

Tuesday, August 25, 2015

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:42 a.m., with Mr. Horton, Chairman, Mr. Runner, Vice Chairman, 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 COMMENT

Speaker: William M. Connell, Military Veteran, American Legion Post 49, owner of All American Surf Dog

The Board recessed at 9:50 a.m. and reconvened at 10:48 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Robert H. Lowe and Sheryl L. Berkoff, 571973

2005, \$714,686.00 Assessment, \$178,671.50 Failure to Furnish Information Penalty

For Appellants:

Robert H. Lowe, Taxpayer
Sheryl L. Berkoff, Taxpayer
Carl Williams, Witness
Mark Bernsley, Attorney

For Franchise Tax Board:

Sonia Woodruff, Tax Counsel
Ron Hofsdal, Tax Counsel

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

Issues: Whether appellants have shown that respondent Franchise Tax Board erred in its determination of the basis of real property sold by appellants and the resulting taxable gain.

Whether appellants have established reasonable cause for the abatement of the penalty for the failure to furnish information.

Sonia Woodruff, Tax Counsel, Franchise Tax Board, requested a postponement of the matter.

Action: The Board postponed this matter to the November Culver City Board meeting. Mr. Horton directed staff to confer with the taxpayer as to whether an earlier hearing date in Sacramento would be preferred in order to expedite the matter.

Philip M. Aker, 839858

2010, \$2,201.50 Claim for Refund

For Claimant:

Philip M. Aker, Taxpayer

For Franchise Tax Board:

Joel Smith, Tax Counsel
Fred Campbell-Craven, Tax Counsel

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

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Issue: Whether appellant has shown reasonable cause for failing to reply to the Franchise Tax Board's Demand for Tax Return.

Action: 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 submitted the appeal for decision.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Corner House Coffee, LLC, 605968 (GH)*.

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Harkey, 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:

Richard Patrick Chavira and Sarah Sanchez Chavira, 603249, 813210 (EH)
01/01/07 to 12/31/09, \$129,491.51 Tax, \$683.15 Fraud Penalty, \$50,703.57 Failure-to-Timely-Remit-Collected-Tax Penalty

Richard Patrick Chavira and Sarah Sanchez Chavira, 774803, 813212 (EH)
01/01/10 to 06/30/13, \$463,358.24 Tax, \$115,839.61 Fraud Penalty

Richard Patrick Chavira and Sarah Sanchez Chavira, 461945, 813211 (EH)
10/01/03 to 12/31/06, \$271,401.23 Tax, \$27,140.15 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Corner House Coffee, LLC, 605968 (GH)

04/01/08 to 03/31/11, \$42,180.66 Tax

Action: The Board took no action.

Jong Hwan Shon, 730957 (AP)

10/01/09 to 06/30/12, \$5,561.19 Tax, \$00.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Young & Jean, Inc., 573483 (AS)

04/01/08 to 06/30/10, \$8,582.35 Tax

Action: Redetermine as recommended by the Appeals Division.

Ron Schumaker, 734444, 734445 (STF)

04/01/06 to 09/30/08, \$722.00 Tax, \$72.20 Finality Penalty

04/01/06 to 09/30/08, \$161.00 Tax, \$16.10 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Mary Jane's Novelties, Inc., 878282 (STF)

February 26, 2015 Seizure Date, \$2,354.43 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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Sarkis Wakimian, 879183 (STF)
April 30, 2015 Seizure Date, \$325.74 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Shafiq Ahmad, 870103 (STF)
March 16, 2015 Seizure Date, \$158.00 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 Ms. Harkey, 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:

Steven Moore, 848349
2010, \$486.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Carl S. Kovalik and Susan Kovalik, 792770
2007, \$58,290.00 Tax
2008, \$49,995.00 Tax
2009, \$35,665.00 Tax
2010, \$27,746.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Brian M. Brisco, 722289
2008, \$3,069.03 Tax
Action: Sustain the action of the Franchise Tax Board.

David Chu, 800103
2009, \$329.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Robert J. Conover, 815447
2009, \$7,028.00 Tax
Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Mayra Ivonne Delaserda, 779167
2009, \$2,046.00 Tax, \$409.20 Accuracy-Related Penalty
Action: Sustain the action of the Franchise Tax Board.

Stephanie Gibbons, 800679
2008, \$136.25 Claim for Refund, \$170.00 Cost Recovery Fee
2009, \$18,791.75 Claim for Refund, \$154.00 Cost Recovery Fee
Action: Sustain the action of the Franchise Tax Board.

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Lily Hovanesyan, 838088

2012, \$1,633.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Christy J. Kohlenberger, 790940

2009, \$504.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Larry Martin and Raquel Bech, 846920

2012, \$98.64 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Merced House 7, LLC, 838660

2010, \$5,400.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Raul G. Navarrete, 841610

2010, \$522.17 Tax

Action: Sustain the action of the Franchise Tax Board.

Chris Nguyen, 838006

2009, \$2,889.82 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jeanine Robert, 612642

2006, \$3,222.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

SF Holding Petro, Ltd., 811483

2004, \$17,073.68 Tax, \$3,414.74 Accuracy-Related Penalty

2005, \$9,559.51 Tax, \$1,911.90 Accuracy- Related Penalty

2006, \$11,901.00 Tax, \$2,380.00 Accuracy- Related Penalty

2007, \$10,744.86 Tax, \$2,148.97 Accuracy-Related Penalty

2008, \$9,179.21 Tax, \$1,835.84 Accuracy-Related Penalty, \$2,294.80 Failure to Furnish Penalty

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

Steven R. Shannon, 842641

2006, \$2,101.00 Tax

2007, \$2,046.00 Tax

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

Mary J. Smith, 735737

2008, \$2,423.00 Assessment

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

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Christopher M. Thompson and Marsha Thompson, 593512
2002, \$7,416.00 Tax, \$1,777.75 Late Filing Penalty, \$445.64 Post-Amnesty Penalty
Action: Sustain the action of the Franchise Tax Board.

Fang Tian, 845251
2009, \$1,419.00 Tax, \$283.80 Accuracy-Related Penalty, \$354.75 Late Filing Penalty
2010, \$1,651.00 Tax, \$330.20 Accuracy-Related Penalty
Action: Sustain the action of the Franchise Tax Board.

Kenneth R. Trotter and Katherine A. Trotter, 842564
2010, \$3,325.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Mark Vampola and Irma T. Vampola, 837039
2010, \$499.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Timothy J. Washburn and Karla Washburn, 842008
2010, \$1,666.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Unified Precious Metals, Inc., 606172
2000, \$265,389.14 Assessment, \$292,283.88 Penalty
Action: Deny the petition for rehearing.

Millennium Dental Technologies, Inc., 747501
2008, \$116,445.00 Assessment
Action: Deny the petition for rehearing.

SALES AND USE TAX MATTERS, REDETERMINATIONS AND RELIEF OF PENALTIES, CONSENT

With respect to the Sales and Use Tax Matters, Redeterminations and Relief of Penalties, Consent Agenda, upon a single motion of Ms. Harkey, 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:

Haemonetics Corporation, 808029 (OH)
07/01/08 to 09/30/11, \$298,514.03
Action: Approve the redetermination as recommended by staff.

JM Restaurant Group, Inc. 625792 (AC)
10/01/04 to 12/31/07, \$438,817.99
Action: Approve the redetermination as recommended by staff.

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Ramzi Sami Faraj and Mary Ramzi Faraj, 797358 (CH)

07/01/10 to 12/31/13, \$182,429.44

Action: Approve the redetermination as recommended by staff.

North American Power Systems Solar, 786963 (OH)

10/01/09 to 06/30/12, \$678,609.05

Action: Approve the redetermination as recommended by staff.

Unistrut International Corp., 847608 (OH)

07/01/09 to 06/30/12, \$194,092.32

Action: Approve the redetermination s recommended by staff.

Miltenyi Biotec, Inc., 876613 (KH)

08/01/14 to 08/31/14, \$429.59

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

George Michael Sasko, 876615 (GH)

02/01/15 to 02/28/15, \$70.40

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

CIDIB, Inc., 876617 (AR)

10/01/14 to 10/31/14, \$106.38

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

Bloom Energy Corporation, 876616 (GH)

01/01/15 to 03/31/15, \$9,108.52

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

National Business Furniture, LLC, 876618 (OH)

01/01/15 to 03/31/15, \$417.09

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

Kyle Smith Anderson, 876614 (OH)

01/01/15 to 01/31/15, \$96.71

Action: Approve the relief of penalty 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. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Life-Tech, Inc., 874355 (OH)

01/01/11 to 03/31/13, \$282,152.39

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

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AGFA II Acquisition Corp., 873777 (OH)

10/01/11 to 03/31/12, \$512,766.95

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

M B E Digital, Inc., 874058 (AP)

07/18/12 to 02/20/13, \$119,721.72

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

Hanson Structural Precast, 849894 (CH)

07/01/11 to 06/30/12, \$113,947.95

Action: Approve the refund as recommended by staff.

Chevron U.S.A., Inc., 822552 (CH)

10/01/12 to 03/31/14, \$2,748,459.56

Action: Approve the refund as recommended by staff.

Computer Sciences Corporation, 875825 (OH)

04/01/03 to 03/31/06, \$205,386.19

Action: Approve the refund as recommended by staff.

Hoehn Motors, Inc., 714102 (FH)

10/01/09 to 03/31/14, \$190,107.32

Action: Approve the refund as recommended by staff.

Maxim Integrated Products, Inc., 854433 (OH)

01/01/11 to 12/31/13, \$291,647.56

Action: Approve the refund as recommended by staff.

Unilab Corporation, 810359 (OH)

01/01/11 to 12/31/11, \$105,265.87

Action: Approve the refund as recommended by staff.

Biochain Institute, Inc., 871596 (CH)

01/01/15 to 03/31/15, \$136,431.00

Action: Approve the refund as recommended by staff.

Elixir Medical Corporation, 779192 (GH)

04/01/11 to 03/31/13, \$113,454.94

Action: Approve the refund as recommended by staff.

Cal Fuel Purchasing Group, LLC, 730455 (AS)

04/01/10 to 09/30/10, \$105,371.15

Action: Approve the refund as recommended by staff.

Home Acceptance Corporation, 825129 (EA)

01/01/11 to 12/31/14, \$190,426.00

Action: Approve the refund as recommended by staff.

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Foundation Building Materials, LLC, 850068 (EA)

04/01/14 to 06/30/14, \$115,174.00

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 *Employers Compensation Insurance Company, 733438 (STF)*; *Ford Motor Company, 804074 (STF)*; *Hartford Underwriters Insurance Company, 805158 (STF)*; *Hartford Casualty Insurance Company, 805160 (STF)*; *Hartford Fire Insurance Company, 805163 (STF)*; *Hartford Insurance Company of the Midwest, 805165 (STF)*; *Hartford Accident & Indemnity Company, 805168 (STF)*; *Sentinel Insurance Company, Ltd., 805173 (STF)*; *Twin City Fire Insurance Company, 805174 (STF)*; *Trumbull Insurance Company, 805175 (STF)*; *Property & Casualty Insurance Company of Hartford, 805176 (STF)*; and *USAA Life Insurance Company, 822747 (STF)*, the Board made the following orders:

ExxonMobil Oil Corporation, 641551(STF)

04/01/01 to 06/30/09, \$104,345.56

Action: Approve the refund as recommended by staff.

Employers Compensation Insurance Company, 733438 (STF)

01/01/09 to 12/31/11, \$1,020,308.00

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

Ford Motor Company, 804074 (STF)

07/01/11 to 03/31/15, \$1,338,817.63

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

Hartford Underwriters Insurance Company, 805158 (STF)

01/01/09 to 12/31/12, \$2,092,463.00

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

Hartford Casualty Insurance Company, 805160 (STF)

01/01/09 to 12/31/12, \$2,422,427.00

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

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Hartford Fire Insurance Company, 805163 (STF)

01/01/09 to 12/31/12, \$1,852,130.00

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

Hartford Insurance Company of the Midwest, 805165 (STF)

01/01/09 to 12/31/12, \$1,125,218.00

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

Hartford Accident & Indemnity Company, 805168 (STF)

01/01/09 to 12/31/12, \$740,721.00

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

Sentinel Insurance Company, Ltd., 805173 (STF)

01/01/09 to 12/31/12, \$1,024,321.00

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

Twin City Fire Insurance Company, 805174 (STF)

01/01/09 to 12/31/12, \$989,386.00

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

Trumbull Insurance Company, 805175 (STF)

01/01/09 to 12/31/12, \$111,978.00

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

Property & Casualty Insurance Company of Hartford, 805176 (STF)

01/01/09 to 12/31/12, \$234,125.00

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

USAA Life Insurance Company, 822747 (STF)

01/01/10 to 12/31/12, \$545,492.00

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

LEGAL APPEALS MATTERS, ADJUDICATORY

Shym Corp., 611317 (KH)

07/01/07 to 06/30/10, \$58,678.30 Tax, \$5,867.84 Negligence Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

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

AA Rancho, Inc., 569479 (FH)

06/17/05 to 03/31/08, \$144,650.31 Tax, \$14,465.03 Negligence Penalty

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. 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.

Upon 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 ordered that no further adjustments be made in the administrative protest as recommended by the Appeals Division.

Bharwani Corp., 740667 (DF)

01/01/10 to 12/31/12, \$60,004.74 Tax, \$6,165.37 Negligence Penalty

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. 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.

Upon 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 ordered that the petition otherwise be redetermined as recommended by the Appeals Division.

Haja, LLC, 674641 (AS)

10/01/08 to 07/13/12, \$40,575.58, \$4,149.61 Negligence Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

Action: The Board deferred the matter to a later date.

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

ConAgra Foods, Inc., 597512, 785058, 799162

2004, \$764,350.0 Claim for Refund

2005, \$ 1,535,460.00 Assessment

2006, \$2,113,238.00 Claim for Refund

Considered by the Board: May 28, 2015 Summary Decision (Rev. & Tax. Code, § 40)

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

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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 adopted the written summary decision as presented by staff.

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

USN Television Group, Inc., 876588 (AC)

04/01/06 to 04/23/07, \$492,534.04

Considered by the Board: August 25, 2015

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

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 credit and cancellation as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: 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 approved the Offer in Compromise Recommendations of *John Curtis Benjamin* and *The Fine Irishman, LLC*; *David Raymond Bindel* and *The Old Bath House, Inc.*; *Joni Putrus Jamo*; *Esther Karvelas*; *Ali Mottaghi* and *Mottaghi, Inc.*; *Trung Thanh Ngo*; *Reid Industrial Supply Company, Inc.*; and *Sharon Schlesinger* and *Boku Mangos, Inc.*; as recommended by staff.

CHIEF COUNSEL MATTERS

RULEMAKING

Petition to amend Sales and Use Tax Regulation 1525.4, *Manufacturing and Research & Development Equipment*

Robert Tucker, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the petition to amend Regulation 1525.4 to add clarifying language so that taxpayers may substantiate the useful life qualification by reference to warranties, maintenance agreements or industry replacement standards ([Exhibit 8.2](#)).

Speakers: Therese Twomey, Fiscal Policy Director, California Taxpayers' Association

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and duly carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers voting no, the Board granted the petition and authorized publication of the amendments to Regulation 1525.4.

Exhibits to these minutes are incorporated by reference.

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ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single 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 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 8.3](#)).

Belinda Baltazar, Business Tax Representative, Centralized Collection Section,
Sales and Use Tax Department, Norwalk District Office
Irvin J. Cooke, Supervising Tax Auditor III, Sales and Use Tax Department, New
York Out-of- State District Office
Suzanne Cuckovich, Tax Technician III, Return Analysis Unit, Headquarters
Felisa P. Ibay, Supervising Tax Auditor II, Sales and Use Tax Department, New
York, Out-of- State District Office
Sherilyn "Sheri" Larsen, Staff Services Manager I, External Affairs Department,
Headquarters
Virginia Torres, Tax Technician III, Irvine District Office

Action: Approve proposed revision to Compliance Policy and Procedures Manual (CPPM) Chapter 9, *Miscellaneous* ([Exhibit 8.4](#)).

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

Cynthia Bridges, Executive Director, provided the 2016 Board Workload Plan, which consists of the 2016 Board meeting calendar, annual property tax calendars, and significant dates considered in setting Board meeting dates for approval ([Exhibit 8.5](#)).

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 approved the 2016 Board Workload Plan as presented by staff.

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

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Administration Deputy Director's Report

Edna B. Murphy, Deputy Director, Administration Department, presented the following 2016/17 Budget Change Proposals (BCPs) for the Board's direction and approval for inclusion in the Governor's fiscal year 2016/17 budget: *Permanent Establishment of Fire Prevention Fee Limited-Term Positions; Appeals Division's Business Taxes Program and Settlement Workload; Joint Operations Center – Ensuring Fuel Tax Compliance; Transition of Contracted Security Guards to State Civil Service Employees; and, Headquarters Facility Consolidation*; ([Exhibit 8.6](#)).

The matter was continued later in the day.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 12:00 p.m. and reconvened immediately in closed session with Mr. Horton, 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 1:06 pm. and reconvened immediately in open session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Administration Deputy Director's Report (continued)

Action: Upon motion of Ms. Harkey, seconded by Ms. Stowers and duly carried, Mr. Horton, Ms. Harkey and Ms. Stowers voting yes, Ms. Ma voting no, Mr. Runner abstaining, the Board approved the 2016/17 BCP *Headquarters Facility Consolidation*, as recommended by staff ([Exhibit 8.7](#)).

Action: Upon motion of Ms. Stowers, seconded by Ms. Ma and unanimously carried, Mr. Horton, Ms. Ma and Ms. Stowers voting yes, Mr. Runner and Ms. Harkey abstaining, the Board approved the 2016/17 BCP *Permanent Establishment of Fire Prevention Fee Limited-Term Positions*, as recommended by staff ([Exhibit 8.8](#)).

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 the 2016/17 BCPs: *Appeals Division's Business Taxes Program and Settlement Workload* ([Exhibit 8.9](#)); *Joint Operations Center – Ensuring Fuel Tax Compliance* ([Exhibit 8.10](#)); and, *Transition of Contracted Security Guards to State Civil Service Employees* ([Exhibit 8.11](#)), as recommended by staff.

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**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARINGS HELD AUGUST 25, 2015**

Matthew G. Krane, 813532

2007, \$6,328.45 Claim for Refund

2008, \$479.63 Claim for Refund

For Claimant:

No Appearance

For Franchise Tax Board:

Marguerite Mosnier, Tax Counsel

Fred Campbell-Craven, Tax Counsel

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

Issues: Whether appellant has shown that his claim for refund should be granted.

Whether appellant has shown reasonable cause for failing to timely file his 2007 and 2008 tax returns.

Whether appellant has shown that the collection cost recovery fee and the lien fee should be abated.

Whether appellant has shown that interest should be abated.

Action: Upon motion of Ms. Harkey, seconded by Ms. Stowers 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.

Philip M. Aker, 839858

Final Action: Ms. Harkey moved to reverse the action of the Franchise Tax Board. The motion was seconded by Mr. Runner but failed to carry, Ms. Harkey and Mr. Runner voting yes, Mr. Horton, Ms. Ma, and Ms. Stowers voting no.

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 sustained the action of the Franchise Tax Board.

The Board recessed at 1:10 p.m.

The foregoing minutes are adopted by the Board on October 27, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Boong Cha and Eunhee Cha, 850287; California Restaurant Authority, Inc., 485060 (AC); and Joseph W. Valva and Marilyn K. Valva, 719017.*

Wednesday, August 26, 2015

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:32 a.m., with Mr. Horton, Chairman, Mr. Runner, Vice Chairman, Ms. Ma and Ms. Harkey present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

James Paul Flores and Lydia Pimentel Flores, 585502 (FH)

07/01/05 to 12/31/09, \$52,588.42 Tax, \$14,407.33 Fraud Penalty

For Petitioners:

James Paul Flores, Taxpayer

Lydia Pimentel Flores, Taxpayer

Gregory T. Highnote, Representative

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 there is clear and convincing evidence to support the assertion of a penalty for fraud or intent to evade the tax.

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 ordered that the petition be submitted for decision.

The Board recessed at 10:55 a.m. and reconvened at 11:09 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Wing Sang, Inc., 614232

01/01/09 to 09/30/11, \$64,913.82 Tax, \$00.00 Negligence Penalty

For Petitioner:

Marc Brandeis, Representative

Greg Reynolds, Representative

Phillip Thong, Representative

Bill Wang, 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 are warranted to the amount of unreported taxable sales.

Action: Upon motion of Ms. Harkey, seconded by Ms. Stowers 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.

Wednesday, August 26, 2015

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
AUGUST 26, 2016**

James Paul Flores and Lydia Pimentel Flores, 585502 (FH)

Final Action: Ms. Harkey moved that the fraud penalty be deleted, and that the petition otherwise be redetermined as recommended by the Appeals Division. Ms. Harkey offered an amendment that the fraud penalty be reduced to negligence. The amended motion was seconded by Mr. Runner. Ms. Harkey withdrew her amended motion.

Upon motion of Ms. Harkey, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Wing Sang, Inc., 614232

Final Action: Upon motion of Ms. Harkey, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the petition be granted as to the remaining amounts in dispute and the tax be redetermined accordingly.

Shri Ranchhod Corporation, 771276, 775263 (EH)

01/01/10 to 06/30/13, \$178,863.89 Tax, \$118,450.00 Claim for Refund, \$17,886.43 Negligence Penalty

For Petitioner/Claimant: Waived Appearance

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 audited understatements of reported taxable sales.

Whether petitioner was negligent.

Action: Upon 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 ordered that the petition be redetermined as recommended by the Appeals Division.

The Board adjourned at 12:30 p.m.

The foregoing minutes are adopted by the Board on October 27, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Gabriel Behjohnasghary, 620334; Jalidat Incorporated, 476422; Farshad Aghai Tafti, 573679; Richard York, 56321; and, Grace Fernandez, 727094 and Executive Luxury Auto Sales, Inc., 727095.*