

Tuesday, February 24, 2015

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:40 a.m., with Mr. Horton, Chairman, Mr. Runner, Vice Chairman, Ms. Ma and Ms. Harkey present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Cynthia Bridges, Executive Director.

The Board recessed at 9:42 a.m. and reconvened at 9:46 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

### ADMINISTRATIVE SESSION

#### OTHER ADMINISTRATIVE MATTERS

##### Executive Director's Report

Michele Pielsticker, Chief, Legislative & Research Division, reported the history of the excise tax rate adjustments for motor vehicle fuel and diesel fuel (fuel tax swap), which are required by current law to be adjusted by BOE on an annual basis. Mark Durham, Chief, Research and Statistics Section, Legislative & Research Division, explained the tax rate calculation methodology and presented staff's recommendations for: 1) 2015/16 new excise tax rate adjustments for motor vehicle fuel and diesel fuel (fuel tax swap) effective July 1, 2015 ([Exhibit 2.1](#)); 2) 2015/16 Diesel Fuel Tax Rate for Interstate Users Component b ([Exhibit 2.2](#)); and, 3) Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel ([Exhibit 2.3](#)).

Exhibits to these minutes are incorporated by reference.

Action: Mr. Runner moved to adopt staff recommendations to set the excise tax rate for the period July 1, 2015 through June 30, 2016 on motor vehicle fuel at \$0.285 per gallon and diesel fuel at \$0.13 per gallon; adopted a diesel fuel tax rate for interstate users Component b at \$0.320 per gallon for 2015/16; and, set the rate of prepayment of sales tax on motor vehicle fuel, diesel fuel and jet fuel distributions, for the period April 1, 2015 through June 30, 2016 at \$0.05 per gallon, \$0.225 per gallon, and \$0.115 per gallon, respectively. The motion was seconded by Ms. Harkey. The motion was withdrawn.

The Board recessed at 10:40 a.m. and reconvened at 10:57 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

##### *Fuel Tax Swap (Continued)*

Action: Upon motion of Ms. Ma, seconded by Mr. Horton and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board set the excise tax rate for the period July 1, 2015 through June 30, 2016 on motor vehicle fuel at \$0.30 per gallon; and, diesel fuel at \$0.13 per gallon.

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*2015/16 Diesel Fuel Tax Rate for Interstate Users Component b (Continued)*

Action: (Motion expunged.)  
 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 ordered its previous motion expunged.  
 (Motion expunged later in the day.)

*Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel (Continued)*

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 set the rate of prepayment of sales tax on motor vehicle fuel, diesel fuel and jet fuel distributions, for the period April 1, 2015 through June 30, 2016 at \$0.05 per gallon, \$0.225 per gallon, and \$0.115 per gallon, respectively, as recommended by staff.

**PUBLIC COMMENT**

Speaker: William M. Connell, Military Veteran, American Legion Post 49, owner of All American Surf Dog ([Exhibit 2.4](#))

**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**

Myles D. Hubers and Michelle R. Hubers, 534595

2001, \$192,637.00 Assessment, \$153,366.32 Penalty

2002, \$208,177.00 Assessment, \$148,244.64 Penalty

2003, \$298,861.00 Assessment, \$192,882.33 Penalty

For Appellants: Paul D. Woodard, Attorney  
 Elizabeth Van Clief, Attorney  
 For Franchise Tax Board: Roman Johnston, Tax Counsel  
 Michael Cornez, Tax Counsel

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

Issues: Whether appellants have shown error in respondent’s imposition of the interest-based penalty under former Revenue and Taxation Code (R&TC) section 19777.

Appellant’s Exhibit: Declaration of Appeal Rehearing ([Exhibit 2.5](#))

Action: Upon motion of Ms. Ma, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board submitted the appeal for decision.

Larry G. Dighera, 515547

2004, \$148,177.00 Assessment

For Appellant: Larry G. Dighera, Taxpayer  
 Michael Arnold, Representative  
 Joseph A. Vinatieri, Attorney  
 For Franchise Tax Board: Raul Escatel, Tax Counsel  
 David Gemmingen, Tax Counsel

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

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Issue: Whether appellant has shown that he is entitled to a claimed casualty loss deduction under Internal Revenue Code (IRC) section 165 for 2004.  
Appellant's Exhibit: Miscellaneous Documents ([Exhibit 2.6](#))  
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 1:08 p.m. and reconvened at 2:01 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

## ADMINISTRATIVE SESSION

### OTHER ADMINISTRATIVE MATTERS

#### Executive Director's Report

*2015/16 Diesel Fuel Tax Rate for Interstate Users Component b (Continued)*

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 ordered its previous motion expunged.

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 a diesel fuel tax rate for interstate users Component b of \$0.320 per gallon for 2015/16 as recommended by staff.

## PUBLIC HEARINGS

### **Proposed Amendments to Sales and Use Tax Regulation 1533.2, *Diesel Fuel Used in Farming Activities or Food Processing***

Kevin Smith, Tax Counsel, Taxes and Fee Programs Division, Legal Department, made introductory remarks regarding the adoption of proposed amendments to revise the definition of diesel fuel in Regulation 1533.2 to be consistent with the definition in the Diesel Fuel Tax Law ([Exhibit 2.7](#)).

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 1533.2, *Diesel Fuel Used in Farming Activities or Food Processing*, as published.

### **Proposed Amendments to Sales and Use Tax Regulation 1598.1, *Diesel Fuel Prepayment Exemption***

Kevin Smith, Tax Counsel, Taxes and Fee Programs Division, Legal Department, made introductory remarks regarding the adoption of proposed amendments to revise the definition of diesel fuel in Regulation 1598.1 to be consistent with the definition in the Diesel Fuel Tax Law ([Exhibit 2.8](#)).

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

Action: Upon motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted the amendments to Regulation 1598.1, *Diesel Fuel Prepayment Exemption*, as published.

### **Property Taxes – State Assessee’s Presentations on Capitalization Rates and Other Factors Affecting Values**

Ken Thompson, Chief, State Assessed Properties Division, Property and Special Taxes Department, made introductory remarks regarding 1) state assessee’s presentations on capitalization rates and other factors and procedures affecting 2015/16 property values of California public utilities, railroads, and pipelines; and, 2) private railroad car assessee’s presentations on factors and procedures affecting 2015/16 taxable values of private railroad cars.

Speaker: Peter Michaels, Law Office of Peter Michaels

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

Unified Precious Metals, Inc., 606172  
2000, \$265,389.14 Assessment, \$292,283.88 Penalty

For Appellant:	Geoffrey A. Weg, Attorney
For Franchise Tax Board:	Marguerite Mosnier, Tax Counsel
	Diane Ewing, Tax Counsel

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

Issue: Whether appellant has shown that respondent’s proposed assessment was barred by the statute of limitations.

Appellant’s Exhibit: Federal Regulations ([Exhibit 2.9](#))

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.

Millennium Dental Technologies, Inc., 747501  
2008, \$116,445.00 Assessment

For Appellant:	Patrick McCormick, Taxpayer
	Blake E. Christian, Representative
	Stacy Yamanishi, Representative
For Franchise Tax Board:	Ian Foster, Tax Counsel
	Michael Cornez, Tax Counsel

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

Issues: Whether appellant has shown error in respondent’s determination that gross profits from certain sales are attributable to the 2008 tax year.

Whether appellant’s claimed net operating loss (NOL) deductions should be allowed for 2008.

Appellant’s Exhibits: Miscellaneous Documents ([Exhibit 2.10](#))

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The Board recessed at 3:12 p.m. and reconvened at 3:35 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

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 submitted the appeal for decision.

**Garrett J. Zelen, 800216**

2007, \$13,369.00 Assessment, \$2,673.80 Penalty

For Appellant:

Garrett J. Zelen, Taxpayer

For Franchise Tax Board:

Eric Yadao, Tax Counsel

Diane Ewing, Tax Counsel

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

Issues: Whether appellant has established error in respondent Franchise Tax Board's (respondent or FTB) proposed assessment, which is based on a federal determination.

Whether appellant has demonstrated that the accuracy-related penalty should be abated.

Action: Upon motion of Ms. Harkey, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board submitted the appeal for decision.

**Steven B. Avery, 785074**

2012, \$5,414.38 Claim for Refund

2013, \$4,667.00 Claim for Refund

For Appellant:

Sherry Avery, Representative

Michael Yeager, Representative

For Franchise Tax Board:

Eric Yadao, Tax Counsel

Fred Campbell-Craven, Tax Counsel

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

Issue: Whether appellant has shown reasonable cause for the abatement of the mandatory electronic payment (e-pay) penalty.

Respondent's Exhibit: Notice of State Income Tax ([Exhibit 2.11](#))

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 submitted the appeal for decision.

**J.L.E. Enterprises, Inc., 796714**

2011, \$432.60 Claim for Refund

For Appellant:

Jeffrey L. Eisikowitz, Representative

For Franchise Tax Board:

Brian Werking, Tax Counsel

Fred Campbell-Craven, Tax Counsel

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

Issue: Whether appellant has shown reasonable cause for the abatement of the S corporation late payment penalty for 2011.

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Action: Upon motion of Ms. Stowers, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board submitted the appeal for decision.

William R. Dobkin and Donya Dobkin, 728014  
2006, \$181,348.00 Tax, \$36,269.60 Accuracy-Related Penalty

Deborah M. Dobkin, 725828  
2006, \$121,923.00 Tax

For Appellants:

William R. Dobkin, Taxpayer

Deborah M. Dobkin, Taxpayer

Joseph E. Mudd, Attorney

For Franchise Tax Board:

David Gemmingen, Tax Counsel

Michael Cornez, Tax Counsel

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

Issue: Whether appellants have substantiated the adjusted basis of their Long Beach home for the purpose of calculating gain on the sale.

Appellant's Exhibits: Miscellaneous Documents ([Exhibit 2.12](#))

Respondent's Exhibit: Brief Response ([Exhibit 2.13](#))

Action: Ms. Stowers moved to modify the action of the Franchise Tax Board. The motion failed for lack of second.

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 ordered that the hearing be continued to a later date, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

The Board recessed at 6:28 p.m. and reconvened at 6:35 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

## LEGAL APPEALS MATTERS, CONSENT

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

Doo Hyun Sung, 849689 (STF)

September 2, 2014 Seizure Date, \$363.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Charkha Liquors, Inc., 854585 (STF)

October 14, 2014 Seizure Date, \$20.79 Approximate Value

Action: Determined that staff properly seized the tobacco products.

L & W Liquor Corporation, 852225 (STF)

October 7, 2014 Seizure Date, \$130.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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Lawand Distribution, Inc., 850268 (STF)  
September 15, 2014 Seizure Date, \$551.76 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. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Dr. Roth's Footcare Products, LLC, 746877  
2011, \$576.00 Claim for Refund  
Action: Sustain the action of the Franchise Tax Board.

Amber Anderson and Brandon White, 759253  
2008, \$1,198.00 Claim for Refund  
Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Michael L. Becker, 796404  
2008, \$1,075.00 Tax  
2009, \$1,492.00 Tax  
Action: Sustain the action of the Franchise Tax Board.

Carole A. Fielder, 742241  
1998, \$11,413.49 Claim for Refund, \$11,434.76 Withholding  
Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Mark N. Fiore, 668140  
2008, \$3,638.00 Tax  
Action: Sustain the action of the Franchise Tax Board.

Cindy Garcia, 796624  
2009, \$1,306.00 Tax  
Action: Sustain the action of the Franchise Tax Board.

Garden Center Cafe, Inc., 796321  
2011, \$459.47 Claim for Refund  
Action: Sustain the action of the Franchise Tax Board.

Donald Phillip Goode and Cheryl Lea Stout-Goode, 796684  
2008, \$11,437.00 Tax, \$2,859.25 Late Filing Penalty, \$2,287.40 Accuracy-Related Penalty  
Action: Sustain the action of the Franchise Tax Board.

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Udayasuryan Kodoly, 772616

2011, \$1,339.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Hugh Lewis and Courtney L. Baber, 796706

2012, \$5,940.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ram Malik, 772093

2012, \$173.63 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ahmad S. Mazumder, 797300

2011, \$1,551.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Brian E. Oerly, 769828

2009, \$1,872.42 Assessment

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

Anthony Peters, 774830

2011, \$1,311.79 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

John T. Poon, 789456

2012, \$214.45 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ravisante, Inc., 790841

2011, \$432.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

RTTEMPPS, LLC, 800205

2005, \$14,755.11 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ahmad Shah, 785085

2008, \$1,450.00 Claim for Refund

2009, \$10,861.00 Claim for Refund

2010, \$8,863.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Markus Taylor, 804631

2009, \$673.00 Tax

Action: Sustain the action of the Franchise Tax Board.



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Christopher M. Willick, 791775

2009, \$1,356.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**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 Mr. Runner, 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:

Regency Enterprises Incorporated, 795785 (AC)

01/01/08 to 12/31/10, \$146,948.84

Action: Approve the redetermination as recommended by staff.

John Dovalis Gantes, 574744 (EH)

01/01/08 to 02/15/10, \$538,494.67

Action: Approve the redetermination as recommended by staff.

Benihana Ontario Corp., 724084 (OH)

10/13/08 to 09/30/11, \$140,909.67

Action: Approve the redetermination as recommended by staff.

Benihana National Corp., 724080 (OH)

10/13/08 to 09/30/11, \$571,523.69

Action: Approve the redetermination as recommended by staff.

Wunderlich-Malec Systems, Inc., 743620 (OH)

04/01/08 to 03/31/11, \$188,108.84

Action: Approve the redetermination as recommended by staff.

Hewlett-Packard Financial Services Company, 852772 (OH)

01/01/14 to 03/31/14, \$171,714.50

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

Siemens Energy, Inc., 852773 (OH)

07/01/13 to 09/30/13, \$130,765.40

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

EDP Renewables North America, LLC, 852774 (OH)

07/01/14 to 09/30/14, \$134,508.80

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

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Jinkosolar (U.S.), Inc., 852776 (BH)

01/01/14 to 03/31/14, \$282,877.20

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

Nissan Motor Acceptance Corp., 737456 (OH)

04/01/11 to 12/31/13, \$1,749,646.30

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

Terra Properties, Inc., 845675 (OH)

01/01/10 to 06/30/13, \$820,761.40

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

Cellco Partnership, 744169 (OH)

07/01/10 to 12/31/11, \$59,750.33

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

ASA Computers, Inc., 852778 (GH)

04/01/14 to 06/30/14, \$310.88

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

TC Dugan Enterprises, Inc., 852779 (FH)

07/01/14 to 07/31/14, \$61.12

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

**SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT**

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

Dionex Corporation, 850442 (GH)

10/01/09 to 09/30/12, \$157,930.04

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

Raymond Harry Simmons, 854681 (AS)

01/01/02 to 12/31/06, \$230,235.03

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

Alejandro Uribe Gardiel, 850994 (SO)

07/01/04 to 06/15/08, \$824,266.68

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

Nissan Motor Acceptance Corp., 737456 (OH)

04/01/11 to 12/31/13, \$4,375,506.70

Action: Approve the refund as recommended by staff.

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Terra Properties, Inc., 845675 (OH)

01/01/10 to 06/30/13, \$177,784.00

Action: Approve the refund as recommended by staff.

W.E.C.S. Electric Supply, Inc., 777656 (EH)

01/01/11 to 06/30/13, \$131,821.46

Action: Approve the refund as recommended by staff.

CGI Technologies &amp; Solutions, Inc., 574943 (OH)

07/01/10 to 06/30/11, \$157,835.17

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA, LLC, 852523 (KH)

07/11/14 to 10/31/14, \$318,815.00

Action: Approve the refund as recommended by staff.

Ajinomoto Althea, Inc., 851124 (FH)

10/01/10 to 09/30/13, \$117,680.64

Action: Approve the refund as recommended by staff.

Cellco Partnership, 744169 (OH)

07/01/10 to 12/31/11, \$367,138.94

Action: Approve the refund as recommended by staff.

Amgen USA, Inc., 718192 (AR)

01/01/10 to 03/31/13, \$555,113.14

Action: Approve the refund as recommended by staff.

American Airlines, Inc., 362784 (OH)

07/01/97 to 12/31/02, \$468,732.29

Action: Approve the refund as recommended by staff.

J.C. Bromac Corp., 774383 (AS)

07/01/10 to 09/30/13, \$329,049.44

Action: Approve the refund as recommended by staff.

Oracle America, Inc., 850483 (BH)

07/01/06 to 06/30/10, \$353,053.71

Action: Approve the refund as recommended by staff.

An Fremont Luxury Imports, Inc., 539395 (CH)

04/01/07 to 06/30/10, \$163,441.22

Action: Approve the refund as recommended by staff.

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Liftech Elevator Services, Inc., 851126 (AA)

01/01/11 to 12/31/13, \$350,067.75

Action: Approve the refund as recommended by staff.

Autozone Parts, Inc., 772184 (OH)

01/01/08 to 03/31/11, \$130,740.54

Action: Approve the refund as recommended by staff.

Ally Bank, 620465 (OH)

01/01/09 to 12/31/11, \$348,652.33

Action: Approve the refund as recommended by staff.

Tektronix Texas, LLC, 846285 (OH)

01/01/08 to 12/31/09, \$100,365.45

Action: Approve the refund as recommended by staff.

Yellowpages.com, LLC, 843102 (OH)

01/01/13 to 12/31/13, \$131,293.00

Action: Approve the refund as recommended by staff.

Grandway Investment, Inc., 846593 (AP)

01/01/13 to 06/30/14, \$137,229.00

Action: Approve the refund as recommended by staff.

Megapath Corporation, 810335 (GH)

01/01/12 to 03/31/12, \$120,079.27

Action: Approve the refund as recommended by staff.

**SPECIAL TAXES MATTERS, REDETERMINATIONS, CONSENT**

With respect to the Special Taxes Matters, Redeterminations, 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:

HPT TA Properties Trust, 711688 (STF)

04/01/09 to 09/30/10, \$209,514.36

Action: Approve the redetermination as recommended by staff.

**LEGAL APPEALS MATTERS, ADJUDICATORY**

Elite Cert' Auto Service & Tires, Inc., 550595 (EA)

Speaker: Robbie Kelterer, Taxpayer

07/01/06 to 06/30/09, \$31,551.82 Tax

Considered by the Board: July 26, 2012

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

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

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

Capitola Mall Associates, LP, 681023

1998, \$5,297.07 Claim for Refund

Considered by the Board: May 22, 2014

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

Action: (Motion Expunged)

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 ordered that its previous motion to sustain the action of the Franchise Tax Board be expunged.

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

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

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Offer in Compromise Recommendations of *Nasira Begum* and *Syed Imitiaz Nawab*; *Susan Alice Bakewell*; *Barbara L. Brown*; *Sokwon Choe*; *Farmacia Remedios, Inc.*; *James Louis Lombardi*; *Lillian Lien Nguyen*; *Hilford Lloyd Phillips*; *Jose Alberto Rodriguez*; *Roxana Valdivia*; *Chin Long Robert Wang*; and, *In Ja Yoon*; as recommended by staff.

### **CHIEF COUNSEL MATTERS**

#### **RULEMAKING**

#### **Section 100 Changes**

#### **Sales and Use Tax Regulation 1621, *Sales to Common Carriers***

Robert Tucker, Tax Counsel, Tax and Fee's Program Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to Regulation 1621, *Sales to Common Carriers*, to make it consistent with revisions to section 6385 of the Revenue and Taxation Code effective September 11, 2012 ([Exhibit 2.14](#)).

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 approved authorization to make Rule 100 changes to Regulation 1621, *Sales to Common Carriers* as recommended by staff.

Tuesday, February 24, 2015

**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 2.15](#)).

Laura Bowman-Dirrim, Assistant Property Appraiser, Taxpayers' Rights Advocate Office, Headquarters

Mr. Horton congratulated Laura Bowman-Dirrim on her retirement, extending his sincere and grateful appreciation for her dedicated service to the Board of Equalization.

Action: Approve the Board Meeting Minutes of January 21, 2015.

Action: Approve Proposed Revision to Audit Manual (AM), Chapter 2, *Preparation of Field Audit Reports* ([Exhibit 2.16](#)).

**ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS****Legislative Committee**

Action: This matter deferred the matter to Wednesday, February 25, 2015.

**OTHER ADMINISTRATIVE MATTERS****Executive Director's Report (Continued)**

Todd Gilman, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, presented the Annual Report highlighting Taxpayers' Rights Advocate Office accomplishments, involvement in projects, current issues, and examples of cases illustrating services provided in 2013/14 ([Exhibit 2.17](#)).

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

Tuesday, February 24, 2015

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES  
HEARINGS HELD FEBRUARY 24, 2015**

Myles D. Hubers and Michelle R. Hubers, 534595

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 reversed the action of the Franchise Tax Board.

Larry G. Dighera, 515547

Final Action: Upon motion of Ms. Harkey, 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 reversed the action of the Franchise Tax Board.

Unified Precious Metals, Inc., 606172

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

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

Millennium Dental Technologies, Inc., 747501

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.

Garrett J. Zelen, 800216

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.

Steven B. Avery, 785074

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

J.L.E. Enterprises, Inc., 796714

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

**ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 7:00 p.m. and reconvened immediately in closed session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Tuesday, February 24, 2015

**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 7:55 p.m. and reconvened immediately in open session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Mr. Horton announced the appointment of Dean Kinnee to the position of Deputy Director, Property Taxes Department.

The Board recessed at 7:56 p.m.

*The foregoing minutes are adopted by the Board on March 26, 2015.*

Note: The following matters were removed from the calendar prior to the meeting: *Hesperian, LLC, 340169; Maria Phillips (Santamaria-Del Campo) and Michael Del Campo, 741179; and, Joseph A. Sciarretta, 809250.*



Wednesday, February 25, 2015

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:37 a.m., with Mr. Horton, Chairman, Mr. Runner, Vice Chairman, Ms. Ma and Ms. Harkey present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

### SALES AND USE TAX APPEALS HEARINGS

Ace Service Centers, 625359 (FH)

01/01/08 to 06/30/11, \$00.00 Tax, \$106,523.72 Failure to Timely Remit Sales Tax

Reimbursement Collected Penalty

For Petitioner:

Mark Pugh, Taxpayer

Steve Williams, Representative

For Sales and Use Tax Department:

Kevin Smith, Tax Counsel

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

Issue: Whether the 40 percent penalty for failure to timely remit sales tax reimbursement collected from customers is supported by clear and convincing evidence.

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton and Ms. Stowers voting no, the Board reduced the 40-percent penalty for failure to timely remit collected sales tax reimbursement to a negligence penalty. Accordingly, the liability for the period January 1, 2008, through June 30, 2008, is deleted due to the expiration of the statute of limitations. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

The Board recessed at 11:39 a.m. and reconvened at 11:55 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Hezghiahoo Aharon Investment, Inc., 611158 (AR)

04/01/08 to 03/31/11, \$18,351.28 Tax

For Petitioner:

Joseph Boodaie, Representative

For Sales and Use Tax Department:

Nenita DeLaCruz, Hearing Representative

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

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

Whether any adjustment to the amount of unreported taxable cigarette rebates is warranted.

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the hearing be continued to a later date, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

Wednesday, February 25, 2015

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD  
FEBRUARY 25, 2015**

Laleh Enterprises, Inc., 469308 (AC)

04/01/05 to 06/30/08, \$46,345.27 Tax, \$4,634.55 Negligence Penalty

For Petitioner: Waived Appearance

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

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.

Lisa Burke, Business Taxes Specialist, Appeals Division, Legal Department, advised of the revised recommendation of the Appeals Division to increase the cost prices used in the markup analysis by 3.5 percent, which results in a reduction of approximately \$36,000 to the amount of unreported taxable sales.

Issues: Whether 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, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division.

Y.N.V., Inc., 573642 (AS)

01/01/08 to 12/31/10, \$105,418.32 Tax, \$00.00 Negligence Penalty

For Petitioner: Waived Appearance

For Sales and Use Tax Department: Nenita DeLaCruz, Hearing Representative

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.

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

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

**ADMINISTRATIVE SESSION****ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS****Legislative Committee**

Action: Upon motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Legislative Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 2.18](#)).

Exhibits to these minutes are incorporated by reference.

Wednesday, February 25, 2015

The Board recessed at 12:06 p.m.

*The foregoing minutes are adopted by the Board on March 26, 2015.*

Note: The following matters were removed from the calendar prior to the meeting: *En Pointe Technologies Sales, Inc., 532130 (AS); James Eugene Goldstein, 442332 (AC); Flying Goat Coffee (419) L.P., 611323 (JH); Ruthy Aghabi and Issa Aghabi, 620839 (AC); and, Gold Star Equipment Rentals, Inc., 592213 (EH).*

Thursday, February 26, 2015

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:37 a.m., with Mr. Horton, Chairman, Mr. Runner, Vice Chairman, Ms. Ma and Ms. Harkey present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

### SALES AND USE TAX APPEALS HEARINGS

**Jalidat Incorporated, 476422 (SO)**

04/01/04 to 03/31/07, \$1,338,611.99 Tax, \$133,861.23 Negligence Penalty

For Petitioner: Andre Van Der Valk, Taxpayer  
Tom P. Bleau, Attorney  
Mark Campbell, Attorney

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

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

Issues: Whether adjustments are warranted to the amount of unreported fuel sales.  
Whether adjustments are warranted to the understated taxable mini-mart sales.  
Whether adjustments are warranted to the disallowed claimed nontaxable sales of

propane.

Whether petitioner was negligent.

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 ordered that the hearing be continued to a later date, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

The Board recessed at 11:08 a.m. and reconvened at 11:19 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

**Azim Shaalemi, 521073 (AC)**

01/01/05 to 06/30/08, \$111,259.95 Tax, \$27,815.06 Fraud Penalty

For Petitioner: Azim Shaalemi, Taxpayer  
David Gadoshian, Representative

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

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

Issues: Whether further adjustments to the amount of unreported taxable sales and unreported purchases of vehicles subject to use tax are warranted.

Whether the Department has established clear and convincing evidence to support an assertion of the 25 percent penalty for fraud or intent to evade the tax.

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 ordered that the petition be submitted for decision.

Thursday, February 26, 2015

The Wakefield Company, Inc., 608341 (EA)

04/01/08 to 03/31/11, \$107,390.78 Tax

For Petitioner: Ryon Rickard, Taxpayer

For Sales and Use Tax Department: Andrew Kwee, Tax Counsel

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

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

Whether relief is warranted on the basis that petitioner's failure to report the proper amount of tax was the result of its reasonable reliance on erroneous advice from the Board during a prior audit.

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.

Pacific Paradise Nursery, Inc., 518628, 576425 (EA)

01/01/07 to 12/31/09, \$99,318.81 Tax

04/01/07 to 09/30/09, \$1.00 or More Claim for Refund

For Petitioner: Randy Smith, Taxpayer

Gonzalo Nier, Representative

For Sales and Use Tax Department: Kevin Smith, Tax Counsel

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

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

Whether adjustments are warranted to disallowed amounts of claimed nontaxable sales for resale or claimed cash discounts.

Whether adjustments are warranted to the disallowed amount of claimed bad debts.

Whether adjustments are warranted to the disallowed diesel fuel exemptions.

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 ordered that the petition be submitted for decision.

Dastigir G. Omar, 609881 (EH)

01/01/09 to 02/28/11, \$44,898.58 Tax, \$4,489.86 Negligence Penalty

For Petitioner: Linus Amarikwa, Representative

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

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

Issues: Whether further reductions to the amount of unreported taxable sales are warranted.

Whether petitioner was negligent.

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 ordered that the petition be submitted for decision.

Thursday, February 26, 2015

The Board recessed at 1:57 p.m. and reconvened at 1:58 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

The Board recessed at 1:59 p.m. and reconvened at 2:39 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

### **SPECIAL TAXES APPEALS HEARINGS**

Adil Alfonse Khilla, 391101 (STF)

01/01/04 to 12/31/05, \$22,919.39 Tax, \$00.00 Negligence Penalty

For Petitioner: Adil A. Khilla, Taxpayer

For Property and Special Taxes Department: Pamela Mash, Tax Counsel

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

Issue: Whether petitioner distributed untaxed tobacco products purchased from unlicensed out-of-state vendors and is therefore liable for excise tax on those distributions.

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 petition be submitted for decision.

Solar American Transfers, Inc., 512177 (STF)

01/01/06 to 09/30/08, \$14,155.93 Tax

For Petitioner: Hong Yao Sun, Taxpayer

For Property and Special Taxes Department: Kevin Smith, Tax Counsel

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

Issue: Whether adjustments are warranted to the amount of unreported diesel fuel tax.

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 ordered that the petition be submitted for decision.

### **FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD FEBRUARY 26, 2015**

Azim Shaalemi, 521073 (AC)

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

The Wakefield Company, Inc. 608341 (EA)

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

Thursday, February 26, 2015

Pacific Paradise Nursery, Inc., 518628, 576425 (EA)

Final Action: Upon motion of Ms. Harkey, 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 measure of tax for disallowed claimed diesel fuel exemptions be deleted, and that the petition otherwise be redetermined as recommended by the Appeals Division.

Dastigir G. Omar, 609881 (EH)

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

**FINAL ACTION ON SPECIAL TAXES APPEALS HEARINGS HELD FEBRUARY 26, 2015**

Adil Alfonse Khilla, 391101 (STF)

Final Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board abated the interest for the periods 3/22/07 to 3/26/09 and 9/20/12 to 6/30/14.

Upon motion of Ms. Harkey, seconded by Mr. Runner and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton and Ms. Stowers voting no, the Board ordered an adjustment of \$16,500.00 to the measure of tax for wholesale cost of cigars from overstock.

Solar American Transfers, Inc., 512177 (STF)

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

The Board adjourned at 4:31 p.m.

*The foregoing minutes are adopted by the Board on March 26, 2015.*

Note: The following matters were removed from the calendar prior to the meeting: Sahaki, Inc., 610480 (EH); *Randolph Hope Bruce Murad*, 404667 (FH); and, *Michelle Pauline Murad*, 404668 (FH).