

Wednesday, December 16, 2015

The Board met at its offices at 450 N Street, Sacramento, at 10:08 a.m., with Mr. Runner, Vice Chairman, Ms. Ma, Ms. Harkey and Ms. Yee present.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Ms. Yee.

### **SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY**

GFBC, Inc., 845603 (STF)

08/01/11 to 05/31/14, \$442,299.74

Considered by the Board: November 17, 2015

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

Action: Upon motion of Ms. Yee, seconded by Ms. Harkey and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board approved the refund as recommended by staff.

Ms. Harkey made complementary remarks regarding this taxpayer and its emerging industry, and she thanked her staff and Special Taxes Department staff for assisting the taxpayer to ensure proper reporting in the future.

### **PROPERTY TAXES MATTER, ADJUDICATORY**

#### **Petitions for Reassessment of Unitary Value**

CVIN LLC (8151), 901635

2015, \$78,300,000.00 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. Yee, seconded by Ms. Harkey and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$66,500,000.00 as recommended by staff.

Surewest Televideo (7961), 901644

2015, \$121,900,000.00 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. Yee, seconded by Ms. Harkey and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$120,500,000.00 as recommended by staff.

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**LEGAL APPEALS PROPERTY TAXES MATTER, ADJUDICATORY****Petitions for Reassessment of Unitary Value****Cabrillo Power II, LLC (1107), 902419**

2015, \$12,300,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$9,920,000.00.

**NRG Potrero, LLC (1108), 902420**

2015, \$21,500,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$19,300,000.00.

**NRG Delta, LLC (1109), 902421**

2015, \$77,400,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the petition be denied.

**U.S. TelePacific Corp. (7757), 900305**

2015, \$131,700,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$123,400,000.00.

**CBC Broadband Holdings, LLC (7910), 908337**

2015, \$6,690,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$4,140,000.00.

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Crown Castle NG West, Inc. (7982), 903028

2015, \$171,300,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$155,200,000.00.

California Broadband Cooperative, Inc. (8139), 908828

2015, \$87,500,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$65,000,000.00.

Freedom Telecommunications, LLC (8169), 908829

2015, \$53,000,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$43,300,000.00.

Plains West Coast Terminals, LLC (488), 900970

2015, \$5,950,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$3,700,000.00.

Pacific Pipeline System, LLC (486), 900973

2015, \$51,200,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$48,100,000.00.

Plains Pipeline, LP (465), 900978

2015, \$30,700,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$29,300,000.00.

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Panoche Energy Center, LLC (1152), 908350

2015, \$312,300,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the value be reduced to \$294,100,000.00.

Larkspur Energy, LLC (1142), 903827

2015, \$39,900,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the petition be denied.

Indigo Generation, LLC (1141), 903818

2015, \$44,500,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the petition be denied.

Mariposa Energy, LLC (1159), 908349

2015, \$164,900,000.00 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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the petition be denied.

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

Liberty Utilities (Calpeco Electric), LLC (163), 903788

2015, \$144,200,000.00 Unitary Value, \$14,420,000.00 Penalty

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. Yee and unanimously carried, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, Mr. Horton absent, the Board ordered that the petition for penalty abatement be granted and that the petition otherwise be denied.

**Petition for Reassessment of Unitary Value**

Verizon California, Inc. (201), 903737

2015, \$2,715,200,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

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

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

### **Petition for Penalty Abatement on Unitary Value**

SES Americom California, Inc. (7621), 908059

2015, \$328,000.00 Penalty

Considered by the Board: Presented for Separate Discussion

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

Action: Ms. Harkey moved to grant the petition. The motion failed for lack of a second.

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

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

### **PROPERTY TAX MATTERS**

#### **Audits**

Delta Energy Center, LLC (1128)

2011, \$12,300,000.00 Excessive Assessment, \$5,166,000.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Yee and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, the Board adopted the audit adjustments as recommended by staff.

Pastoria Energy Facility, LLC (1131)

2011, \$13,700,000.00 Excessive Assessment, \$5,754,000.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Yee and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, the Board adopted the audit adjustments as recommended by staff.

CCFC Sutter Energy, LLC (1132)

2011, \$6,100,000.00 Excessive Assessment, \$2,562,000.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Yee and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, the Board adopted the audit adjustments as recommended by staff.

Metcalf Energy Center, LLC (1133)

2011, \$8,600,000.00 Excessive Assessment, \$3,612,000.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Yee and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, the Board adopted the audit adjustments as recommended by staff.

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Otay Mesa Generating Company, LLC (1134)

2011, \$22,600,000.00 Excessive Assessment, \$9,492,000.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Yee and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, the Board adopted the audit adjustments as recommended by staff.

Los Esteros Critical Energy Facility, LLC (1143)

2012, \$300,000.00 Excessive Assessment, \$99,000.00 In-lieu Interest

2011, \$300,000.00 Excessive Assessment, \$126,000.00 In-lieu Interest

Action: Upon motion of Ms. Harkey, seconded by Ms. Yee and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, the Board adopted the audit adjustments as recommended by staff.

### Board Roll Changes

2013, 2014 and 2015 State-Assessed Property Rolls

Action: Upon motion of Ms. Harkey, seconded by Ms. Yee and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, the Board approved corrections to the 2013, 2014 and 2015 Board Rolls of State-Assessed Property as recommended by staff ([Exhibit 12.1](#)).

Exhibits to these minutes are incorporated by reference.

### OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Ma, seconded by Ms. Yee and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Yee voting yes, the Board approved the Offer in Compromise Recommendations of *420 For The People Cooperative, Inc.*; *Cabinet Solution Design Center*; *Menua Mirzakhanyan*; *Jorge Alberto Nogales, Bonita Nogales and Los Tios Mexican Grill*; *Ole's Enterprise, Inc.*; *Turlock Truck Auto Sales and Service, Inc.*; and *Artak Zatikyan*; as recommended by staff.

### ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 10:27 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 settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 11:58 a.m. and reconvened immediately in open session 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.

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### CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

craigslist, Inc., 725838, 843070

2007, \$789,799.00 Claim for Refund, \$247,427.00 Assessment, \$43,005.00 Accuracy-Related Penalty

For Appellant/Claimant: Robert L. Mahon, Attorney

For Franchise Tax Board: Katie Frank, Tax Counsel

Norm Scott, Tax Counsel

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

Issue: Whether, in determining the percentage of appellant's business income that is apportioned to California, sales attributable to certain states and the District of Columbia should be excluded from appellant's sales factor on the ground that appellant was not taxable in such states pursuant to Revenue and Taxation Code section 25122.

Appellant's Exhibit: CRTC Section 25122 ([Exhibit 12.2](#))

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 submitted the appeal for decision.

The Board recessed at 1:01 p.m. and reconvened at 2:15 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Mr. Horton thanked staff for organizing Winterfest, and for their generous donations to this year's food drive.

Hexu Zhao, 849110

2008, \$676,073.00 Assessment

For Appellant: Joseph M. Bray, Attorney

For Franchise Tax Board: Jason Riley, Tax Counsel

Ron Hofsdal, Tax Counsel

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

Issue: Whether appellant has shown error in respondent's proposed assessment which is based on its determination that appellant retained his California domicile and was a California resident during 2008.

Respondent's Exhibit: Timeline ([Exhibit 12.3](#))

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 submitted the appeal for decision.

### SALES AND USE TAX APPEALS HEARINGS

Rocks, LLC, 459156 (GH)

05/01/98 to 03/31/07, \$322,542.93 Tax, \$149,029.97 Fraud Penalty

For Petitioner: Koji Nomura, Taxpayer

Heather Donoviel, Taxpayer

Jesse W. McClellan, Attorney

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

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

Issues: Whether adjustments are warranted to the amount of unreported taxable sales.  
Whether the Department has established fraud by clear and convincing evidence.

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.

#### CBC Steel Buildings, LLC, 597564 (KH)

07/01/09 to 09/30/10, \$37,587.59 Claim for Refund

For Claimant: Tom Constantino, Witness  
Ron Martella, Representative

For Sales and Use Tax Department: Erin Dendorfer, Tax Counsel

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

Issue: Whether claimant has overpaid tax on sales that qualify for the partial exemption for farm equipment.

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 ordered that the claim be submitted for decision.

### PUBLIC HEARINGS

#### 2016 Timber Yield Tax Rate

Mark Durham, Chief, Research and Statistics Section, Legislative and Research Division, made introductory remarks regarding section 38202 of the Revenue and Taxation Code, which requires an annual adjustment of the timber yield tax rate ([Exhibit 12.4](#)).

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

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 adopted the timber yield tax rate of 2.9 percent for 2016 as recommended by staff.

#### Timber Harvest Values and Modified Harvest Values

Mike Harris, Manager, County-Assessed Properties Division, Property Tax Department, made introductory remarks regarding the timber harvest values and modified harvest values. On or before December 31, 2015, the Board shall estimate the immediate harvest values of and adopt schedules for timber harvested between January 1, 2016, and June 30, 2016. Additionally, the Board may modify immediate harvest values to reflect material changes in timber values that result from fire or other catastrophic cause for any area or part thereof in which damaged timber is located (Rev. & Tax. Code, § 38204) ([Exhibit 12.5](#)).

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

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 adopted the timber harvest values and modified harvest values as recommended by staff.

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**Proposed Amendments to Diesel Fuel Tax Regulation 1432, *Other Nontaxable Uses of Diesel Fuel in a Motor Vehicle***

Kevin Smith, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding proposed amendments to update the regulation, including defining “auxiliary equipment” and providing safe-harbor percentages that can be used, beginning April 1, 2016, when claiming a refund for diesel fuel used to power auxiliary equipment ([Exhibit 12.6](#)).

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

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 adopted the amendments to Regulation 1432 as published.

**Proposed Amendments to Rules for Tax Appeals Regulations 5218, *Review of the Petition by the Assigned Section, 5235, Action on the Claim for Refund, 5237, Board Approval Required for Refunds Over \$100,000, and 5267, Issuance of Post Appeals Conference Notices; Board Approval***

Bradley Heller, Tax Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding proposed amendments making the regulations consistent with the Board’s delegation of authority to staff to refund, credit, or cancel amounts in excess of \$100,000 without Board approval ([Exhibit 12.7](#)).

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

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 amendments to Regulations 5218, 5235, 5237 and 5267 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:

E.W. International Trade, Inc., 719634 (BH)

10/01/08 to 12/31/10, \$83,012.14 Tax, \$8,301.23 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

John Paul Hiraoka-Lee, 585999 (CH)

10/01/07 to 09/30/10, \$36,810.27 Tax, \$3,681.02 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Miguel Angel Sandoval, 601184 (GH)

07/01/04 to 06/30/07, \$109,792.32 Tax, \$10,979.20 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

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Claude G. Eid, 903020 (STF)

June 2, 2015 Seizure Date, \$484.48 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Ashok B. Patel, 911740 (STF)

June 18, 2015 Seizure Date, \$189.53 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Ankit Prakash Vora and Mona A. Vora, 916572 (STF)

July 2, 2015 Seizure Date, \$579.36 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Gary L. Banks, 916576 (STF)

July 1, 2015 Seizure Date, \$688,845.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Mohinder Singh Nahal, 916383 (STF)

May 6, 2015 Seizure Date, \$368.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Rafael Ramos Rodriguez, 919148 (EH)

July 17, 2015 Seizure Date, \$3,076.70 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 matter: *Jose Borges and Laura Borges, 604857.*

With respect to the Corporate Franchise and Personal Income Tax Matters 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:

Gerald J. Alexander and Theresa G. Alexander, 732677

2007, \$17,390.00 Tax

2008, \$12,333.00 Tax

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

Fernando Anglin, 854551

2012, \$921.00 Tax

Action: Sustain the action of the Franchise Tax Board.

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Jose Borges and Laura Borges, 604857

2007, \$495.25 Late Filing Penalty, \$11,535.25 Demand Penalty, \$100.00 Filing Enforcement Cost Recovery Fee, \$170.00 Collection Cost Recovery Fee, \$12.00 Lien Fee

Action: The Board took no action.

Epworth Apartments, LP, 839252

2011, \$848.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

David L. Fay, 655009

2008, \$2,247.00 Tax

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

Kris G. Hall-Patterson, 791181

2009, \$1,272.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Harry P. Hewell, 845682

2009, \$315.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

David Horn and Carol Horn, 841442

2009, \$556.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Benjamin Iserhien, 839050

2004, \$8,493.00 Tax

Benjamin Iserhien and Krystina Tran, 839054

2005, \$3,725.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Mark Lonich, 813531

2009, \$579.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Roger Scherer, 848193

2010, \$9,208.00 Tax

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

Ashvin Kumar Singh, 852161

2012, \$552.48 Late Payment Penalty, \$171.82 Estimated Tax Penalty

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

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Johnny C. Vong, 850303

2012, \$1,686.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Charlotte E. Wadsworth, 782289

1988, \$7,966.92 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Lina Nihiser, 764246

2008, \$1,259.00 Tax

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**

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. Stowers, 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:

Siemens Medical Solutions USA, Inc., 676512 (OH)

07/01/04 to 12/31/08, \$1,875,749.64

Action: Approve the redetermination as recommended by staff.

John Dunn, 739830 (CH)

01/01/09 to 10/15/10, \$309,665.48

Action: Approve the redetermination as recommended by staff.

Susan Deming, 741287 (CH)

01/01/09 to 10/15/10, \$309,665.48

Action: Approve the redetermination as recommended by staff.

A-Link Wireless CA, LLC, 795255 (AS)

10/01/10 to 03/31/11, \$100,760.01

Action: Approve the redetermination as recommended by staff.

Ashuray, Inc., 851787 (AP)

07/01/11 to 06/30/14, \$233,034.02

Action: Approve the redetermination as recommended by staff.

Williams-Sonoma DTC, Inc., 920203 (DF)

03/30/15 to 06/28/15, \$196,992.30

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

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Nissan Motor Acceptance Corp., 855899 (OH)

10/01/13 to 12/31/14, \$1,693,156.10

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

SL Financial Services Corporation, 815885 (OH)

04/01/07 to 09/30/11, \$137,919.16

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

San Francisco Health Authority, 925285 (BH)

07/01/15 to 07/31/15, \$8,913.03

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

La Curacao, 925287 (AA)

08/01/15 to 08/31/15, \$7,738.24

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

TNH Motors, Inc., 920204 (AC)

07/01/15 to 07/31/15, \$3,403.55

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

California Metro Mobile Communications, Inc., 925288 (BH)

08/01/15 to 08/31/15, \$50.18

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

Riverside Community Hospital, 927173 (EH)

07/01/15 to 09/30/15, \$96.11

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

South Coast Keyboards, Inc., 920205 (FH)

07/01/15 to 07/31/15, \$117.74

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

Graphic Enterprises, Inc., 927174 (JH)

08/01/15 to 08/31/15, \$56.70

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

Waterford Irrigation Supply, Inc., 920206 (KH)

07/01/15 to 07/31/15, \$90.60

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

BJ's Restaurants, Inc., 920207 (EA)

07/01/15 to 07/31/15, \$14,380.81

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

Wednesday, December 16, 2015

Grand Petroleum, Inc., 925290 (CH)

04/01/15 to 06/30/15, \$797.46

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

Hotel Del Coronado, LP, 925291 (FH)

07/01/15 to 07/31/15, \$2,355.21

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

Beauty Systems Group, LLC, 925292 (OH)

04/01/15 to 06/30/15, \$3,313.21

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

Kristin Annette Nelson, 920208 (SO)

04/01/15 to 04/30/15, \$83.67

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

Hawk Ridge Systems, LLC, 927193 (GH)

07/01/15 to 07/31/15, \$72.53

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

DTRS Palo Alto, LLC, 920209 (BH)

05/01/15 to 06/15/15, \$585.63

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

Prosperity Fuels, Inc., 926504 (DF)

04/01/15 to 06/30/15, \$291.27

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

Premier Automotive of Placentia, LLC, 925293 (OH)

01/01/15 to 03/31/15, \$2,670.98

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

Courtesy Automotive Group, Inc., 925294 (KH)

07/01/15 to 07/31/15, \$1,184.73

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

Richmond Petro, Inc., 919839 (CH)

04/16/11 to 12/31/11, \$353,789.44

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

Wednesday, December 16, 2015

Nissan Motor Acceptance Corp., 855899 (OH)  
10/01/13 to 12/31/14, \$2,210,535.90  
Action: Approve the refund as recommended by staff.

Bakersfield Pipe and Supply, Inc., 892210 (DF)  
10/01/14 to 12/31/14, \$1,462,192.46  
Action: Approve the refund as recommended by staff.

DWWTL, Inc., 611711 (EA)  
01/01/09 to 12/31/12, \$326,528.78  
Action: Approve the refund as recommended by staff.

Halo Motor Company, 852367 (FH)  
07/01/13 to 03/31/14, \$253,070.41  
Action: Approve the refund as recommended by staff.

The Golden 1 Credit Union, 881242 (KH)  
01/01/15 to 03/31/15, \$136,793.00  
Action: Approve the refund as recommended by staff.

Mead Johnson & Company, 838514 (OH)  
04/01/11 to 06/30/14, \$1,625,234.89  
Action: Approve the refund as recommended by staff.

GE Capital Consumer Card Co., 183237 (OH)  
01/01/99 to 12/31/01, \$10,504,681.73  
Action: Approve the refund as recommended by staff.

Monogram Credit Services, LLC, 919732 (OH)  
01/01/01 to 03/31/04 \$12,741,565.80  
Action: Approve the refund as recommended by staff.

Nissan North America, 917740 (OH)  
04/01/13 to 03/31/14, \$584,778.18  
Action: Approve the refund as recommended by staff.

Wells Fargo Bank NW NA Trustee, 920337 (UT)  
04/02/12 to 04/02/12, \$123,250.00  
Action: Approve the refund as recommended by staff.

McKinna 69, LLC, 905682 (UT)  
08/08/14 to 08/08/14, \$104,960.00  
Action: Approve the refund as recommended by staff.

Wednesday, December 16, 2015

Sofijon, Inc., 871876 (AS)

04/01/14 to 12/31/14, \$104,041.00

Action: Approve the refund as recommended by staff.

Kohl's Department Stores, Inc., 532001 (OH)

03/02/03 to 06/30/06, \$198,011.31

Action: Approve the refund as recommended by staff.

Digital Networks Group, Inc., 737316 (EA)

01/01/10 to 12/31/12, \$169,814.10

Action: Approve the refund as recommended by staff.

NFL Enterprises, LLC, 850175 (OH)

07/01/11 to 03/31/14, \$233,402.45

Action: Approve the refund as recommended by staff.

Composite Cooling Solutions, LP, 915467 (OH)

07/01/12 to 12/31/12, \$189,599.37

Action: Approve the refund as recommended by staff.

IDSC Holdings, LLC, 913722 (OH)

04/01/09 to 03/31/12, \$110,372.17

Action: Approve the refund as recommended by staff.

Boehringer Ingelheim Fremont, Inc., 913728 (OH)

03/24/11 to 06/30/14, \$173,461.39

Action: Approve the refund as recommended by staff.

Korvis, LLC, 876289 (OH)

10/01/12 to 12/31/12, \$118,155.22

Action: Approve the refund as recommended by staff.

CR&amp;R, Inc., dba Mayberry Sanitation Services, 892209 (EA)

01/01/14 to 03/31/15, \$647,010.68

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

City of Long Beach, 867031 (STF)

07/01/12 to 01/31/15, \$196,871.51

Action: Approve the refund as recommended by staff.

Wednesday, December 16, 2015

Thrifty Payless, Inc., 918653 (STF)

09/15/15 to 09/15/15, \$523,963.53

Action: Approve the refund as recommended by staff.

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

Robert H. Lowe and Sheryl L. Berkoff, 571973

2005, \$714,686.00 Assessment, \$178,671.50 Penalty

Considered by the Board: November 17, 2015

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

Action: Upon motion of Ms. Ma, 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 rescinded its November 17, 2015 vote.

Upon motion of Mr. Runner, seconded by Ms. Ma and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton and Ms. Stowers voting no, the Board ordered that the matter be scheduled for a revote at its February 2016 Culver City Meeting.

**SALES AND USE TAX MATTERS, DENIAL OF RELIEF OF PENALTY,  
ADJUDICATORY**

Novitex Enterprise Solutions, Inc., 915217 (OH)

01/01/03 to 12/31/06, \$152,069.82

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, Ms. Harkey and Ms. Stowers voting yes, the Board approved the denial of relief of penalty as recommended by staff.

**ADMINISTRATIVE SESSION****ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative 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:

Action: Adopt the following resolution, extending its sincere and grateful appreciation to the retiree for her dedicated service to the State Board of Equalization and to the State of California, their congratulations on the retiree's well-earned retirement, and best wishes to her and her family for continued success, happiness and good health in the years to come ([Exhibit 12.8](#)).

Susie Leon, Associate Tax Auditor, Culver City District Office

Action: Approve the Board Meeting Minutes of October 27, 2015 and October 28, 2015 as presented, and November 17-18, 2015 as modified.

Wednesday, December 16, 2015

Action: Approve proposed revisions to Compliance Policy and Procedures Manual (CPPM) Chapter 1, *General*, Chapter 2, *Registration*, Chapter 5, *Returns*, and Audit Manual (AM) Chapter 1, *General Information*, as recommended by staff ([Exhibit 12.9](#)).

Action: Approve publication of the 2016 revision of Assessors' Handbook Section 531, *Residential Building Costs*, as recommended by staff ([Exhibit 12.10](#)).

Action: Approve publication of the 2016 revision of Assessors' Handbook Section 534, *Rural Building Costs*, as recommended by staff ([Exhibit 12.11](#)).

#### **OTHER ADMINISTRATIVE MATTERS**

##### **Executive Director's Report**

Cynthia Bridges, Executive Director, provided a report regarding the State Controller's Office (SCO) findings detailed in its "Review Report, Internal Accounting and Administrative Controls Review" and actions to address the findings. Julia F. Findley, Acting Chief, Financial Management Division, addressed the retail sales tax and allocations pending reallocation adjustments. Edna Murphy, Deputy Director, Administration Department, provided an overview of the office revolving fund improvements and proposed next steps. ([Exhibit 12.12](#).)

David Gau, Chief Deputy Director, provided a report regarding the Strategic Management Plan for 2015-2020 ([Exhibit 12.13](#)).

David Gau, Chief Deputy Director, introduced Adetola Adedipe, Manager, Workforce Planning Section, Human Resources Division, Administration Department, who provided a report regarding the Workforce and Succession Plan for 2015-2016 ([Exhibit 12.14](#)).

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.

#### **FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD DECEMBER 16, 2015**

craigslist, Inc., 725838, 843070

Final 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 sustained the action of the Franchise Tax Board.

Hexu Zhao, 849110

Final 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 sustained the action of the Franchise Tax Board.

Wednesday, December 16, 2015

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD  
DECEMBER 16, 2015**

Rocks, LLC, 459156 (GH)

Final Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and duly carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers voting no, the Board ordered that the fraud penalty be reduced to negligence, and that the petition otherwise be redetermined as recommended by the Appeals Division.

CBC Steel Buildings, LLC, 597564 (KH)

Final Action: Ms. Harkey moved to grant the claim for refund. 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. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the claim for refund be denied as recommended by the Appeals Division.

The Board adjourned at 5:17 p.m. in memory of the victims and families of those who lost their lives in the tragic shooting on Wednesday, December 2, 2015 in San Bernardino. Mr. Horton thanked the District Administrators for their immediate actions in reaching out to law enforcement, and acknowledged their courage and commitment to the safety and wellbeing of their employees.

*The foregoing minutes are adopted by the Board on January 26, 2016.*

Note: The following matters were removed from the calendar prior to the meeting: *Richard Malzahn and Kimberly Sylvester-Malzahn, 864684; Darakar, Inc., 848652; Kazem Khorasani and Manije Khorasani, 848653; Emad Kamal Sweidan, 710620; Chad Worthen, 734836; Adoption of Legislative Committee Report; and, Executive Director's Report on 3-Day Board Member Review Process.*