

Tuesday April 28, 2015

The Board met at its offices at 450 N Street, Sacramento, at 10:11 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 Mr. Connell, Military Veteran

The Board recessed at 10:12 a.m. and reconvened at 12:24 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

PUBLIC COMMENT

Speaker: William M. Connell, Military Veteran, American Legion Post 49, owner of All American Surf Dog.

The Board recessed at 12:32 p.m. and reconvened at 1:27 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

SPECIAL PRESENTATION

Ms. Harkey presented Ted Matthies of San Diego district office, with a Board Resolution recognizing him for becoming one of fifteen blood donors in the United States to donate over 100 gallons of blood. Members made complementary remarks, thanking Ted for his life-saving donations. Ted thanked the Members and encouraged everyone to donate. Ms. Harkey read the resolution into the record ([Exhibit 4.1](#)).

Exhibits to these minutes are incorporated by reference.

The Board recessed at 1:33 p.m. and reconvened at 1:35 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

PUBLIC HEARINGS

Property Taxes - State Assesseees' Presentations on the Valuation of State-Assessed Properties

Ken Thompson, Chief, State-Assessed Properties Division, Property and Special Taxes Department, made introductory remarks regarding the presentations on the valuation of state-assessed property.

Speaker: Peter W. Michaels, Law Offices of Peter Michaels representing State Assessed Gas/Electric, Intercounty Pipeline, Telephone and Railroad Companies

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Proposed Adoption of Amendments to Regulation 1591, *Medicines and Medical Devices*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments clarifying the meaning of “approved by the United States Food and Drug Administration” and to include medical devices implanted in the human body to mark the location of a medical condition, such as breast tissue markers, in the definition of medicines ([Exhibit 4.2](#)).

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

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted the amendments to Regulation 1591, *Medicines and Medical Devices* as published.

Proposed Amendments to Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments to clarify the current conflict of interest provisions applicable to county property tax assessment appeals ([Exhibit 4.3](#)).

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 Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer* as published.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Todd Bentley and Kate Bentley, 593582

2004, \$132,041.00 Assessment

2005, \$206,508.00 Assessment

For Appellants:

Todd Bentley, Taxpayer

For Franchise Tax Board:

Natasha Page, Tax Counsel

Fred Campbell-Craven, Tax Counsel

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

Appellant’s Exhibit: Net Revenue of Amazon.com from 2004 to 2014 ([Exhibit 4.4](#))

Issue: Whether appellants have shown that respondent Franchise Tax Board erroneously assessed additional tax based on the sourcing to California of income arising from appellant-husband’s settlement of a lawsuit with his former employer.

Action: Ms. Harkey moved to reverse the action of the Franchise Tax Board. The motion failed for lack of a second.

Upon motion of Mr. Runner, seconded by Ms. Ma and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton and Ms. Stowers voting no, the Board ordered that \$400,000 income split over both years at issue be sourced to California, and otherwise sustained the action of the Franchise Tax Board.

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LEGAL APPEALS MATTERS, CONSENT

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

Nasef Ahmed, 639463 (BH)

04/01/10 to 07/15/11, \$9,305.71 Tax, \$930.59 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Breen Enterprises, Inc., 602146 (FH)

04/01/07 to 03/31/10, \$74,610.20 Tax, \$7,461.05 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Kingdom Holdings, LLC, 602151 (EA)

07/01/08 to 12/31/10, \$12,070.81 Tax, \$1,207.08 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Kiwi Stair, Inc., 602125 (KH)

10/01/07 to 09/30/10, \$24,976.80 Tax

Action: Redetermine as recommended by the Appeals Division

Max Tires, Inc., 610722 (AP)

10/01/07 to 12/31/10, \$99,124.57 Tax, \$9,912.51 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

RVCA Corporation, 742762 (EA)

10/01/07 to 07/20/10, \$143,896.11 Tax

Action: Redetermine as recommended by the Appeals Division.

Scot McBrian, 647378 (STF)

08/01/07 to 09/30/08, \$731.00 Tax

Scot McBrian, 647379 (STF)

08/01/07 to 09/30/08, \$86.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Ahmed Saeed Dobashi, 859831 (STF)

November 19, 2014 Seizure Date, \$210.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Zaytoon Market and Deli, LLC, 856886 (STF)

November 4, 2014, \$38.96 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matter: *Florence D. Vinluan, 796078.*

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

Bruce H. Thomas, 803214

1999, \$1,157.00 Tax, \$289.25 Late Filing Penalty, \$274.26 Post-Amnesty Penalty

2000, \$2,309.00 Tax, \$577.25 Late Filing Penalty, \$389.33 Post-Amnesty Penalty

2001, \$7,104.00 Tax, \$1,776.00 Late Filing Penalty, \$979.91 Post-Amnesty Penalty, \$2,841.60 Accuracy-Related Penalty

2002, \$1,399.00 Tax, \$67.81 Post-Amnesty Penalty

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

A. Salam Qureishi and Naheed F. Qureishi, 789454

2003, \$745,869.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Pamela E. Abaunza and Jorge A. Salguero, 800513

2009, \$561.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Andrea S. Beckman and Alan R. Beckman, 793869

2007, \$235.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Angelica Caguin, 794485

2009, \$943.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Richard Chun, 724101

2007, \$1,666.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

William J. Delia, 796431, 800224

2008, \$2,663.75 Late Filing Penalty, \$2,131.00 Accuracy-Related Penalty

2009, \$2,144.00 Accuracy-Related Penalty

2010, \$1,658.40 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

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John F. Estrada and Consuelo V. Estrada, 793450

2009, \$2,484.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gerald M. Fisher and Kathleen K. Fisher, 810300

2009, \$55,621.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Jack G. Hiehle, 756886

2008, \$637.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gabrielle Keil, 737047

2007, \$36,567.00 Claim for Refund

Russell D. Keil, Jr. and Julia B. Keil, 737049

2007, \$27,272.00 Claim for Refund

Mary K. Hynes, 737050

2007, \$37,446.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ryan Kendl, 758165

2010, \$1,715.25 Claim for Refund

2011, \$789.55 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

James King and Lili King, 825474

2011, \$1,240.25 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Sasheen R. Montano, 827686

2011, \$217.00 Tax, \$135.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Michael C. Perham, 779201

1992, \$8,519.25 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Benjamin A. Pezzillo, 800514

2009, \$1,588.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Javad Sabokpey and Esther Sabokpey, 815438

2008, \$1,542.95 Abatement of Interest

Action: Sustain the action of the Franchise Tax Board.

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Saintsbury, LLC, 817488

2012, \$4,284.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jim C. Salas, 812484

2010, \$2,938.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Florence D. Vinluan, 796078

2009, \$864.00 Assessment

Action: The Board took no action.

Jerold Volk and Sharon Volk, 812263

2012, \$1,255.90 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Hilario D. Gonzales and Dawn N. Melkus Gonzales, 620569

2006, \$742.00 Claim for Refund

2007, \$4,460.00 Claim for Refund

Action: Deny the petition for rehearing.

Jay A. Greek, 773291

2009, \$1,060.00 Tax

Action: Deny the petition for rehearing.

Jessie Y. Lee, 721067

2008, \$510.00 Assessment

Action: Deny the petition for rehearing.

James D. Morgan, 762099

2009, \$891.00 Assessment

Action: Deny the petition for rehearing.

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

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties, Denials of Claims for Refund, and, Grant-One Day Interest Relief, Consent Agenda, upon a single motion of Ms. Stowers, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board made the following orders:

Benihana International, Inc., 724090 (OH)

10/13/08 to 09/30/11, \$118,796.58

Action: Approve the redetermination as recommended by staff.

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William Ames, 439819 (GH)

10/01/98 to 09/23/01, \$3,406,855.28

Action: Approve the redetermination as recommended by staff.

Kemira Water Solutions, Inc., 680352 (OH)

07/01/07 to 09/30/10, \$5,579,600.14

Action: Approve the redetermination as recommended by staff.

Apro, LLC, 859832 (AS)

10/01/14 to 10/31/14, \$156,000.00

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

Raley's, 859833 (JH)

09/21/14 to 10/18/14, \$128,856.00

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

Flory Industries, 859830 (KH)

07/01/14 to 09/30/14, \$215.71

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

Lightwerks Communication Systems, Inc., 859834 (AS)

07/01/14 to 09/30/14, \$820.65

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

Anthony Joe Lewis, 859835 (KH)

04/01/14 to 06/30/14, \$55.18

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

Gotham Enterprise, LLC, 859836 (BH)

02/01/14 to 02/28/14, \$119.59

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

KB Wines, LLC, 859837 (JH)

01/01/14 to 03/31/14, \$2,138.53

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

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

The Board deferred consideration of the following matter: *Northrop Grumman Space & Mission Systems, Corp., 594630 (AS)*.

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

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CTC Liquidation, Inc., 857542 (BH)

10/01/07 to 12/31/07, \$153,571.00

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

William Janney Berkley Jr., 561981 (FH)

12/01/05 to 07/30/09, \$905,736.70

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

Ronald Brian Autrand, 799302 (CH)

01/01/03 to 03/30/09, \$576,032.65

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

Yvette M. Allaf, 816850 (AC)

01/01/09 to 12/19/09, \$120,936.01

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

JW Tech, Inc., 859300 (EA)

07/01/09 to 09/30/11, \$257,410.50

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

Global Fuel, LLC, 857081 (GH)

10/06/06 to 05/31/07, \$145,387.25

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

Andover Printing Services LTD., 563146 (BH)

01/01/01 to 12/31/07, \$139,610.00

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

Autozone West, Inc., 740666 (OH)

01/01/08 to 09/30/11, \$210,472.52

Action: Approve the refund as recommended by staff.

Chevron U.S.A., Inc., 775227 (CH)

07/01/12 to 06/30/13, \$435,250.80

Action: Approve the refund as recommended by staff.

General Atomics, 857743 (FH)

07/01/10 to 12/31/13, \$123,314.47

Action: Approve the refund as recommended by staff.

Fair Isaac & Company, Inc., 859248 (OH)

04/01/13 to 06/30/13, \$184,289.91

Action: Approve the refund as recommended by staff.

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The Golden 1 Credit Union, 854734 (KH)

07/01/14 to 09/30/14, \$103,418.00

Action: Approve the refund as recommended by staff.

Valley First Credit Union, 803977 (KH)

01/01/11 to 12/31/13, \$131,359.41

Action: Approve the refund as recommended by staff.

Schoeneckers, Inc., 792091 (OH)

10/01/10 to 06/30/13, \$1,571,593.76

Action: Approve the refund as recommended by staff.

Northrop Grumman Space & Mission Systems, Corp., 594630 (AS)

01/01/04 to 12/31/09, \$2,216,870.00

Action: The Board took no action

US Airways, Inc., 851206 (OH)

10/01/10 to 09/30/13, \$101,026.31

Action: Approve the refund as recommended by staff.

Chevrolet Motor Division, 855910 (OH)

07/01/14 to 11/05/14, \$881,892.13

Action: Approve the refund as recommended by staff.

BMW of North America, 857201 (OH)

06/27/14 to 08/15/14, \$1,029,269.05

Action: Approve the refund as recommended by staff.

BMW of North America, 857476 (OH)

08/02/13 to 06/10/14, \$368,823.77

Action: Approve the refund as recommended by staff.

The Wella Corporation, 857861 (OH)

01/02/01 to 12/31/02, \$150,490.10

Action: Approve the refund as recommended by staff.

Chevron Phillips Chemical Co. LP, 795265 (OH)

07/01/13 to 09/30/13, \$936,073.80

Action: Approve the refund as recommended by staff.

Corinthian Schools, Inc., 562088 (EA)

10/01/07 to 12/31/12, \$1,686,548.70

Action: Approve the refund as recommended by staff.

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Corinthian Schools, Inc., 862271 (EA)

01/01/13 to 12/31/14, \$403,309.06

Action: Approve the refund as recommended by staff.

SCE Federal Credit Union, 609308 (AP)

01/01/09 to 12/31/13, \$111,827.24

Action: Approve the refund as recommended by staff.

Silver Cinemas Acquisition Co., 778643 (AS)

10/01/10 to 09/30/13, \$625,208.55

Action: Approve the refund as recommended by staff.

WM Bolthouse Farms, Inc., 796725 (DF)

01/01/13 to 09/30/13, \$136,717.53

Action: Approve the refund as recommended by staff.

TD Auto Finance, LLC, 575845 (OH)

07/01/09 to 06/30/13, \$6,267,951.29

Action: Approve the refund as recommended by staff.

Artistree, Inc., 742277 (OH)

07/01/09 to 12/31/12, \$248,190.39

Action: Approve the refund as recommended by staff.

Rockwell Automation, Inc., 823080 (OH)

10/01/08 to 06/30/12, \$390,345.06

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, RELIEF OF PENALTIES, AND, GRANT-ONE DAY INTEREST RELIEF, CONSENT

With respect to the Special Taxes Matters, Relief of Penalties, and, Grant-One Day Interest Relief, Consent Agenda, upon a single motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9 in *AIG Property Casualty Company, 857811*; and, *National Union Fire Insurance Company of Pittsburg, PA, 857814*; the Board made the following orders:

AIG Property Casualty Company, 857811 (STF)

07/01/14 to 09/30/14, \$160,670.50

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

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National Union Fire Insurance Company of Pittsburg, PA, 857814 (STF)
07/01/14 to 09/30/14, \$504,584.40

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

Verizon Business Network Services, 861015 (STF)
10/01/03 to 12/31/05, \$69,167.01

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

SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

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

Nationwide Mutual Insurance Co., 737053 (STF)
01/01/09 to 12/31/09, \$1,959,169.00

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

Constellation Brands US Operation, 801516 (STF)
01/01/14 to 01/31/14, \$145,125.80

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

Constellation Brands US Operation, 842943 (STF)
07/01/14 to 07/31/14, \$134,491.00

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

Nationwide Mutual Insurance Co., 845243 (STF)
01/01/10 to 12/31/11, \$3,759,764.00

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

Massachusetts Mutual Life Ins. Co., 851835 (STF)
2013, \$810,903.00

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

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

Frank Cutler, 400347

1999, \$804,948.00 Assessment

2000, \$674,541.00 Assessment

Considered by the Board: July 21, 2009

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

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 a decision granting the petition for rehearing.

**TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION
DISCLOSURE STATUTE****PROPERTY TAX MATTERS****Audits**

Citizens Telecommunications Company of California, Inc. (0284)

2010 - 2013, \$25,400,000.00 Excessive Assessment, \$00.00 Penalties, \$00.00 In-lieu Interest

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

Legacy Long Distance International, Inc., (7699)

2011 - 2014, \$565,000.00 Escaped Assessment, \$83,700.00 Penalties, \$201,510.00 In-lieu Interest

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

China Telecom (Americas) Corporation (8015)

2011 - 2014, \$34,960,000.00 Escaped Assessment, \$3,496,000.00 Penalties, \$6,534,600.00 In-lieu Interest

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

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Extenet Systems (California), LLC, (8093)

2012 - 2014, \$43,900,000.00 Excessive Assessment, \$00.00 Penalties, \$00.00 In-lieu Interest
Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

CalPop.Com, Inc. (8132)

2012 - 2014, \$1,270,000.00 Escaped Assessment, \$133,000.00 Penalties, \$279,600.00 In-lieu Interest
Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, the Board adopted the audit adjustments as recommended by staff.

OFFER-IN-COMPROMISE RECOMMENDATIONS

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 approved the Offer in Compromise Recommendations of *A & N Petroleum, Inc.*; *Cedar Gas and Smog, Inc.*; *Mohamad Homer Majid*; *Bradley Raymond Evarts*; *Yellow Coyote Food Company, L.P.*; *Joseph Peter Frumentti*; *G. J. P. F., Inc.*; *Lih Hwan Hsu*; *Lih Yeu Hsu*; *In Soho, Inc.*; *Hratch Chacri Koulloukian*; *Woody Oakley*; *Patricia Ann Oakley*; *California Drywall Supply, Inc.*; *Francisco J. Perdigon*; *Mahir Reyad Omary*; *Robert Francis Silva*; *Bob Silva Ford, Inc.*; *Tailgate Sports, LLC*; *Vanguard Composite Group, Inc.*; *V System Composites, Incorporated*; *Vanguard Space Technologies, Inc.*; *Steven V. Vo*; and, *Bertram Ian Weiss*; as recommended by staff.

The Board recessed at 3:48 p.m.

The foregoing minutes are adopted by the Board on May 27, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Jennifer Rice and Richard Rice, 841158*; *Angelia Avila, 818764*; and, *Clifford L. Marshall and Deanna R. Marshall, 816195*.

Wednesday April 29, 2015

The Board met at its offices at 450 N Street, Sacramento, at 10:35 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

Michael J. Kyalwazi, 572746, 727786 (KH)

04/01/07 to 03/31/10, \$11,529.74 Tax, \$00.00 Negligence Penalty

For Petitioner/Claimant:

Michael Kyalwazi, Taxpayer

Winnie Kyalwazi, Witness

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

Issue: Whether any additional adjustments are warranted to the amounts of unreported taxable sales at either of petitioner's locations or to the amount established for the difference between recorded and reported taxable sales.

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

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, 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:

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 4.5](#)).

Leslie "Les" Cancel, Business Taxes Representative, Centralized Collection Section, Sales and Use Tax Department, Headquarters

Neelam Godhwani, Tax Technician III, Sales and Use Tax Department, San Francisco District Office

Michelle R. Hey, Staff Services Manager I, Space and Lease Management Section, Administrative Department, Headquarters

Sheila Perkins, Business Taxes Specialist I, Irvine District Office

David Scribner, Assistant Information Systems Analyst, Technology Services Department, Headquarters

Linda Sontag, Business Services Officer I (Specialist), Supply Management Unit, Administration Department, Headquarters

Gloria Sweeney, Tax Technician II, San Francisco District Office

Camilla Wilson, Secretary, Sacramento District Office

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- Action: Approve the Board Meeting Minutes of March 25-26, 2015.
- Action: Adopt proposed revisions to Audit Manual (AM), Chapter 4, *General Audit Procedures* ([Exhibit 4.6](#)).
- Action: Adopt proposed revisions to Compliance Policy and Procedures Manual (CPPM) Chapter 7, *Collections* ([Exhibit 4.7](#)).
- Action: Adopt a Board Resolution recognizing Ted Matthies for donating over 100 gallons of blood ([see Exhibit 4.1](#)).
- Action: Adopt a Board Resolution honoring the life of Lisa R. Buchanan ([Exhibit 4.8](#)).

Exhibits to these minutes are incorporated by reference.

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee March 25, 2015

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 approved the Legislative Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 4.9](#)).

Legislative Committee April 28, 2015

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 approved the Legislative Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 4.10](#)).

Business Taxes Committee April 28, 2015

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 approved the Business Taxes Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 4.11](#)).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Cynthia Bridges, Executive Director, provided a report regarding the approval of nominees for the BOE Employee Recognition Award Program.

Cynthia Bridges, Executive Director, provided a report regarding time extensions to Monterey, Sonoma, Trinity, and Yuba Counties to complete and submit 2015/16 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 ([Exhibit 4.12](#)).

Eric Steen, CROS Project Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

Wednesday April 29, 2015

Sales and Use Tax Deputy Director's Report

Jeff McGuire, Deputy Director, Sales and Use Tax Department, presented staff's proposal to raise the threshold for Board Member approval of refunds in excess of \$100,000 ([Exhibit 4.13](#)).

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 approved Alternative 2: delegate Board approval requirement to staff.

Mr. Runner requested a monthly report of refunds over \$250,000 be provided to the Members' offices.

Special Taxes Deputy Director's Report

Lynn Bartolo, Chief, Special Taxes Policy and Compliance Department, made introductory remarks regarding staff's recommendation for setting the 2015/16 fiscal year tobacco products tax rate ([Exhibit 4.14](#)).

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 set the tobacco products tax rate at 28.13 percent for Fiscal Year 2015/16 as recommended by staff.

Administration Deputy Director's Report

Edna Murphy, Deputy Director, Administration Department, presented contracts over \$1 million: Department of Toxic Substances Control contract for collection of fees pertaining to hazardous waste ([Exhibit 4.15](#)); and, Department of Motor Vehicles contract for collection of sales, use and/or special taxes pertaining to vehicles and undocumented vessels ([Exhibit 4.16](#)).

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

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 12:53 p.m. and reconvened immediately in closed session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

CLOSED SESSION

The Board met to discuss settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 12:58 p.m. and reconvened immediately in open session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Wednesday April 29, 2015

The Board adjourned at 12:59 p.m. in memory of Lisa Buchanan and Sandra June Vinatieri. Lisa, Research Program Specialist, Research and Statistics Section, Board of Equalization, passed away on Sunday, March 22, 2015, at age 40, and is survived by husband Dwight and daughters Naomi and Monica. Sandra passed away on Saturday, April 11, 2015, at age 61, and is survived by husband Joseph, and children Sarah, Joe and Susie.

The foregoing minutes are adopted by the Board on May 27, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Karim Khan Amir Ali, 559076 (DF)*; and, *Administration Deputy Director's Report on discussions with SEIU regarding in-house security services.*