

Tuesday, September 26, 2017

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 1:34 p.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 Sergeant Authurine “Bunny” Clay, Army National Guard and Tax Technician, Field Operations Department, Culver City District Office.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Carlos P. Estiandan, 988053
2009, \$41,677.93 Claim for Refund

For Appellant:

Carlos P. Estiandan, Taxpayer
John C. Estiandan, Representative

For Franchise Tax Board:

Gi Nam, Tax Counsel
Marguerite Mosnier, Tax Counsel

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

Issue: Whether appellant’s claim for refund is barred by the statute of limitations pursuant to Revenue and Taxation Code section 19306.

Appellant’s Exhibit: Taxpayer Statement ([Exhibit 9.1](#))

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.

Exhibits to these minutes are incorporated by reference.

Center Point Diagnostic Imaging Services, 980044
2013, \$838.20 Claim for Refund

For Appellant:

Sam Enyinnaya, Taxpayer

For Franchise Tax Board:

Mira Patel, Tax Counsel
Marguerite Mosnier, Tax Counsel

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

Issues: Whether appellant has established reasonable cause for the late filing of its return as a basis for abatement of the late filing penalty imposed under R&TC section 19172.5.

Whether appellant has established reasonable cause for the late filing of its return as a basis for abatement of the late filing penalty imposed under R&TC section 19131.

Whether appellant has shown that the estimated tax penalty should be abated.

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

Whether appellant has shown that interest should be abated.

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Action: Mr. Horton moved to reverse the action of the Franchise Tax Board. The motion was seconded by Ms. Harkey. Mr. Horton withdrew his motion.

Ms. Harkey moved to sustain the action of the Franchise Tax Board as to the late payment penalty for the period of March 15, 2014 when the \$800 payment was due, to the payment date of May 1, 2014, and to otherwise reverse the action of the Franchise Tax Board. The motion was seconded by Mr. Runner but failed to carry, Ms. Harkey and Mr. Runner voting yes, Ms. Ma, Mr. Horton and Ms. Stowers voting no.

Mr. Horton moved to find that the collection cost recovery fee was applied in error; find reasonable cause to abate the late filing penalty; and, to find no reasonable cause for late payment. The motion failed for lack of a second.

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

Upon motion of Mr. Horton, seconded by Mr. Runner and duly carried, Ms. Harkey, Mr. Runner and Mr. Horton voting yes, Ms. Ma and Ms. Stowers voting no, the Board ordered that the claim for refund be adjusted down to \$334.50 and appropriate interest.¹

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 rescinded its prior vote.

Upon motion of Mr. Horton, seconded by Mr. Runner and duly carried, Ms. Harkey, Mr. Runner and Mr. Horton voting yes, Ms. Ma and Ms. Stowers voting no, the Board ordered that the claim for refund be reduced to \$500.00 due to administrative error and the deemed reasonableness of the late payment and late filing.

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:

BMGV, LLC, 863553 (BH)

04/01/09 to 03/31/12, \$45,698.45 Tax

Action: Redetermine as recommended by the Appeals Bureau.

Greg N. Chukwu, 586638 (CH)

04/01/07 to 03/31/10, \$14,603.98 Tax, \$24,157.64 Failure to Remit Collected Tax Penalty

Action: Redetermine as recommended by the Appeals Bureau.

Inger E. K. Gundeid and Charles Barth Gundeid, 872278 (JH)

07/01/11 to 06/30/14, \$73,541.36 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Bureau.

¹ The Board rescinded this action immediately.

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Jesse J. Henry, 919781 (BH)

04/01/12 to 08/31/13, \$28,085.68 Tax, \$2,808.60 Negligence Penalty, \$2,808.57 Finality Penalty, \$570.00 Collection Cost Recovery Fee

Action: Redetermine as recommended by the Appeals Bureau.

Noble Groceries, Inc., 841939 (BH)

04/01/11 to 03/31/14, \$33,776.44 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Bureau.

Thomas Edward Perry, 913615 (JH)

10/01/10 to 11/12/14, \$988,328.94 Tax, \$92,452.94 Negligence Penalty, \$6,380.13 Failure-to-File Penalty

Action: Redetermine as recommended by the Appeals Bureau.

Rizza Marie Cancio Punzalan, 554317 (BH)

01/01/07 to 12/31/09, \$26,566.79 Tax, \$2,656.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Bureau.

Jalil Yacoub Rukab, 862242 (BH)

01/01/11 to 05/29/14, \$20,265.48 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Bureau.

S. Peterson Enterprises, Inc., 855018 (SO)

10/01/11 to 06/30/14, \$61,212.97 Tax, \$6,121.35 Negligence Penalty

Action: Redetermine as recommended by the Appeals Bureau.

Cherie Reece Wilkins, 556758 (DF)

04/01/07 to 03/31/09, \$00.00 Tax, \$420.00 Late-Prepayment Penalty, \$7,294.30 Late-Payment and Late-Filing Penalty

Timothy Michael Wilkins, 595817 (DF)

04/01/07 to 03/31/09, \$27,827.67 Tax, \$420.00 Late-Prepayment Penalty, \$7,294.30 Late-Payment and Late-Filing Penalty

Action: Redetermine as recommended by the Appeals Bureau.

Saddleback Market, Inc., 1011758 (STF)

March 22, 2017 Seizure Date, \$770.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of 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:

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72 Domestic Credit, L.P., 975737

2010, \$1,280.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

David W. Abel, 962199

2009, \$1,599.00 Tax, \$100.00 Late-Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Veronica Artono, 856097

2010, \$2,101.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Braverman Entertainment, Inc., 975843

2014, \$461.82 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Brandon Burg, 935556

2013, \$501.72 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Mary C. Bush (Deceased), 933582

2009, \$1,674.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Rudy Bustamante, 941650

2011, \$613.85 Tax

Action: Sustain the action of the Franchise Tax Board.

Brynna Butts, 975736

2012, \$1,853.00 Tax, \$370.60 Accuracy-related Penalty

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

Alyce J. Castaneda and Larry S. Castaneda, 970719

2011, \$1,224.00 Tax

Action: Sustain the action of the Franchise Tax Board.

E & P Metals, LLC, 978833

2014, \$835.52 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Patrick Evans, 926879

2011, \$885.00 Assessment, \$177.00 Accuracy-related Penalty

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

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Kieron Foley, 987712

2014, \$763.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Darek Fuselier, 918123

2010, \$4,047.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Antonio Z. Garcia and Violeta B. Garcia, 946709

2011, \$15,380.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Tyrell Grayson, 944690

2013, \$1,194.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Handleman-CEG, Inc., 761251

2004, \$41,779.82 Tax

2005, \$821,272.00 Tax, \$205,318.00 Late-Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Glenda J. Hefner, 979148

2012, \$2,400.00 Tax, \$600.00 Late-Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Andrew J. Himes, 926302

2011, \$305.00 Tax

Action: Sustain the action of the Franchise Tax Board.

David Jaffe and Cori Miller, 939424

2013, \$2,081.28 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

K. Scott Justet, 982366

2014, \$19,734.00 Tax, \$4,933.50 Late-Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Keylight Productions, Inc., 980339

2014, \$288.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Mara A. Kratz, 975079

2010, \$1,274.00 Tax

Action: Sustain the action of the Franchise Tax Board.

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Timothy B. Kraus and Mary E. Boyle, 909734

2010, \$198.36 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ronan B. Loving and Hope M. Mendoza-Loving, 970834

2013, \$2,334.75 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Maxim Greenbrook, LLC, 981160

2013, \$611.13 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Maxim Group, LLC, 937920

2011, \$17,718.72 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Evelyn S. Menges and Charles P. Menges, 984391

2014, \$212.88 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

My Playschool, LLC, 929154

2009, \$1,171.03 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Fari Nemati, 935189

2013, \$1,388.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Karla Del Rosario Calderon Ochoa, 925036

2013, \$1,181.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Satyanarayan R. Peddada, 804830

2008, \$6,574.00 Claim for Refund

2009, \$4,945.00 Claim for Refund

2010, \$3,498.00 Claim for Refund

2011, \$6,056.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Chris Petrone, 927500

2009, \$1,082.00 Assessment

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

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David D. Queen, 942813

1999 to 2014, \$13,200.00 Claims for Refund

Action: Sustain the action of the Franchise Tax Board.

Jesse Renteria, 861564

2007, \$571.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Nicolle Rodriguez, 935947

2010, \$809.00 Tax

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

Jorge E. Rosado and Claudia A. Rosado, 884824

2010, \$237.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Michael D. Ruiz, 937564

2011, \$1,888.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Shirzad Saadat and Mojgan Rastegar, 879362

2007, \$97,742.00 Tax, \$19,548.40 Accuracy-Related Penalty

Action: Dismissed for lack of jurisdiction.

San Joaquin Valley Construction Management Group, LLC, 944688

2011 to 2014, \$2,871.79 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Michael J. Shay and Violeta A. Shay, 921949

2010, \$3,194.00 Claim for Refund

2012, \$5,577.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Tosh Takemoto and Hitomi Takemoto, 920225

2008, \$4,330.61 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

The New Bridge Marina, Inc., 982263

2015, \$1,386.00 Claim for Refund

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

Fidel M. Tristan, Jr., 979475

2011, \$1,066.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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U 1 Media Group, LLC, 767953

2010, \$648.99 Claim for Refund

2011, \$210.99 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Scott H. Walker and Diana S. Walker, 892858

2009, \$7,942.00 Assessment

2010, \$3,359.00 Assessment

2011, \$1,418.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

SALES AND USE TAX MATTERS, GRANT-ONE DAY INTEREST RELIEF, CONSENT

With respect to the Sales and Use Tax Matters, Grant-One Day Interest Relief, 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:

Arrowpetrol, Inc., 1012366 (AP)

01/01/17 to 03/31/17, \$368.25

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

Carmelitas, Incorporated, 1012362 (KH)

10/01/17 to 03/31/17, \$158.03

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

Carmelitas, Incorporated, 1012364 (KH)

02/01/17 to 02/28/17, \$245.54

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

Mor Furniture For Less, Inc., 1012373 (FH)

01/01/17 to 03/03/17, \$6,457.78

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

Ply Gem Pacific Windows, Corporation, 1012376 (OH)

10/01/16 to 12/31/16, \$1,032.88

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

Precision Automotive Repair, Inc., 1012370 (KH)

01/01/17 to 03/31/17, \$20.46

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

Transco Leasing Company, Inc., 1012368 (OH)

02/01/17 to 02/28/17, \$310.63

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

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Gotham Enterprise, LLC, 1012991 (BH)

04/01/17 to 04/30/17, \$20.80

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

Gotham Enterprise, LLC, 1012869 (BH)

04/01/17 to 04/30/17, \$147.81

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

High Flying Foods San Diego Partnership, 1012992 (BH)

04/01/17 to 04/30/17, \$836.33

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

W. H. J.'s Golden Dragon, Inc., 1012865 (EA)

02/01/17 to 02/28/17, \$34.89

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

D & G Company, LLC, 1012866 (BH)

04/01/17 to 04/30/17, \$121.82

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

Gotham Enterprise, LLC, 1012867 (BH)

04/01/17 to 04/30/17, \$72.61

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

Gotham Enterprise, LLC, 1012868 (BH)

04/01/17 to 04/30/17, \$275.46

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

LEGAL APPEALS MATTERS, ADJUDICATORY

Isa & Est, Inc., 713394 (EA)

04/01/09 to 03/31/12, \$00.00 Tax, \$46,577.29 Failure to Remit Collected Tax Reimbursement Penalty

Considered by the Board: April 25, 2017

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

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 ordered that the petition for rehearing be denied.

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ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single 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 made the following order:

Action: Approve the Board Meeting Minutes of July 27-28, 2017.

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

David J. Gau, Executive Director, provided a report regarding the status of pending and upcoming organizational issues.

Mr. Gau announced the appointments of Henry D. Nanjo to the position of Chief Counsel; and, Brenda Fleming to the position of Chief Deputy Director; both effective October 2, 2017.

David J. Gau, Executive Director, made introductory remarks regarding Board Committees and the recent enactment of Assembly Bill 102 ([Exhibit 9.2](#)).

Action: Upon motion of Ms. Harkey and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board agreed to terminate the standing committees, form ad-hoc committees as needed, and continue the interested parties process.

David J. Gau, Executive Director, requested approval of a Board meeting date change. The proposal would change the 2017 Board Meeting Calendar by adding one day, December 13, to the December 11-12, 2017 Board Meeting ([Exhibit 9.3](#)).

Action: Upon motion of Ms. Harkey and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board modified staff recommendation by adding two days, December 13 and 14, to the December 11-12, 2017 Sacramento Board Meeting.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 3:26 p.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 personnel matters (Gov. Code § 11126(a)(1)).

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The Board recessed at 3:43 p.m. and reconvened immediately in open session with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

David J. Gau, Executive Director, announced that he would be retiring at the end of the 2017 year after 36 years with the State. He gave many thanks to Members, family, friends, and co-workers. Board Members made complimentary remarks and thanked David for his service to the Board of Equalization.

The Board recessed at 3:47 p.m.

The foregoing minutes are adopted by the Board on November 14, 2017.

Note: The following matters were removed from the calendar prior to the meeting: *Denice Stenson, 944059; 866158; Qifang Pan and Xinhua Zhang, 956575 and Airsoft Zone Corporation, 976083; Estate of Barbara D. Gillespie (Dec'd), 984826; Heriberto A. Antunez, 866158; Sur Trading, Inc., 575609; and, Chief Counsel Report: Board Member and Staff Training on Ex Parte Statutes.*

Wednesday, September 27, 2017

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:34 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.

SALES AND USE TAX APPEALS HEARINGS

Marcelino V. Lopez, 855302 (EH)

For Petitioner:

Marcelino Villa Lopez, Taxpayer
Alejandro Ramos, Representative

For Business Tax and Fee Department:

Nenita DeLa Cruz, Hearing Representative

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

Action: The Board postponed this matter to a later date.

Joseph Paul Spina and Donna Fay Spina, 775740 (RC)

01/01/09 to 09/30/12, \$26,518.92 Tax

For Petitioners:

Donna Spina, Taxpayer

For Business Tax and Fee Department:

Scott Lambert, Hearing Representative

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

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

Whether adjustments to the unreported taxable sales of hot food are warranted.

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

Yadie Gazanfari, 905655 (RC)

10/01/11 to 01/31/15, \$14,479.92 Tax, \$1,315.02 Negligence Penalty, \$132.98 Failure-to-File Penalty

For Petitioner:

Yadie Gazanfari, Taxpayer

For Business Tax and Fee Department:

Scott Lambert, Hearing Representative

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

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

Whether petitioner was negligent.

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

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report (Continued from September 26, 2017)

Joann Richmond, Chief, Board Proceedings, provided staff's request for clarity on the discussion of the December 2017 Board Meeting date change, for scheduling purposes.

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Ms. Harkey continued the discussion to after a break so the Members could review the information.

The Board recessed at 12:16 p.m. and reconvened at 1:24 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

Executive Director's Report (Continued)

The Board continued its discussion of the December 2017 Board Meeting date change for scheduling purposes.

Ms. Harkey requested Chief Counsel to prepare a letter to taxpayers that are scheduled for the remainder of 2017, regarding finality and petitions for rehearing. The letter is to be reviewed by Members.

SALES AND USE TAX APPEALS HEARINGS

Robert Frank Hanna, 437978 (EA)

01/01/98 to 12/31/05, \$69,060.88 Tax, \$33,088.34 Fraud Penalty, \$20,819.67 Amnesty Double Fraud Penalty, \$16,975.04 Amnesty interest penalty

For Petitioner:

Robert Frank Hanna, Taxpayer

David Cheren, Attorney

For Business Tax and Fee Department:

Scott Lambert, Hearing Representative

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

Issue:

Whether fraud has been established by clear and convincing evidence.

Action: Ms. Harkey moved to remove the fraud penalty, inform the taxpayer of the Offer in Compromise program and that the petition otherwise be redetermined as recommended by the Appeals Bureau. The motion failed for lack of a second.

Mr. Runner advised that the fraud penalty should not impede the process of the Offer in Compromise program.

The Board recessed at 1:55 p.m. and reconvened at 2:01 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

Action: Upon motion of Ms. Harkey, 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 Bureau. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

Ruthy Aghabi and Issa Aghabi, 620839 (AC)

04/01/08 to 03/31/11, \$15,758.59 Tax, \$00.00 Negligence Penalty

For Petitioners:

Issa Aghabi, Taxpayer

For Business Tax and Fee Department:

Scott Lambert, Hearing Representative

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

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Issue: Whether further adjustments are warranted to the amounts of unreported taxable sales.

Action: Ms. Stowers moved that the petition be redetermined as recommended by the Appeals Bureau, and to provide the taxpayer with a payment plan. The motion was seconded by Ms. Harkey. Ms. Stowers offered an amendment that the taxpayer be informed of the Offer in Compromise program, and that the petition be redetermined as recommended by the Appeals Bureau. The amended motion was seconded by Ms. Harkey and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
SEPTEMBER 27, 2017**

Jorge A. Tejada Quinteros, 777673 (AA)

04/01/09 to 03/31/12, \$62,797.90 Tax, \$00.00 Negligence Penalty

For Petitioner: Waived Appearance, Taxpayer

For Business Tax and Fee Department: Scott Lambert, Hearing Representative

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

Issue: Whether adjustments to the amount of unreported taxable sales are warranted.

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma 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 Bureau.

Ruben Diaz Garcia, 520275

09/09/05 Purchase Date, \$27,225.00 Tax, \$2,722.50 Failure-to-File, \$2,722.50 Finality Penalty

For Petitioner: Waived Appearance, Taxpayer

For Business Tax and Fee Department: Kevin Smith, Tax Counsel

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

Issues: Whether the purchase and use of an aircraft by Advanced Aviation, LLC was subject to use tax.

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma 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 Bureau.

The Board recessed at 2:38 p.m.

The foregoing minutes are adopted by the Board on November 14, 2017.

Note: The following matters were removed from the calendar prior to the meeting: *NYC Restaurant, Inc., 854542; Michael James Savage, 731466; Gursharan S. Grewal, 835548; and, Nathan Charles Lortz, 812188.*

Thursday, September 28, 2017

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:35 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.

SALES AND USE TAX APPEALS HEARINGS

Yerem Khachaturyan, 680999 (RC)

01/01/09 to 06/30/12, \$143,975.00 Tax, \$15,146.63 Negligence Penalty

For Petitioner:

Yerem Khachaturyan, Taxpayer

Varoujan Tinkjian, Representative

For Business Tax and Fee Department:

Nenita DeLaCruz, Hearing Representative

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

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

Whether petitioner was negligent.

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 be submitted for decision.

The Board recessed at 10:58 a.m. and reconvened at 11:20 a.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

Yerem Khachaturyan, 680999 (RC) (Continued)

Action: Upon motion of Mr. Horton, seconded by Ms. Harkey and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board ordered the taxable measure be set as \$763,135.50.

Ms. Harkey moved to remove the negligence penalty. The motion was seconded by Mr. Runner but failed to carry, Ms. Harkey and Mr. Runner voting yes, Ms. Ma, Mr. Horton and Ms. Stowers voting no.

Ms. Harkey moved to remove interest for the period of February 2015 to the present. The motion was seconded by Mr. Runner. Ms. Harkey withdrew her motion.

G3 Mastering Solutions, Inc., 549262 (AA)

10/01/06 to 09/30/09, \$279,937.26 Tax

For Petitioner:

Hong Ye, Representative

For Business Tax and Fee Department:

Kevin Smith, Tax Counsel

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

Issue: Whether adjustments to the amount of disallowed claimed nontaxable sales for resale are warranted.

Hee Kim, Tax Counsel, Appeals Bureau, Legal Department, advised of the revised recommendation of the Appeals Bureau, to reduce the liability to \$101,971.78 tax and \$67,718.99 accrued interest.

Action: The Board continued this matter to the November 2017 Board Meeting in Culver City.

Thursday, September 28, 2017

The Board recessed at 11:58 p.m. and reconvened at 12:13 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

County of Riverside Auditor-Controller, 744614 (EH)

01/01/10 to 12/31/12, \$140,000.00 Claim for Refund

For Claimant:

Jim Voss, Representative

Jacob Bholat, Representative

For Business Tax and Fee Department:

Scott Claremon, Tax Counsel

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

Issue: Whether additional adjustments to unreported taxable purchases of supplies and fixed assets are warranted.

Hee Kim, Tax Counsel, Appeals Bureau, Legal Division, advised of the Department's revised recommendation to reduce the taxable measure by \$49,200.00.

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

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 claim be denied as to the purchases of sulfuric acid as recommended by the Appeals Bureau.

The Board recessed at 1:15 p.m. and reconvened at 2:00 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

Mark Robert Cooper, 851593 (EH)

07/12/10 to 08/05/12, \$31,525.09 Tax, \$5,612.30 Late-Payment and Finality Penalties

Mark Robert Cooper, 857193 (EH)

10/01/10 to 05/11/12, \$16,156.85 Tax, \$3,332.70 Late-Prepayment and Late-Payment Penalties

For Petitioner:

Mark R. Cooper, Taxpayer

For Business Tax and Fee Department:

Joseph Boniwell, Tax Counsel

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

Issue in the matter of 851593:

: Whether petitioner is personally liable for the unpaid liabilities of RIB Murrieta, LLC (RIB) pursuant to Revenue and Taxation Code section 6829.

Issue in the matter of 857193:

Whether petitioner is personally liable for the unpaid liabilities of Raviolis Italian Bistro, LLC (Raviolis) pursuant to Revenue and Taxation Code section 6829.

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 ordered that the petition be redetermined as recommended by the Appeals Bureau. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

Thursday, September 28, 2017

Eric Christopher Dutra, 607843, 746362 (FH)

01/01/10 to 12/31/10, \$0.00 Tax, \$5,288.65 Interest

01/01/11 to 12/31/12, \$0.00 Tax, 10,134.58 Interest

For Petitioner: No Appearance

For Business Tax and Fee Department: Nenita DeLaCruz, Hearing Representative

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

Issue: Whether some or all of the interest that has accrued on the tax assessed in two determinations should be relieved.

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

The Board adjourned at 2:34 p.m. in memory of Mrs. Susie Frierson, long-time member of the New Frontier Democratic Club and political activist on both the National and local levels.

The foregoing minutes are adopted by the Board on November 14, 2017.

Note: The following matters were removed from the calendar prior to the meeting: *Johaaron, Inc.*, 865024; and, *Rude Dog Bar & Grill, Inc.*, 780873.