

**Tuesday, March 28, 2017**

The Board met at its offices at 450 N Street, Sacramento, at 9:10 a.m., with Ms. Harkey, Chairwoman, Mr. Runner, Vice Chair, Ms. Ma and Mr. Horton 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 Kimberly Muljat, Executive Secretary, Business Tax and Fee Department.

### **ORGANIZATION OF THE BOARD**

#### **Board Committee Chair Assignments**

Ms. Harkey announced the Board Committee Chair Assignments as follows: Ms. Harkey, Business Taxes Committee; Ms. Ma, Legislative Committee; Mr. Horton, Property Tax Committee; and, Mr. Runner, Customer Service and Administrative Efficiency Committee.

### **CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**

Arthur Gutierrez, 924854  
2010, \$5,928.00 Assessment

For Appellant:

Arthur Gutierrez, Taxpayer

For Franchise Tax Board:

Samantha Nguyen, Tax Counsel

Natasha Page, Tax Counsel

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

Issue: Whether appellant has established error in the Franchise Tax Board's proposed assessment, which is based on federal adjustments made by the Internal Revenue Service.

Action: Upon motion of Mr. Horton, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board sustained the action of the Franchise Tax Board. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

Rajwindar K. Sidhu, 951345  
2014, \$845.47 Claim for Refund

For Appellant:

Rajwindar K. Sidhu, Taxpayer

Amit Pendyal, Representative

For Franchise Tax Board:

Eric Yadao, Tax Counsel

Marguerite Mosnier, Tax Counsel

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

Issue: Whether appellant has established reasonable cause, and the lack of willful neglect, for failing to timely pay the tax due with her return.

Anthony Epolite, Tax Counsel, stated for the record that the Franchise Tax Board abated the interest in the amount of \$135.00 and that the only issue left is the \$710.00 Late Payment Penalty.

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

Tuesday, March 28, 2017

Upon motion of Mr. Runner, seconded by Mr. Horton and duly carried, Ms. Harkey, Mr. Runner and Mr. Horton voting yes, Ms. Ma and Ms. Stowers voting no, the Board reversed the action of the Franchise Tax Board.

### **ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 10:13 a.m. and reconvened immediately in closed session with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers 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 10:50 a.m. and reconvened immediately in open session with Ms. Harkey, Mr. Runner and Ms. Stowers present.

The Board recessed at 10:51 a.m. and reconvened at 3:30 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

### **LEGAL APPEALS MATTERS, CONSENT**

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

**Boo Ku CC, Inc., 536349 (AS)**

01/01/07 to 09/30/09, \$38,840.07 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

**Floyd Carter II, 868033 (RC)**

07/01/11 to 12/31/13, \$153,611.76 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

**Caspian Sea Petroleum, Inc., 846283 (EA)**

04/01/09 to 05/06/12, \$55,691.27 Tax and Interest, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

**Arturo Rojas Castaneda, 556722 (EH)**

07/01/05 to 09/30/06, \$35,687.85 Claim for Refund

Action: Redetermine as recommended by the Appeals Division.

**Matthew Westley Clark and Karyn Michelle Clark, 770561 (AC)**

07/01/09 to 07/20/12, \$21,750.12 Tax, \$2,175.03 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

**Famu Corporation, 593179 (AA)**

01/01/07 to 12/31/09, \$38,247.96 Tax

Action: Redetermine as recommended by the Appeals Division.

Tuesday, March 28, 2017

Mara I. Giroux, 760302 (GH)

07/01/08 to 06/30/11, \$9,443.22 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

I.C.T. Enterprises, Inc., 633964 (SO)

12/01/05 to 12/31/10, \$61,805.41 Tax, \$1,400.46 Failure-to-File Penalty

Action: Redetermine as recommended by the Appeals Division.

Lorraine Mary Jeanes, 621137 (UT)

06/19/12 Date of Purchase, \$3,749.06 Claim for Refund

Action: Redetermine as recommended by the Appeals Division.

Joseph Harold Kolb, 777740 (AC)

07/01/08 to 02/28/10, \$16,404.17 Tax, \$1,640.42 Penalty

Action: Redetermine as recommended by the Appeals Division.

Nicholas Maalouli, 804733 (EA)

10/01/09 to 03/31/11, \$26,167.38 Tax, \$4,090.60 Late-Payment Penalty

Action: Redetermine as recommended by the Appeals Division.

Carlos Smith, 600405 (UT)

11/25/08 Date of Purchase, \$15,474.29 Claim for Refund

Action: Redetermine as recommended by the Appeals Division.

David Scott Feeney, 835543 (FH)

04/01/11 to 11/04/11, \$4,954.44 Tax, \$2,047.40 Late-Payment Penalty, \$1,312.60 Failure-to-File Penalty, \$1,811.90 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Grace Fernandez, 727094 (AP)

07/01/08 to 05/06/10, \$37,554.16 Tax, \$3,755.45 Negligence Penalty

Executive Luxury Auto Sales, Inc., 727095 (AP)

05/07/10 to 12/31/11, \$141,604.96 Tax, \$14,160.60 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Marco Tulio Jimenez, 575261, 881667 (AC)

07/01/06 to 06/30/09, \$12,008.82 Tax

Action: Redetermine as recommended by the Appeals Division.

Charles J. Casazza, 838457 (GH)

10/01/10 to 09/30/13, \$12,464.79 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

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

Tuesday, March 28, 2017

Emma K. Gasparyan, 929713

2013, \$652.00 Tax

2014, \$912.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Carter Stephens, 940079

2009, \$75,566.00 Tax

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

Sharon P. Anthony, 925128

2011, \$371.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Ronald Kelly and Claire Kelly, 875612

2013, \$7,352.13 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Joseph A. Sowan and Fabiola Nita, 941549

2014, \$1,364.88 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Russell W. Thiele, 854926

2007, \$162,402.00 Tax, \$32,480.40 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

**PROPERTY TAXES MATTERS, CONSENT**

With respect to the Property Taxes Matters, Consent Agenda, upon a single motion of Mr. Horton, seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma and Mr. Horton voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board made the following orders:

**Petitions for Reassessment of Audit Escape Assessment**

Southern California Edison, Co. (148), 957418

2011 to 2014, \$518,225,000.00 Audit Escaped Assessment

Action: Adjust the escaped assessment to an excessive assessment of \$682,200,000.00 as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

Liberty Utilities (Calpeco Electric), LLC (163), 960272

2012 to 2015, \$44,277,000.00 Audit Escaped Assessment

Action: Adjust the escaped assessment to an excessive assessment of \$74,600,000.00 as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

Tuesday, March 28, 2017

**LEGAL APPEALS MATTERS, ADJUDICATORY****Public Motors Los Angeles, LLC, 564308 (EA)**

01/01/06 to 12/31/08, \$1,198,480.62 Tax, \$119,848.12 Negligence Penalty

Considered by the Board: Hearing Notice Sent – No Response

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Ms. Harkey moved to abate the negligence penalty. Ms. Harkey withdrew her motion.

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

**Eat This, Inc., 572082 (AS)**

07/01/07 to 06/30/10, \$29,214.85 Tax, \$2,921.48 Negligence Penalty

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Ms. Harkey moved to remove the negligence penalty. The motion failed for lack of a second.

Upon motion of Ms. Stowers, seconded by Mr. Horton and duly carried, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, Ms. Harkey voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

**Nagib Abdulsaeed Shariff, 715384 (CH)**

04/01/09 to 11/17/11, \$53,237.20 Tax, \$5,608.33 Negligence Penalty

Considered by the Board: August 31, 2016

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

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

**Geo G2 Solutions, Inc., 864467 (UT)**

05/09/08, Date of Purchase, \$84,975.00 Claim for Refund

Considered by the Board: December 14, 2016

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

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

Tuesday, March 28, 2017

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

Mark Mills-Thysen and Margret Mills-Thysen, 921948

2014, \$544.92 Claim for Refund

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Horton, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board adopted a decision reversing the action of the Franchise Tax Board.

Andre Jackson, 841166

2011, \$7,325.00 Tax, \$1,831.25 Late Filing Penalty, \$1,831.25 Demand Penalty, \$78.00 Filing Enforcement Fee

Considered by the Board: October 25, 2016

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board adopted a decision denying the petition for rehearing.

Louis V. Lucero and Barbara A. Lucero, 845797

2005, \$5,327.00 Tax, \$1,065.40 Accuracy-Related Penalty

Considered by the Board: September 27, 2016

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board adopted a decision denying the petition for rehearing.

Leonard C. Rogers and Mary Ann Rogers, 863414

2007, \$40,788.00 Tax, \$10,197.00 Late Filing Penalty

Considered by the Board: September 27, 2016

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Runner, seconded by Ms. Ma and duly carried, Ms. Harkey, Mr. Runner and Ms. Ma voting yes, Mr. Horton and Ms. Stowers voting no, the Board adopted a decision granting the petition for rehearing.

Harris Toibb and Linda Toibb, 852223

2006, \$1,534,826.00 Tax, \$50,956.00 Accuracy-Related Penalty

2007, \$994,351.00 Tax, \$24,434.00 Accuracy-Related Penalty

Considered by the Board: September 27, 2016

Tuesday, March 28, 2017

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Harkey, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board adopted a decision denying the petition for rehearing.

Alan R. Brayton, 852168

2004, \$910,572.00 Accuracy-Related Penalty

Considered by the Board: November 29, 2016, Summary Decision (Rev. & Tax. Code, § 40)

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board adopted the written summary decision as presented by staff.

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

### **PROPERTY TAX MATTERS**

#### **Audits**

The Ponderosa Telephone Company (205)

2016, \$600,000.00 Excessive Assessment

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

Dialink Corporation (2437)

2016, \$3,200.00 Escaped Assessment, \$320.00 Penalties, \$192.00 In-lieu Interest

2015, \$7,700.00 Escaped Assessment, \$770.00 Penalties, \$1,155.00 In-lieu Interest

2014, \$8,100.00 Escaped Assessment, \$810.00 Penalties, \$1,944.00 In-lieu Interest

2013, \$9,400.00 Escaped Assessment, \$940.00 Penalties, \$3,102.00 In-lieu Interest

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

KDDI America, Inc. (7766)

2016, \$1,810,000.00 Escaped Assessment, \$181,000.00 Penalties, \$108,600.00 In-lieu Interest

2015, \$100,000.00 Excessive Assessment

2013, \$300,000.00 Excessive Assessment

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

Tuesday, March 28, 2017

**Wilshire Connection, LLC (7799)**

2015, \$540,000.00 Escaped Assessment, \$54,000.00 Penalties, \$81,000.00 In-lieu Interest

2014, \$650,000.00 Escaped Assessment, \$65,000.00 Penalties, \$156,000.00 In-lieu Interest

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

**Telstra Incorporated (7852)**

2016, \$500,000.00 Excessive Assessment

2015, \$2,150,000.00 Escaped Assessment, \$215,000.00 Penalties, \$322,500.00 In-lieu Interest

2014, \$2,450,000.00 Escaped Assessment, \$245,000.00 Penalties, \$588,000.00 In-lieu Interest

2013, \$2,060,000.00 Excessive Assessment

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

**Peak Communications, Inc. (7916)**

2016, \$1,200.00 Escaped Assessment, \$120.00 Penalties, \$72.00 In-lieu Interest

2015, \$6,700.00 Escaped Assessment, \$670.00 Penalties, \$1,005.00 In-lieu Interest

2014, \$2,800.00 Escaped Assessment, \$280.00 Penalties, \$672.00 In-lieu Interest

2013, \$2,200.00 Excessive Assessment

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

**Intelsat Global Service, LLC (7969)**

2015, \$500,000.00 Excessive Assessment

2014, \$500,000.00 Excessive Assessment

2013, \$1,000,000.00 Excessive Assessment

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

**Reliance Globalcom Services, Inc. (7972)**

2016, \$1,870,000.00 Escaped Assessment, \$187,000.00 Penalties, \$112,200.00 In-lieu Interest

2015, \$1,000,000.00 Escaped Assessment, \$100,000.00 Penalties, \$150,000.00 In-lieu Interest

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



Tuesday, March 28, 2017

**Vodafone US, Inc. (8005)**

2016, \$3,050,000.00 Escaped Assessment, \$183,000.00 In-lieu Interest

2015, \$3,510,000.00 Escaped Assessment, \$526,500.00 In-lieu Interest

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

**A+ Wireless, Inc. (8010)**

2016, \$73,700.00 Excessive Assessment

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

**CA-CLEC, LLC (8037)**

2015, \$90,000.00 Escaped Assessment, \$9,000.00 Penalties, \$13,500.00 In-lieu Interest

2014, \$3,600,000.00 Excessive Assessment

2013, \$2,060,000.00 Excessive Assessment

2012, \$200,000.00 Excessive Assessment

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

**Birch Communications, Inc. (8049)**

2016, \$1,150,000.00 Excessive Assessment

2015, \$440,000.00 Escaped Assessment, \$44,000.00 Penalties, \$66,000.00 In-lieu Interest

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

**Roadway Communications, Inc. (8091)**

2016, \$15,700.00 Escaped Assessment, \$1,570.00 Penalties, \$942.00 In-lieu Interest

2015, \$19,300.00 Escaped Assessment, \$1,930.00 Penalties, \$2,895.00 In-lieu Interest

2014, \$23,000.00 Escaped Assessment, \$2,300.00 Penalties, \$5,520.00 In-lieu Interest

2013, \$21,000.00 Escaped Assessment, \$2,100.00 Penalties, \$6,930.00 In-lieu Interest

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

Tuesday, March 28, 2017

**CVIN, LLC (8151)**

2015, \$3,400,000.00 Escaped Assessment, \$510,000.00 In-lieu Interest

2014, \$4,400,000.00 Excessive Assessment

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

**RCLEC, Inc. (8158)**

2016, \$29,000.00 Excessive Assessment

2015, \$48,000.00 Excessive Assessment

2014, \$59,000.00 Excessive Assessment

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

**NetFortris Acquisition Co., Inc. (8164)**

2016, \$1,230,000.00 Excessive Assessment

2015, \$3,720,000.00 Excessive Assessment

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

**Board Roll Changes**

**2014, 2015, and 2016 Board Rolls of State-Assessed Property**

Action: Upon motion of Mr. Horton, seconded by Ms. Ma and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma and Mr. Horton voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board approved corrections to the 2014, 2015, and 2015 Board Rolls of State-Assessed Property as recommended by staff ([Exhibit 3.1](#)).

Exhibits to these minutes are incorporated by reference.

**OFFER-IN-COMPROMISE RECOMMENDATIONS**

Action: Upon motion of Mr. Horton, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board approved the Offer in Compromise Recommendations of *Aneli, Inc.*; *Durman, Inc.*; *Maria D. Juarez*; *Mdnuddin Bhandari Enterprises, Inc.*; *Abu M. Hossain*; *P.J. Bonifacio Motor Cars, Inc.*; *Martina Palomares*; *Eric L. Paulson*; *Robert Anthony Snow*; and, *Weston Redhill Glass, Inc.*; as recommended by staff.

Tuesday, March 28, 2017

**CHIEF COUNSEL MATTERS****RULEMAKING****Section 100 Changes****Property Tax Rule 263, *Roll Corrections***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Section 100 changes to Rule 263 to incorporate Revenue and Taxation Code section 4831.1's provisions extending the time for correcting assessments related to the disabled veterans' exemption ([Exhibit 3.2](#)).

Action: Upon motion of Mr. Horton, seconded by Ms. Ma and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board approved authorization to make Section 100 changes to Regulation 263 as recommended by staff.

**Property Tax Rule 1051, *Extension of Time for Acts Required by Regulation***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Section 100 changes to replace Rule 1051's reference to the Board's "secretary" with "Executive Director," clarify that Rule 1051 applies to extensions of the time fixed by a "rule," clarify Rule 1051's references to the Board and reference to "board of equalization," rename chapter 12 as "Racehorse Tax," and move Rule 1051 to new chapter 13, *Miscellaneous* ([Exhibit 3.3](#)).

Action: Upon motion of Mr. Horton, seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board approved authorization to make Section 100 changes to Regulation 1051 as recommended by staff.

**Rules for Tax Appeals Regulation 5332, *Time of Filing of Application***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Section 100 changes to make Regulation 5332 consistent with the amendment to Revenue and Taxation Code section 1840, which changed the deadline to file applications for review of assessments of taxable publicly-owned property ([Exhibit 3.4](#)).

Action: Upon motion of Mr. Horton, seconded by Ms. Ma and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board approved authorization to make Section 100 changes to Regulation 5332 as recommended by staff.

Tuesday, March 28, 2017

## ADMINISTRATIVE SESSION

### ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Runner, seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton 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 3.5](#)).

David Barbeiro, Associate Property Auditor Appraiser, State-Assessed Properties Division, Property Tax Department, Headquarters

Theresa Bravo, Business Taxes Administrator I, Return Processing Division, Headquarters

Precilla R. Calonge, Tax Technician III, Return Analysis Unit, Business Tax and Fee Department, Headquarters

Hiram M. Fernandez, Business Taxes Administrator I, Field and Operations Department, West Covina District Office

Action: Approve the Board Meeting Minutes of February 22-23, 2017.

Action: Approve proposed revisions to Compliance Policy and Procedures Manual Chapters 6, *Close-outs and Clearances*, and 7, *Collections* as recommended by staff ([Exhibit 3.6](#)).

Action: Acknowledged receipt of report on time extension for San Luis Obispo County to complete and submit fiscal year 2017-18 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 as recommended by staff ([Exhibit 3.7](#)).

Action: Acknowledged receipt of report on time extensions for Butte, Sutter, and Yuba Counties to accept as timely filed exemption claims due to the Lake Oroville Dam issue, pursuant to Revenue and Taxation Code section 155 as recommended by staff ([Exhibit 3.8](#)).

### OTHER ADMINISTRATIVE MATTERS

#### Executive Director's Report

David Gau, Executive Director, introduced Wilson Mar, Co-Chair for the food drive, who provided detailed results of the 2016 Annual State Employees Food Drive, ([Exhibit 3.9](#))

David Gau, Executive Director, provided a report regarding the BOE's Disability Advisory Committee (DAC), who won second best DAC in the "2016 DAC Achievement of the Year" Awards Program and was also recognized for their disability employment efforts and won an "ACES Award" for the large State Employer of the Year for persons with disabilities.

A photograph was taken of the Members with award winners.

**Tuesday, March 28, 2017**

Ms. Harkey moved to place the Department of Finance Audit dated March 20, 2017, and any revisions or responses thereto, on the April Board agenda. The motion was seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes.

### **Administration Deputy Director's Report**

Edna Murphy, Deputy Director, Administration Department; Chris Holtz, Chief, Business Management Division, Administration Department; and, Scott Capulong, Acting Chief Technology Officer, presented the following contracts over \$1 million: Department of Motor Vehicles (DMV) contract for collection of sales, use and/or special taxes pertaining to vehicles and undocumented vessels ([Exhibit 3.10](#)); Department of Toxic Substances Control (DTSC) contract for collection of fees pertaining to hazardous waste ([Exhibit 3.11](#)); Cal-Recycle contract for the collection of the California Tire Fee ([Exhibit 3.12](#)); Quality Assurance and Independent Verification & Validation (QA/IV&V) Services contract for the CROS Project ([Exhibit 3.13](#)); and, Senior Level Programmers contract to conduct data remediation for the CROS Project ([Exhibit 3.14](#)).

Action: Upon motion of Ms. Stowers, seconded by Mr. Horton and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board approved the DMV, DTSC, and Cal-Recycle contracts over \$1 million as recommended by staff.

Action: Upon motion of Ms. Stowers, seconded by Mr. Runner and duly carried, Ms. Harkey, Mr. Runner and Ms. Stowers voting yes, Ms. Ma and Mr. Horton voting no, the Board approved QA/IV&V Services and Senior Level Programmers contracts over \$1 million as recommended by staff.

Chris Holtz, Chief, Business Management Division, Administration Department, provided a quarterly update regarding the BOE Vacancy Master Plan.

Chris Holtz, Chief, Business Management Division, Administration Department, provided a quarterly update regarding BOE leased space.

### **Technology Deputy Director's Report**

Scott Capulong, Acting Chief Technology Officer, provided a report regarding the progress on the CROS project to replace BOE's two current legacy-technology tax administration systems.

The Board recessed at 5:06 p.m.

*The foregoing minutes are adopted by the Board on April 25, 2017.*

Note: The following matters were removed from the calendar prior to the meeting: *David Chan and Suzanne Nagy-Chan, 605761; Peter S. Magnusson, 971924; Kenneth Tenaglia, 925494; Donald O. Cowan and ~~Donna J. Cowan~~, 935581; and, Increase in Small Case Offer in Compromise Delegation.*

**Wednesday, March 29, 2017**

The Board met at its offices at 450 N Street, Sacramento, at 9:10 a.m., with Ms. Harkey, Chairwoman, Mr. Runner, Vice Chair, and Ms. Ma present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

## **ADMINISTRATIVE SESSION**

### **ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS**

#### **Legislative Committee**

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

### **SALES AND USE TAX APPEALS HEARINGS**

Stars Holding Co., LLC, 855845 (CH)  
04/01/13 to 12/31/13, \$35,238.66 Claim for Refund

For Claimant: Azad Amiri, Representative  
Richard A. Stoll, Representative

For Business Tax and Fee Department: Pamela Mash, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.  
Issue: Whether claimant should be granted a refund of the amounts it paid pursuant to the two NODs for the Moraga tax increase.

The Board recessed at 9:12 a.m. and reconvened at 9:16 a.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

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

Douglas B. Davidian, 611177, 611178 (FH)  
07/01/08 to 12/31/08, \$31,714.99 Tax  
10/01/08 to 12/31/08, \$18,148.00 Tax

For Petitioner: Doug Davidian, Taxpayer

For Business Tax and Fee Department: Andrew Kwee, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.  
Issues: Whether petitioner is personally liable as a responsible person for the unpaid liabilities of California Business Furnishings, Inc. (CBF) and Desk, Chairs and More, LLC (DCM) pursuant to Revenue and Taxation Code section 6829.

Whether adjustments are warranted to the tax liabilities of CBF and DCM for unclaimed bad debts.

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

Wednesday, March 29, 2017

Stephen F. Casey, 661884

04/28/11 Date of Purchase, \$36,850.00 Tax

For Petitioner:

Stephen Casey, Taxpayer

For Business Tax and Fee 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 vessel in California is subject to use tax.

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

### ADMINISTRATIVE SESSION

#### ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

##### Legislative Committee

Action: Upon motion of Mr. Horton, seconded by Ms. Stowers and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board approved the Legislative Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 3.15](#)).

Exhibits to these minutes are incorporated by reference.

The Board adjourned at 12:04 p.m. in memory of all of those who have passed.

*The foregoing minutes are adopted by the Board on April 25, 2017.*

Note: The following matters were removed from the calendar prior to the meeting: *Hardeep Singh, 709664; Gems Unlimited, Inc., 727090; Nima J. Parvin, 837526, 838714, 935706; and, Yahia Ibrahim Assad, Yahia A. Assad, Mahmoud I. Assad, 352128.*