

Tuesday, October 27, 2015

The Board met at its offices at 450 N Street, Sacramento, at 10:03 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 Randy Ferris, Chief Counsel.

The Board recessed at 10:04 a.m. and reconvened at 10:08 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee present.

**BOARD MEMBER ANNUAL PHOTOGRAPH**

The annual Board photograph was taken.

**ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 10:14 a.m. and reconvened immediately in closed session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee 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 12:55 p.m. and reconvened immediately in open session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee present.

Mr. Horton announced the appointment of David Yeung to the position of Chief, County-Assessed Properties Division, Property Tax Department.

The Board recessed at 12:56 p.m. and reconvened at 2:00 p.m. with Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

**SPECIAL PRESENTATION**

Cynthia Bridges, Executive Director, presented the Disability Advisory Committee (DAC) of the Year Award from the Association of California State Employees with Disabilities (ACSED) and Statewide Disability Advisory Council (SDAC).

Members made complimentary remarks.

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**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**

Patrick T. Ellwood and Denise A. Ellwood, 856517

2010 \$37,991.51 Claim for Refund

For Appellants:

David J. Bowie, Attorney

For Franchise Tax Board:

Eric Yadao, Tax Counsel

Mary Yee, Tax Counsel, Tax Counsel

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

Issues: Whether appellants have shown reasonable cause for the late filing of their tax return.

Whether appellants have shown that they are entitled to interest abatement.

Action: Upon motion of Ms. Ma, seconded by Ms. Stowers 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**

Valeriy Popov, 790387 (UT)

01/30/13, \$1,440.00 Tax, \$00.00 Negligence Penalty

Nikolay Lomov, 781912 (UT)

02/08/13, \$1,120.00 Tax, \$00.00 Negligence Penalty

For Petitioners:

Nadezhda Solovyeva, Representative

Vladimir Kofeynikov, Representative

For Sales and Use Tax Department:

Kevin Smith, Tax Counsel

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

Issue: Whether petitioner's purchase and use of the vehicle in California is subject to use tax.

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 petition be submitted for decision.

**PUBLIC HEARING****Proposed Adoption of Amendments to Sales and Use Tax Regulation 1619, Foreign Consuls**

Monica Silva, Tax Counsel, Tax & Fee Programs Division, Legal Department, and Bradley Heller, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding proposed amendments to make the regulation consistent with current federal law regarding exempt sales to foreign missions, representative offices, their employees and their dependents ([Exhibit 10.1](#)).

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

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 adopted the amendments to Regulation 1619, as published.

Exhibits to these minutes are incorporated by reference.

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**SPECIAL PRESENTATION (CONTINUED)**

Lavern Bush, Chairperson of Disability Advisory Committee (DAC) spoke on behalf of the recipients on the 2015 DAC of the Year Award. The award represents the goals and accomplishments of representing the Board employees with disabilities which includes giving the employees the proper education of their rights under the American Disability Act.

Members gave their congratulations and expressed their appreciation to the award recipients.

**LEGAL APPEALS MATTERS, CONSENT**

The Board deferred consideration of the following matter: *Jacek Pasternak, 493152, 526562 (CH)*.

With respect to the Legal Appeals Matters Consent Agenda, upon a single 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 made the following orders:

**Elite Vision Auto Glass, Inc., 743661 (KH)**

04/01/10 to 11/25/11, \$41,778.49 Tax, \$4,177.86 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

**Commemorative Air Force, 790825 (AR)**

11/23/11, \$48,098.46 Tax

Action: Redetermine as recommended by the Appeals Division

**Wanda Althia James, 715577 (JH)**

01/01/05 to 12/31/08, \$48,074.89 Tax, \$11,304.21 Negligence Penalty, \$11,835.66 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

**Jacek Pasternak, 493152, 526562 (CH)**

04/01/07 to 12/31/07, \$24,384.26 Tax, \$8,518.90 Late Payment Penalty

04/01/05 to 06/30/08, \$42,836.75 Tax, \$4,283.19 Negligence Penalty, \$4,283.19 Finality Penalty

Action: The Board took no action.

**Work of Art Catering, Inc., 779782 (BH)**

01/01/11 to 06/30/13, \$18,199.00 Tax

Action: Redetermine as recommended by the Appeals Division.

**Mohinder Singh Nahal, 888905 (STF)**

May 6, 2015 Seizure Date, \$265.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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

The Board deferred consideration of the following matter: *Michael J. Bills and Mary E. Bills, 610028, 782397.*

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single 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 made the following orders:

Aaron Baker, 843082

2012, \$626.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Centennial Park TIC 01, LLC, 625005

2009, \$800.00 Tax

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

Glen Cockrell and Ella Cockrell, 762687

2009, \$395.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Robert Concepcion and Lourdes Concepcion, 837566

2010, \$3,740.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Jason Cox, 796424

2009, \$625.00 Tax

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

John P. Gillaspay, 792263

2011, \$1,339.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Robert Douglas Greenfield and Moray J. Koontz, 850633

2010, \$7,974.00 Tax

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

Joseph John Grijalva, Jr., 844702

2012, \$1,722.00 Tax

Action: Sustain the action of the Franchise Tax Board.

M K Machine Tool, 849471

2007, \$800.00 Claim for Refund

2008, \$800.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Manuel Martinez, 809264

2010, \$2,060.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Mary Ellen McDonnell, 850763

2012, \$1,316.40 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Erik B. McKenney and Brenda A. McKenney, 795439

2007, \$223.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Naoki Oshima, 742173

2007, \$41,916.00 Claim for Refund

Action: Dismiss for lack of jurisdiction.

Brent G. Scott and Monica L. Scott, 817234

2008, \$192.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Meyer M. Soroudi and Judith L. Soroudi, 840263

1998, \$19,705.00 Tax, \$4,796.69 Post-Amnesty Penalty

1999, \$1,325.00 Tax, \$251.26 Post-Amnesty Penalty

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

TCMC Incorporated, 848263

2010, \$7,205.74 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jose G. Tupas, Jr., 805062

2002, \$9,516.24 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ana Bertha Vasquez, 848289

2012, \$449.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Jennifer Zolak, 848491

2012, \$1,722.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Michael J. Bills and Mary E. Bills, 610028, 782397

2005, \$553,799.00 Tax

2006, \$784,599.00 Tax

2007, \$931,712.00 Tax

2008, \$981,802.00 Tax

2009, \$525,369.00 Tax

Action: The Board took no action.

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Patrick Missud, 845292

2012, \$7,118.00 Tax, \$1,779.50 Late Filing Penalty, \$1,779.50 Notice and Demand Penalty, \$78.00 Filing Enforcement Fee

Action: Deny the petition for rehearing.

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

With respect to the Sales and Use Tax Matters, Redeterminations, Denials of Claims for Refund, and, Grant-One Day Interest Relief, 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:

Michael Arkin, 496825 (AA)

07/01/05 to 06/12/06, \$334,039.28

Action: Approve the redetermination as recommended by staff.

Bed Bath &amp; Beyond of California, 715852 (OH)

04/01/07 to 09/30/10, \$407,438.72

Action: Approve the redetermination as recommended by staff.

Caloil 1, Inc., 796028 (AS)

04/01/08 to 03/31/11, \$113,252.59

Action: Approve the redetermination as recommended by staff.

FieldTurf USA, Inc., 799655 (OH)

07/01/11 to 12/31/13, \$165,157.23

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

Morgan Stanley Smith Barney Financing, LLC, 575729 (OH)

07/01/09 to 03/31/12, \$507,440.72

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

California Automotive Retailing Group, Inc., 909167 (CH)

04/01/15 to 04/30/15, \$3,504.51

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

Autobahn West Enterprises, Inc., 909168 (FH)

04/01/15 to 04/30/15, \$67.70

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

Hyphenet, Inc., 909171 (FH)

05/01/15 to 06/15/15, \$99.03

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

Dakshin Indian Restaurant, LLC, 909174 (GH)

05/01/15 to 06/15/15, \$92.70

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

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TDI Auto Group, Inc., 909173 (CH)

04/01/15 to 04/30/15, \$1,303.26

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

Sunstone Park Lessee, LLC, 909175 (FH)

05/01/15 to 06/15/15, \$1,606.53

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

Bhullars Food, Inc., 909177 (KH)

05/01/15 to 06/15/15, \$17.65

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. Stowers, 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:

HDOS Enterprises, 900981 (FH)

10/01/14 to 12/16/14, \$105,615.88

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

M1 Auto Services, 553425 (EA)

10/01/06 to 12/31/07, \$598,198.67

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

Zohar Ziv, 476970 (GH)

01/01/97 to 08/31/00, \$683,719.04

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

Craig Robert Hansen, 518238 (EH)

07/01/08 to 09/30/08, \$314,184.44

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

Westgroup Portofino Ptn., Inc., 871593 (AS)

01/01/15 to 03/31/15, \$204,598.91

Action: Approve the refund as recommended by staff.

International Medication Systems, Ltd., 808666 (AP)

01/01/14 to 03/31/14, \$134,396.99

Action: Approve the refund as recommended by staff.

Sutter East Bay Hospitals, 605719 (CH)

04/01/09 to 12/31/11, \$135,421.66

Action: Approve the refund as recommended by staff.

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Fletcher Jones Motor Cars, Inc., 860212 (EA)  
07/01/13 to 12/31/14, \$162,441.72  
Action: Approve the refund as recommended by staff.

Novellus Systems, Inc., 859787 (GH)  
10/01/11 to 12/31/11, \$207,648.30  
Action: Approve the refund as recommended by staff.

Century Theatres, Inc., 839476 (OH)  
10/01/12 to 12/31/13, \$2,763,330.80  
Action: Approve the refund as recommended by staff.

Cinemark USA, Inc., 839478 (OH)  
10/01/12 to 12/31/13, \$1,335,027.14  
Action: Approve the refund as recommended by staff.

BMW of North America, 887110 (OH)  
08/13/14 to 10/27/14, \$261,654.83  
Action: Approve the refund as recommended by staff.

BMW of North America, 887112 (OH)  
06/04/14 to 09/02/14, \$1,047,556.99  
Action: Approve the refund as recommended by staff.

BMW of North America, 908054 (OH)  
09/04/12 to 10/07/14, \$1,016,778.30  
Action: Approve the refund as recommended by staff.

Scaled Composites, LLC, 875217 (UT)  
02/16/12 to 02/16/12, \$3,056,349.15  
Action: Approve the refund as recommended by staff.

Arris Technology, Inc., 861511 (OH)  
10/01/12 to 09/30/14, \$153,140.18  
Action: Approve the refund as recommended by staff.

Equilon Enterprises, LLC, 118730 (OH)  
01/01/99 to 03/31/99, \$4,708,687.93  
Action: Approve the refund as recommended by staff.

Siemens Energy, Inc., 609311 (OH)  
01/01/09 to 12/31/11, \$184,328.49  
Action: Approve the refund as recommended by staff.

Schneider Electric IT USA, Inc., 801777 (OH)  
01/01/11 to 12/31/13, \$1,652,641.97  
Action: Approve the refund as recommended by staff.



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FieldTurf USA, Inc., 799655 (OH)

07/01/11 to 12/31/13, \$209,362.05

Action: Approve the refund as recommended by staff.

Health Net of California, Inc., 901590 (AR)

01/01/02 to 12/31/06, \$155,944.34

Action: Approve the refund as recommended by staff.

Americredit Financial Service, Inc., 871597 (OH)

10/01/14 to 03/31/15, \$1,020,421.00

Action: Approve the refund as recommended by staff.

Harmonic, Inc., 601344 (GH)

04/01/08 to 06/30/11, \$799,071.80

Action: Approve the refund as recommended by staff.

Redrock Security & Cabling, Inc., 882406 (EA)

07/01/11 to 06/30/14, \$237,663.82

Action: Approve the refund as recommended by staff.

Abbott Diabetes Care, Inc., 661839 (OH)

10/01/09 to 12/31/09, \$763,648.59

Action: Approve the refund as recommended by staff.

CIG Financial, 559366 (EA)

07/01/09 to 06/30/11, \$276,241.70

Action: Approve the refund as recommended by staff.

Infinera Corporation, 836295 (GH)

10/01/12 to 03/31/14, \$105,950.11

Action: Approve the refund as recommended by staff.

Medcal Sales, LLC, 862171 (EH)

01/01/14 to 03/31/15, \$127,993.00

Action: Approve the refund as recommended by staff.

Discover Bank, 570588 (OH)

01/01/08 to 12/31/08, \$198,034.25

Action: Approve the refund as recommended by staff.

Sunpower Corporation, Systems, 594629 (CH)

10/01/10 to 03/31/13, \$2,205,316.12

Action: Approve the refund as recommended by staff.

Mission Federal Credit Union, 731234 (FH)

01/01/10 to 12/31/11, \$356,628.74

Action: Approve the refund as recommended by staff.

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Carefusion Manufacturing, LLC, 795669 (OH)

07/01/08 to 06/30/13, \$1,879,942.10

Action: Approve the refund as recommended by staff.

VEO, Inc., 882909 (BH)

10/01/10 to 12/31/13, \$106,846.60

Action: Approve the refund as recommended by staff.

Morgan Stanley Smith Barney Financing, LLC, 575729 (OH)

07/01/09 to 03/31/12, \$169,263.11

Action: Approve the refund as recommended by staff.

Nonobject, 847226 (GH)

01/01/11 to 12/31/13, \$107,631.03

Action: Approve the refund as recommended by staff.

**SPECIAL TAXES MATTER, RELIEF OF INTEREST, CONSENT**

With respect to the Special Taxes Matters, Relief of Interest, 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 order:

CS Norco 0020, LLC, 570303 (STF)

04/01/01 to 12/31/08, \$84,308.92

Action: Approve the relief of interest 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 Mr. Runner 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 made the following order:

SEI Fuel Services, Inc., 849819 (STF)

07/01/14 to 07/31/14, \$429,537.76

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

**PROPERTY TAXES MATTERS, CONSENT**

With respect to the Property Taxes Matters, Consent Agenda, upon a single 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 made the following orders:

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**Petitions for Reassessment of Unitary Value**

Lodi Gas Storage, LLC (198), 900991

2015, \$136,000,000.00 Unitary Value

Action: Reduce the 2015 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

Pacific Bell Telephone Company (279), 900302

2015, \$6,395,800,000.00 Unitary Value

Action: Reduce the 2015 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

Zayo Group, LLC (7778), 901603

2015, \$226,600,000.00 Unitary Value

Action: Reduce the 2015 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

**Petitions for Penalty Abatement on Unitary Value**

Cbeyond Communications, LLC (8049), 903782

2015, \$377,000.00 Penalty

Action: Approve the penalty abatement on 2015 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

Central California Traction Company (818), 888120

2015, \$775,000.00 Penalty

Action: Approve the penalty abatement on 2015 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

MegaPath Corporation (7706), 903023

2015, \$1,600,000.00 Penalty

Action: Approve the penalty abatement on 2015 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

**Petition for Reassessment and Penalty Abatement on Unitary Value**

OpticAccess, LLC (8150), 901638

2015, \$6,090,000.00 Unitary Value, \$609,000.00 Penalty

Action: Approve the reassessment and penalty abatement on 2015 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

**LEGAL APPEALS MATTERS, ADJUDICATORY**

Duong Family Investment, Inc., 867934 (STF)

March 2, 2015 Seizure Date, \$1,037.92 Approximate Value

Considered by the Board: July 28, 2015

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

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 determined that staff properly seized the tobacco products.

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Truck Insurance Exchange, 240627 (STF)

01/01/00 to 12/31/00, \$1,057,500.00 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: Upon motion of Mr. Runner, seconded by Ms. Ma and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton voting no, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the written summary decision as presented by staff.

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

Joseph W. Valva and Marilyn K. Valva, 719017

Action: The Board deferred the matter to later in the day.

### **TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**

#### **OFFER-IN-COMPROMISE RECOMMENDATIONS**

Action: 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 approved the Offer in Compromise Recommendations of *Bayan Mosadek Alattar; Scott Francis Armstrong; Lewis Lavell Canyon; Cornerstone Partnership, LLC; Zubair I. Hansia; Fernando A. Hernandez; J C Wright, Inc.; Ragaey Tobia Estefan and Samia Samy Sous; Arsen Kirakosyan and ADAK, Inc.; Akbar A. Matani; Mc Neely Investments, Inc.; Maria Rosa Milos; Dani Fouad Mokdad; Ted Michael O'Neill and Exercise Solutions; Luis Fernando Rodriguez; SNS Foods, Inc.; Teng Yun Corporation; Jeremy Robert Tucker and, Tucker & Company, Inc.*; as recommended by staff.

### **CHIEF COUNSEL MATTERS**

#### **RULEMAKING**

#### **Section 100 Changes**

#### **Uniform Local Sales and Use Tax Regulation 1805, *Aircraft Common Carriers*; and Transactions (Sales) and Use Tax Regulation 1825, *Aircraft Common Carriers***

Bradley Heller, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to amend the specified regulations to make them consistent with the expiration of the one-quarter (0.25%) decrease in the local sales and use tax rate prescribed by Revenue and Taxation Code sections 7203.1, operative January 1, 2016 ([Exhibit 10.2](#)).

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 authorization to make Rule 100 changes to Regulations 1805 and 1825 as recommended by staff.

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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. Harkey 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 10.3](#)).

Bob Alan Alexander, Business Taxes Specialist I, Petitions Section, Sales and Use Tax Department, Headquarters  
Phillip Bishop, Business Taxes Specialist III, Special Taxes Audit and Carrier Division, Special Tax and Fees Department, Headquarters  
Martha Brothers, Business Taxes Specialist II, Ventura District Office  
Cynthia L. Burba, Business Taxes Specialist I, Field Operations Department, Sacramento Out-of-State District Office  
Kathleen P. Gillum, Tax Technician I, West Covina District Office  
Robbie L. Jones, Business Taxes Compliance Specialist, Santa Clara District Office  
Ronald Louie, Business Tax Administrator II, County-Assessed Properties Division, Property Tax Department, Headquarters  
Benjamin Tang, Chief, County-Assessed Properties Division, Property Tax Department, Headquarters  
Sharon White, Administrative Operations Specialist, Office of Chairman Jerome E. Horton

Action: Approve the Board Meeting Minutes of August 25-26, 2015 and September 16, 2015.

Action: Approve the release of the revised *Guidelines for Appraiser Certification and Training* ([Exhibit 10.4](#)).

Action: Approve proposed revisions to Audit Manual Chapter 4, *General Audit Procedures*, and Chapter 12, *Construction Contractors* ([Exhibit 10.5](#)).

**ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS****Business Taxes Committee**

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 approved the Business Taxes Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 10.6](#)).

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

Joseph W. Valva and Marilyn K. Valva, 719017 (Continued)

2009, \$1,398.00 Assessment

Considered by the Board: Hearing Notice Sent – Appearance Waived

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

Action: Ms. Harkey moved to reverse the action of the Franchise Tax Board. Ms. Stowers made a substitute motion to sustain the action of the Franchise Tax Board. Ms. Harkey withdrew her motion. The substitute motion was seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes.

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

Cynthia Bridges, Executive Director, provided a report regarding agency accomplishments of Fiscal Year 2014-2015 consistent with the BOE's *Strategic Plan 2010-15* ([Exhibit 10.7](#)).

Cynthia Bridges, Executive Director, provided a report regarding professional development days in Fiscal Year 2014-15 and direction for professional development days pending for Fiscal Year 2015-16.

The Board deferred the following matters to the Customer Service and Administrative Efficiency Committee: *Board Communication Protocol* ([Exhibit 10.8](#)), *Outreach Protocol Proposal* ([Exhibit 10.9](#)), and *Pre-Election Mail Policy* ([Exhibit 10.10](#)).

David Gau, Chief Deputy Director, provided a report regarding the progress on the CROS project to replace BOE's two current legacy technology tax administration systems.

**Special Tax and Fees Deputy Director's Report**

Richard Parrott, Business Taxes Administrator, Special Taxes Policy & Compliance Division, Special Tax and Fees Department, reported that the Office of Emergency Services determined the Emergency Telephone Users Surcharge rate will remain unchanged at 0.75 percent for 2016, and that the Board is to publish the fixed rate ([Exhibit 10.11](#)).

**Administration Deputy Director's Report**

Edna Murphy, Deputy Director, Administration Department, presented a contract over \$1 million, to exercise an extension of the existing contract for a two year term, with *SICPA Product Security, LLC*, California's cigarette tax stamp vendor ([Exhibit 10.12](#)).

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 approved the contract as recommended by staff.

Tuesday, October 27, 2015

Edna Murphy, Deputy Director, Administration Department, provided an update regarding Legislative Budget Change Proposals.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES  
HEARING HELD OCTOBER 27, 2015**

Patrick T. Ellwood and Denise A. Ellwood, 856517

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, 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 duly carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Stowers voting yes, Ms. Harkey voting no, the Board sustained the action of the Franchise Tax Board.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD  
OCTOBER 27, 2015**

Valeriy Popov, 790387 (UT)

Nikolay Lomov, 781912 (UT)

Final Action: Upon motion of Mr. Runner, 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 petitions be granted.

Mr. Horton adjourned the Board meeting at 4:47 p.m. in memory of Joseph Donahue, Business Taxes Representative, Santa Clarita District Office; and, Steven Durst, Tax Auditor, San Diego District Office.

*The foregoing minutes are adopted by the Board on December 16, 2015.*

Note: The following matters were removed from the calendar prior to the meeting: *Zongrong Liu and Ying Ma, 796330; Hanzell Vineyards, Ltd., 576196 (JH) and GMIC Vineyards, LLC, 610170 (JH); Donald F. Payne, 470355 (JH); Star of India, LLC, 627341 (KH); Constituent Mailing Guidelines; and, Board Meetings Security Screening.*