvened at 1:56 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

ORGANIZATION OF THE BOARD

Upon motion of Mr. Runner, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board elected Mr. Horton as the Board Chair.

Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board elected Mr. Runner as the Board Vice Chair.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Matthew Zises, 795292
2012, \$8,324.94 Claim for Refund
For Appellant:

James M. Parks, Representative
Jennifer Stookey, Representative
Andrew Amara, Tax Counsel
Fred Campbell-Craven, Tax Counsel

For Franchise Tax Board:

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

Anthony Epolite, Tax Counsel, Appeals Division, Legal Department, stated for the record that the taxpayer conceded the estimated tax penalty.

Issues: Whether the late payment penalty imposed under Revenue and Taxation Code (R&TC) section 19132 should be abated.

Whether the penalty for the underpayment of the estimated tax (estimated tax penalty) should be abated.

Appellant's Exhibit: Miscellaneous ([Exhibit 1.6](#))

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

SALES AND USE TAX APPEALS HEARING

Elias Abdallah Haggar, 597730 (BH)
04/01/08 to 03/31/11, \$13,165.75 Tax, \$1,316.59 Negligence Penalty

For Petitioner: Jeries Y. Tannous, Representative

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

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

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

Whether petitioner was negligent.

Lisa Burke, Business Taxes Specialist, Appeals Division, Legal Department, advised of the revised recommendation of the Appeals Division to reduce the unreported taxable sales by \$22,129, as conceded by the Department.

Wednesday, January 21, 2015

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

The Board recessed at 3:04 p.m. and reconvened at 3:12 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

PROPERTY TAXES MATTERS, ADJUDICATORY

Petition for Reassessment of Private Car Tax

National Railway Equipment Company (6530), 840986
2014, \$11,562.00 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. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board ordered that the petition be granted.

SMBC Rail Services, LLC (6531), 847557

2014, \$3,183,223.00 Assessed 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. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board ordered that the petition be granted.

SALES AND USE TAX APPEALS HEARING

Terravant Wine Company, LLC, 717959 (AR)

01/01/08 to 12/31/11, \$207,915.09 Tax, \$39,023.38 Negligence Penalty

For Petitioner: Matthew B. Andresen, Representative
Steven J. Roth, Attorney

For Sales and Use Tax Department: Andrew Kwee, Tax Counsel

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

Issues: Whether petitioner was required to report and pay use tax on the purchase price of winemaking equipment used under Alternating Proprietor Agreements.

Whether petitioner was negligent.

Action: Upon motion of Ms. Ma, seconded by Ms. Harkey and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton and Ms. Stowers voting no, the Board ordered that the petition be granted.

Wednesday, January 21, 2015

PUBLIC HEARING**Regulation 6001, General Provisions**

Kimberly Willy, Tax Counsel, Settlement & Taxpayer Services Division, Legal Department, made introductory remarks regarding the adoption of proposed amendments to appendices A and B to Regulation 6001 containing the Board's conflict of interest code ([Exhibit 1.7](#)).

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

Action: Upon motion of Mr. Horton, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted the amendments to Regulation 6001 as published.

LEGAL APPEALS MATTERS, CONSENT

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

Adnan Y. Daher and Marlaine B. Daher, 611324 (BH)

07/01/07 to 09/30/10, \$9,011.70 Tax, \$00.00 Penalty

Adnan Y. Daher and Marlaine B. Daher, 611326 (BH)

10/01/07 to 09/30/10, \$5,206.30 Tax, \$00.00 Penalty

Adnan Y. Daher and Marlaine B. Daher, 611328 (BH)

10/01/08 to 09/30/10, \$9,340.86 Tax, \$997.24 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Ideal Hardware Supply, LLC, 592651 (CH)

01/01/07 to 12/31/09, \$33,196.52 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Nawal Kharsa, 649606 (BH)

07/01/08 to 06/30/11, \$49,659.87 Tax, \$4,966.02 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Gwendolyn Carol Sanders-Mohamed and Nagi Ali Mohamed, 646268 (CH)

04/01/09 to 03/31/12, \$16,867.28 Tax, \$1,949.44 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Oak Tree Alternative Care, A California Non-Profit Mutual Benefit Corporation, 597897 (EH)

08/07/09 to 12/31/10, \$316,655.61 Tax, \$79,163.92 Fraud Penalty

Action: Redetermine as recommended by the Appeals Division.

Wednesday, January 21, 2015

Robin R. Reichert, 488855 (BH)

10/01/05 to 06/30/06, \$19,724.66 Tax, \$534.00 Failure-to-File Penalty, \$534.00 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Specialty Merchandise Corp., 605598, 609297 (AR)

07/01/02 to 06/30/05, \$16,690.59 Tax

07/01/08 to 06/30/11, \$6,706.38 Tax

Action: Redetermine as recommended by the Appeals Division.

Layla Solutions, LLC, 842569 (STF)

July 29, 2014 Seizure Date, \$764.28 Approximate Value

Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Fox Meadows Software, LTD.*, 739078; *Camille Mahan*, 785311; and, *Charlotte B. Montgomery*, 807763.

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

Raymond Anderson, 742276

2008, \$2,038.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Nelia R. Casanas, 574417

2006, \$296.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Commercial Financial Services, Inc., 612438

2009, \$1,075.12 Tax, \$226.78 Late Filing Penalty, \$226.78 Demand Penalty, \$104.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board.

Pamela Davis, 709579

2008, \$654.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Stephen Dove, 775223

2009, \$3,601.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Wednesday, January 21, 2015

Fox Meadows Software, LTD., 739078

2010, \$13,403.03 Tax, \$3,350.75 Late Filing Fee, \$3,350.75 Demand Penalty, \$2,000.00
Nonqualified Suspended Forfeited Penalty, \$89.00 Filing Enforcement Fee

Action: The Board took no action.

Mary Anne Gilles, 732200

2004, \$1,440.00 Claim for Refund, \$126.00 Collection Cost Recovery Fee, \$13.00 Lien Fee,
\$20.00 Installment Agreement Fee

Action: Sustain the action of the Franchise Tax Board.

Nakhle Haddad, 772625

1994, \$1,597.69 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Joseph P. Handleman (Dec'd.) and Courtney Callahan, 609157

2007, \$79,838.06 Tax

Action: Sustain the action of the Franchise Tax Board.

Arthur J. Hovind, 671061

2010, \$1,304.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Michael Hulbert and Marlene Hulbert, 735175

2005, \$12,524.00 Tax, \$2,504.80 Accuracy-Related Penalty

2006, \$6,612.00 Tax, \$1,322.40 Accuracy-Related Penalty

2007, \$652.00 Tax

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

J D Rockefeller, Jr. Trust, 768224

2011, \$43,997.75 Claim of Refund

Action: Sustain the action of the Franchise Tax Board.

Camille Mahan, 785311

2009, \$104.00 Tax

Action: The Board took no action.

Allen W. Martin and Rebecca Martin, 740792

2009, \$555.00 Tax

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

Charlotte B. Montgomery, 807763

2012, \$6,230.44 Claim for Refund

Action: The Board took no action.

Wednesday, January 21, 2015

Michelle-Anne Oura, 779209

2006, \$134.55 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Aluizio Prata and Maria T.B. Prata, 808753

2011, \$1,368.19 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Quad State Mobile Trackmasters, 717594

2010, \$5,613.13 Tax, \$1,403.28 Late Filing Fee, \$1,403.28 Demand Penalty, \$89.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board.

Michael Scott, 770891

2011, \$1,352.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Ryan Swedlund, 790629

2009, \$558.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Julian Taylor, 740756

2009, \$2,608.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Ruby Tena, 796199

2011, \$1,300.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Bernard Tse and Grace Tse, 792429

2010, \$5,970.00 Tax, \$1,194.00 Accuracy-Related Penalty

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

Daryl Yodis and Matthew D. Yodis, 756087

2000, \$4,369.00 Tax, \$589.33 Post-Amnesty Penalty

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: Deny the petition for rehearing.

Wednesday, January 21, 2015

Jeffrey A. Foresta, 762692, 763560, 763561
2008, \$4,135.50 Tax, \$1,033.75 Late Filing Penalty, \$1,033.75 Demand Penalty, \$500.00 Frivolous Appeal Penalty
2009, \$768.00 Tax, \$192.00 Late Filing Penalty, \$1,036.25 Demand Penalty, \$500.00 Frivolous Appeal Penalty
2010, \$1,453.00 Tax, \$363.25 Late Filing Penalty, \$363.25 Demand Penalty, \$88.00 Filing Enforcement Penalty, \$500.00 Frivolous Appeal Penalty
Action: Deny the petition for rehearing.

Roosevelt Madison and Paula Madison, 593006
2007, \$176,542.74 Claim for Refund
Action: Deny the petition for rehearing.

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

The Board deferred consideration of the following matters: *Sunspas & Health, Inc., 591936 (KH)* and *Sunspas & Health, Inc., 592655 (KH)*.

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. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Siemens Healthcare Diagnostics, Inc., 779152 (OH)
04/01/09 to 03/31/12, \$510,219.84
Action: Approve the redetermination as recommended by staff.

Varian Medical Systems, Inc., 534962 (GH)
07/01/05 to 06/30/07, \$268,336.36
Action: Approve the redetermination as recommended by staff.

Siemens Financial Services, Inc., 740898 (OH)
04/01/06 to 12/31/09, \$643,861.77
Action: Approve the redetermination as recommended by staff.

Malibu Subway, Inc., 807292 (AS)
01/01/10 to 12/31/12, \$230,572.60
Action: Approve the redetermination as recommended by staff.

Metropark USA, Inc., 586509 (AP)
04/01/08 to 03/31/11, \$104,674.22
Action: Approve the redetermination as recommended by staff.

Wednesday, January 21, 2015

Sunspas & Health, Inc., 591936 (KH)

07/01/07 to 06/30/10, \$29,739.87

Action: The Board took no action.

B.J. International, Inc., 523734 (AP)

10/01/06 to 01/22/09, \$316,286.99

Action: Approve the redetermination as recommended by staff.

B.J. International, Inc., 515472 (AP)

07/01/05 to 09/30/06, \$152,046.11

Action: Approve the redetermination as recommended by staff.

Sunspas & Health, Inc., 592655 (KH)

12/01/07 to 09/16/09, \$4,011.31

Action: The Board took no action.

National Instrument, LLC, 788622 (OH)

08/21/06 to 09/30/11, \$112,662.59

Action: Approve the redetermination as recommended by staff.

Trimedx, LLC, 823061 (OH)

10/01/10 to 09/30/13, \$112,046.64

Action: Approve the redetermination as recommended by staff.

Ralphs Grocery Company, 849946 (OH)

05/25/14 to 08/16/14, \$618,774.10

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

Mrs. Gooch's Natural Food Markets, Inc., 849884 (OH)

07/01/14 to 07/31/14, \$116,289.24

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

Food 4 Less of California, Inc., 849886 (OH)

05/25/14 to 08/16/14, \$147,865.10

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

Windset Farms (California), Inc., 849883 (AR)

01/01/13 to 12/31/13, \$100,306.00

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

LCI Holdings, Inc., 846934 (OH)

10/01/08 to 06/30/12, \$68,531.26

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

Wednesday, January 21, 2015

Siemens Energy, Inc., 623744 (OH)

07/01/08 to 12/31/10, \$1,858,524.08

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

XO Communications Services, Inc., 742766 (OH)

07/01/11 to 09/30/12, \$30,733.11

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

New Cingular Wireless PCS, LLC, 757004 (OH)

07/01/05 to 12/31/09, \$933,235.23

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

Coach, Inc., 849887 (OH)

01/01/14 to 01/31/14, \$17,620.85

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. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Mueller Systems, LLC, 850060 (OH)

10/01/09 to 03/31/12, \$129,414.52

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

L.A. Hair Straightener, Inc., 842634 (AC)

10/01/10 to 03/31/11, \$176,756.75

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

Camacho Auto Sales, Inc., 768615 (SO)

01/01/11 to 03/31/13, \$329,837.45

Action: Approve the refund as recommended by staff.

Toro Petroleum Corporation, 794495 (GH)

10/01/10 to 06/30/14, \$104,369.00

Action: Approve the refund as recommended by staff.

Wells Fargo Bank, National Association, 849024 (OH)

01/01/03 to 12/31/06, \$1,174,436.15

Action: Approve the refund as recommended by staff.

Wednesday, January 21, 2015

Advent Software, Inc., 742772 (BH)

04/01/10 to 09/30/12, \$148,855.00

Action: Approve the refund as recommended by staff.

Selway Machine Tool Co., Inc., 839870 (CH)

10/01/12 to 12/31/12, \$182,610.00

Action: Approve the refund as recommended by staff.

Western Oilfields Supply Co., 736280 (DF)

06/26/11 to 06/25/12 \$119,162.31

Action: Approve the refund as recommended by staff.

Emulex Corporation, 846939 (EA)

04/01/08 to 03/31/11, \$109,405.96

Action: Approve the refund as recommended by staff.

Professional Hospital Supply, Inc., 808054 (EH)

01/01/11 to 12/31/13, \$225,009.00

Action: Approve the refund as recommended by staff.

State of California, 788456 (KH)

10/01/10 to 06/30/13, \$108,217.69

Action: Approve the refund as recommended by staff.

Cerner Corporation, 788451 (OH)

10/01/11 to 12/31/11, \$206,738.43

Action: Approve the refund as recommended by staff.

LCI Holdings, Inc., 846934 (OH)

10/01/08 to 06/30/12, \$250,646.91

Action: Approve the refund as recommended by staff.

Westinghouse Air Brake Technologies Corporation, 792085 (OH)

01/01/09 to 12/31/11, \$155,594.68

Action: Approve the refund as recommended by staff.

BMW of North America, 848873 (OH)

09/02/13 to 10/17/13, \$371,476.60

Action: Approve the refund as recommended by staff.

Skyview Construction Co., 843100 (OH)

07/01/12 to 09/30/13, \$354,630.00

Action: Approve the refund as recommended by staff.

Wednesday, January 21, 2015

Mobile Mini, LLC, 742368 (OH)
01/01/10 to 12/31/12, \$1,175,704.13
Action: Approve the refund as recommended by staff.

Siemens Energy, Inc., 707160 (OH)
04/01/09 to 09/30/11, \$1,525,802.52
Action: Approve the refund as recommended by staff.

Specialty Laboratories, 665533 (OH)
01/01/09 to 12/31/12, \$216,690.28
Action: Approve the refund as recommended by staff.

Lightriver Technologies, Inc., 843103 (CH)
04/01/14 to 06/30/14, \$221,761.00
Action: Approve the refund as recommended by staff.

Broadcom Corporation, 847283 (EA)
04/01/07 to 06/30/10, \$368,055.71
Action: Approve the refund as recommended by staff.

Wescom Credit Union, 812797 (AP)
01/01/11 to 12/31/13, \$115,457.03
Action: Approve the refund as recommended by staff.

XO Communications Services, Inc., 742766 (OH)
07/01/11 to 09/30/12, \$357,233.22
Action: Approve the refund as recommended by staff.

Cal Fuel Purchasing Group, LLC, 730455, (AS)
01/01/10 to 12/31/10, \$2,053,438.67
Action: Approve the refund as recommended by staff.

Eastgate Petroleum, LLC, 845408 (KH)
10/01/10 to 09/30/13, \$159,076.01
Action: Approve the refund as recommended by staff.

GF Wines, LLC, 846144 (JH)
01/01/12 to 12/31/13, \$190,015.78
Action: Approve the refund as recommended by staff.

TGB Products, LLC, 847671 (GH)
04/01/14 to 06/30/14, \$131,243.00
Action: Approve the refund as recommended by staff.

Wednesday, January 21, 2015

Alaska USA Federal Credit Union, 683019 (OH)

04/01/09 to 06/30/12, \$173,500.97

Action: Approve the refund as recommended by staff.

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

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9 in *Anheuser-Busch, Inc., 791951*, the Board made the following orders:

Anheuser-Busch, Inc., 791951 (STF)

09/01/10 to 09/30/10, \$203,912.40

Action: Approve the refund as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

Chemoil Corporation, 811973 (STF)

12/01/13 to 12/31/13, \$201,600.00

Action: Approve the refund as recommended by staff.

**TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION
DISCLOSURE STATUTE****PROPERTY TAX MATTERS****Audits**

Dynergy Moss Landing (1103)

2011, \$9,300,000.00 Excessive Assessment, \$00.00 Penalties, \$3,069,000.00 In-lieu Interest

2010, \$4,900,000.00 Excessive Assessment, \$00.00 Penalties, \$2,058,000.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

La Paloma Generating Company, LLC (1112)

2012, \$12,400,000.00 Excessive Assessment, \$00.00 Penalties, \$2,976,000.00 In-lieu Interest

2011, \$15,300,000.00 Excessive Assessment, \$00.00 Penalties, \$5,049,000.00 In-lieu Interest

2010, \$11,100,000.00 Excessive Assessment, \$00.00 Penalties, \$4,662,000.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

Wednesday, January 21, 2015

Spok, Inc. (3430)

2014, \$50,000.00 Escaped Assessment, \$5,000.00 Penalties, \$3,000.00 In-lieu Interest

2013, \$60,000.00 Escaped Assessment, \$6,000.00 Penalties, \$9,000.00 In-lieu Interest

2012, \$50,000.00 Escaped Assessment, \$5,000.00 Penalties, \$12,000.00 In-lieu Interest

2011, \$60,000.00 Escaped Assessment, \$6,000.00 Penalties, \$19,800.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

Tremcom International, Inc. (7538)

2014, \$173,600.00 Escaped Assessment, \$17,360.00 Penalties, \$10,416.00 In-lieu Interest

2013, \$230,400.00 Escaped Assessment, \$23,040.00 Penalties, \$34,560.00 In-lieu Interest

2012, \$313,500.00 Escaped Assessment, \$31,350.00 Penalties, \$75,240.00 In-lieu Interest

2011, \$397,500.00 Escaped Assessment, \$39,750.00 Penalties, \$131,175.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

Purple Communications, Inc. (7999)

2014, \$440,000.00 Escaped Assessment, \$44,000.00 Penalties, \$26,400.00 In-lieu Interest

2013, \$860,000.00 Excessive Assessment, \$00.00 Penalties, \$00.00 In-lieu Interest

2012, \$470,000.00 Excessive Assessment, \$00.00 Penalties, \$00.00 In-lieu Interest

2011, \$250,000.00 Escaped Assessment, \$25,000.00 Penalties, \$82,500.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

Vodex Communications Corporation (8160)

2014, \$16,000.00 Escaped Assessment, \$1,600.00 Penalties, \$960.00 In-lieu Interest

2013, \$143,000.00 Escaped Assessment, \$14,300.00 Penalties, \$21,450.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

Wednesday, January 21, 2015

Unitary Land Escaped Assessments

Verizon California, Inc. (201)

2012, \$3,303,617.00 Unitary Value

2013, \$3,400,193.00 Unitary Value

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

U.S. TelePacific Corp. (7757)

2012, \$817,600.00 Unitary Value

2013, \$817,600.00 Unitary Value

2014, \$817,600.00 Unitary Value

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Ma, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Offer in Compromise Recommendations of *Nam Van Dang* and *Asiaican, Inc.*; *Cecilia Gomez*; *Marco Antonio Salinas*; and, *SIPS Café, Inc.* as recommended by staff.

CHIEF COUNSEL MATTERS

RULEMAKING

Section 100 Changes

Property Tax Rule 472, *Valuation of Real Property Interests in Timeshare Estates and Timeshare Uses*; Rule 902, *Unitary Property Value Indicators and Staff Discussions*; and, Rule 904, *Unitary and Nonunitary Property Value Determinations and Petitions for Reassessment*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, was available to answer questions regarding staff's request for authorization to complete Section 100 changes to update statutory references in Rules 472, 902, and 904, and to correct a typographical error in Rule 904 ([Exhibit 1.8](#)).

Action: Upon motion of Mr. Runner, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved authorization to make Rule 100 changes updating statutory references in Rules 472, 902, and 904 as recommended by staff.

Wednesday, January 21, 2015

ADMINISTRATIVE SESSION

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Legislative Committee report and the actions therein ([Exhibit 1.9](#)).

Property Tax Committee

Action: Upon motion of Ms. Ma, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Property Tax Committee report and the actions therein ([Exhibit 1.10](#)).

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD JANUARY 21, 2015

Matthew Zises, 795292

Final Action: Ms. Harkey moved to abate the late payment penalty. The motion was seconded by Mr. Runner but failed to carry, Mr. Runner and Ms. Harkey voting yes, Mr. Horton, Ms. Ma, and Ms. Stowers voting no.

Upon motion of Ms. Stowers, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board sustained the action of the Franchise Tax Board.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD JANUARY 21, 2015

Elias Abdallah Haggar, 597730 (BH)

Final Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton and Ms. Stowers voting no, the Board ordered that the negligence penalty be deleted, and that the petition otherwise be redetermined in accordance with the revised recommendation of the Appeals Division.

The Board adjourned at 4:21 p.m.

The foregoing minutes are adopted by the Board on February 24, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Jess Sullivan, 756078; Hanzell Vineyards, Ltd., 576196 (JH) and GMIC Vineyards, LLC, 610170 (JH).*