

Tuesday, June 23, 2015

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:33 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.

SPECIAL PRESENTATIONS

Mr. Horton made introductory remarks regarding the Board of Equalization's *Employee Recognition Award Program*. On behalf of the Board, he thanked the recipients for their dedication and commitment to the organization. Each Member of the Board followed; giving a special thanks to the awardees for their hard work and efficiency. Cristina Herrera, Staff Services Manager III, and Robert McPherson, Associate Management Analyst, Executive Projects & Services Section, External Affairs Department, read the names of the award recipients and their achievements into the record.

The Board recessed at 9:50 a.m. and reconvened at 10:08 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS

Administration Deputy Director's Report

Edna Murphy, Deputy Director, Administration Department, provided a report on discussions with SEIU regarding in-house security services ([Exhibit 6.1](#)).

Speakers: Margarita Maldonado, Vice President Bargaining, SEIU Local 1000
Mario Gurrero, Legislative and Intermittent Research Director, SEIU Local 1000

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 adopted a resolution as presented by staff.

Exhibits to these minutes are incorporated by reference.

The Board recessed at 10:18 a.m. and reconvened at 10:38 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Noreen B. Schneider Rucinski and Fred Rucinski, 789657
2005, \$16,981.74 Claim for Refund

For Appellants:

Noreen B. Rucinski, Taxpayer

For Franchise Tax Board:

Brian Werking, Tax Counsel

Marguerite Mosnier, Tax Counsel

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

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Issue: Whether appellants have shown that they filed a timely claim for refund for the 2005 tax year.
Appellant's Exhibit: Wage withholding Summary and Copies of Checks ([Exhibit 6.2](#))
Respondent's Exhibit: Chart of Filed Tax Forms ([Exhibit 6.3](#))
Action: Upon motion of Ms. Stowers, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board submitted the appeal for decision.

The Board recessed at 11:59 a.m. and reconvened at 12:12 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matters: *AA Rancho, Inc., 569479 (FH)*; *April Enterprises, Inc., 624773, 860001 (EA)*; *Bharwani Corp., 740667 (DF)*; *California Restaurant Authority, Inc., 485060 (AC)*; *Haja, LLC, 674641 (AS)*, and, *Skyline Exhibits West, Inc., 609694 (AR)*.

With respect to the Legal Appeals 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:

AA Rancho, Inc., 569479 (FH)
06/17/05 to 03/31/08, \$144,650.31 Tax, \$14,465.03 Negligence Penalty, \$14,465.03 Finality Penalty
Action: The Board took no action.

Action Air Express, Inc., 352204 (UT)
07/30/03, \$32,589.00 Tax, \$3,258.90 Failure-to-File
Action: Redetermine as recommended by the Appeals Division.

April Enterprises, Inc., 624773, 860001 (EA)
10/01/08 to 09/30/11, \$12,590.00 Tax
Action: The Board took no action.

Bharwani Corp., 740667 (DF)
01/01/10 to 12/31/12, \$60,004.74 Tax, \$6,165.37 Negligence Penalty
Action: The Board took no action.

California Restaurant Authority, Inc., 485060 (AS)
04/01/05 to 12/31/07, \$128,656.75 Tax, \$11,047.97 Negligence Penalty, \$1,817.73 Failure-to-File Penalty, \$12,865.68 Finality Penalty
Action: The Board took no action.

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Roger N. Davis, 521660 (UT)

02/12/08, \$3,712.50 Tax

Action: Redetermine as recommended by the Appeals Division.

Nver Grigoryan, 624246 (AC)

10/01/08 to 09/30/11, \$168,450.33 Tax, \$17,222.22 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Haja, LLC, 674641 (AS)

10/01/08 to 07/13/12, \$40,575.58 Tax, \$4,149.61 Negligence Penalty

Action: The Board took no action.

Michael Paul Hodges, 586100, 795415 (AC)

04/01/08 to 03/31/11, \$896,076.07 Tax, \$89,607.61 Negligence Penalty

04/01/11 to 08/01/12, \$548,262.61 Tax, \$54,826.24 Negligence Penalty, \$54,826.26 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Los Campeones Mexican Food, Inc., 733828 (EH)

07/01/09 to 12/31/12, \$49,478.63 Tax, \$4,947.86 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

NativeBuy, Inc., 526782 (EH)

07/01/06 to 03/31/09, \$112,369.95 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Progressive Lighting & Energy Solutions, 602544 (EA)

01/01/07 to 12/31/09, \$204,588.99 Tax

Action: Redetermine as recommended by the Appeals Division.

Soheila Zahrabi Siadate, 732887 (EA)

04/01/10 to 06/30/12, \$30,456.88 Tax

Action: Redetermine as recommended by the Appeals Division.

Marquis T. Smith, 567620 (FH)

04/01/06 to 10/04/08, \$13,731.99 Tax, \$477.50 Late-Payment-of-Return Penalty, \$319.20 Late Prepayment Penalty, \$926.00 Failure-to-File Penalty, \$926.00 Finality Penalty

Action: Redetermine as recommended by the Appeals Division

Soccer Stores, Inc., 690837 (AC)

01/01/08 to 06/30/11, \$1,163,225.46 Tax, \$116,322.57 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Skyline Exhibits West, Inc., 609694 (AR)

04/01/07 to 03/31/10, \$45,841.21 Tax

Action: The Board took no action.

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True Floors, Inc., 574143 (AC)
04/01/07 to 03/31/10, \$8,168.25 Tax
Action: Redetermine as recommended by the Appeals Division.

Brandon C. Young, 557830 (FH)
Kimberly Young, 557831 (FH)
07/01/06 to 01/19/08, \$24,904.98 Tax, \$1,898.13 Late Payment of Returns Penalty, \$745.00 Late Filing of Returns Penalty, \$416.94 Late Prepayment Penalty, \$360.00 Failure to make Prepayment Penalty, \$1,739.30 Failure to File Returns, \$1,739.30 Finality Penalty
Action: Redetermine as recommended by the Appeals Division.

Megha Foods, Inc., 599623 (EH)
10/01/07 to 09/30/10, \$3,556.09 Tax
Action: Redetermine as recommended by the Appeals Division.

Heena Foods, Inc., 599617 (EH)
10/01/07 to 09/30/10, \$3,019.26 Tax
Action: Redetermine as recommended by the Appeals Division.

Rasmi Naser Zeidan, 865498 (STF)
January 23, 2015 Seizure Date, \$2,161.53 Approximate Value
Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matter: *C&L Pacific Real Estate, Inc., 815463.*

With respect to the Corporate Franchise and Personal Income Tax 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:

Benjamin Alsasua and Anna Alsasua, 736835
2000, \$2,857.00 Tax, \$4,181.36 Late Filing Penalty
Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

C&L Pacific Real Estate, Inc., 815463
2011, \$432.00 Claim for Refund
Action: The Board took no action.

Edward G. Carvalho, 793937
2008, \$1,840.00 Tax
Action: Reverse the action of the Franchise Tax Board.

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Marvin R. Christensen and Rosemarie F. Christensen, 567680

2006, \$64,542.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kenneth D. Clark, 746791

2009, \$717.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Brian Garcia, 807755

2011, \$1,600.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Juan C. Salvador Guevara, 792058

2008, \$1,728.00 Assessment

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

Dee Ann Hood, 812846

2007, \$2,042.00 Claim for Refund

2008, \$1,985.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Tamara Kathleen Leivas (Rogers), 793967

2011, \$1,285.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Doran G. Machin and Susan M. Machin, 796210

2004, \$50,075.00 Claim for Refund, \$9,647.60 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Lina Nihiser, 764246

2008, \$1,259.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Peak Aero Group, Inc., 837855

2011, \$12,411.01 Assessment, \$3,102.75 Late Filing Penalty, \$3,102.75 Demand Penalty, \$96.00 Filing Enforcement Penalty

Action: Sustain the action of the Franchise Tax Board.

John J. Petersen, 759741

2009, \$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.

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Anoop K. Shah, 740009

2009, \$9,379.00 Claim for Refund

2010, \$2,823.25 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Daniel J. Treptow, 797514

2007, \$6,572.16 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Edwin Yee and Sandra L. Yee, 73544

2003, \$1,552.00 Claim for Refund

2004, \$1,008.00 Claim for Refund

2005, \$2,183.82 Claim for Refund

2006, \$2,216.83 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Stephen Dove, 775223

2009, \$3,601.00 Claim for Refund

Action: Deny the petition for rehearing.

Mary Anne Gilles, 732200

2004, \$1,440.00 Claim for Refund

Action: Deny the petition for rehearing.

Rene Surban, 623948

2006, \$1,293.00 Claim for Refund

2007, \$1,555.00 Claim for Refund

2008, \$1,623.00 Claim for Refund

Action: Deny the petition for rehearing.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES,
AND, DENIALS OF CLAIMS FOR REFUND, CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties, and Denials of Claims for Refund, 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:

Home Depot U.S.A., Inc., 840953 (OH)

01/01/03 to 02/01/09, \$7,230,462.61

Action: Approve the redetermination as recommended by staff.

Jeremiah John Cullinane, 739443 (BH)

01/01/06 to 12/31/09, \$182,928.61

Action: Approve the redetermination as recommended by staff.

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Packageone, Inc., 721977 (KH)

04/01/08 to 03/31/11, \$300,269.72

Action: Approve the redetermination as recommended by staff.

AT&T Datacomm, Inc., 866432 (OH)

01/01/11 to 06/30/14, \$134,802.00

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

William G. Morschauser, 854446 (AP)

01/01/97 to 06/30/09, \$159,371.00

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

Matheson Tri-Gas, Inc., 715941 (OH)

07/01/06 to 06/30/09, \$84,598.00

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

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

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

Keith Mark Christian, 561671 (FH)

10/01/01 to 12/31/01, \$621,177.19

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

Eco Building Systems, Inc., 861600 (FH)

10/01/02 to 03/31/03, \$439,645.24

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

Chevron U.S.A., Inc., 860281 (CH)

04/01/13 to 09/30/14, \$248,201.74

Action: Approve the refund as recommended by staff.

GE Medical Sys. Info. Tech., Inc., 592491 (OH)

04/01/05 to 12/31/09, \$127,816.64

Action: Approve the refund as recommended by staff.

Schmid Systems, Inc., USA, 860054 (GH)

07/01/14 to 09/30/14, \$136,583.00

Action: Approve the refund as recommended by staff.

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Bakercorp, 742380 (EA)

04/01/10 to 09/30/14, \$119,010.86

Action: Approve the refund as recommended by staff.

Matheson Tri-Gas, Inc., 715941 (OH)

07/01/06 to 06/30/09, \$245,493.48

Action: Approve the refund as recommended by staff.

Quest Diagnostics Clinical Labs, 813163 (OH)

01/01/11 to 12/31/11, \$199,998.11

Action: Approve the refund as recommended by staff.

A-L Financial Corp., 860464 (EA)

10/01/14 to 12/31/14, \$101,537.00

Action: Approve the refund as recommended by staff.

Waldorf Astoria Management, LLC, 721758 (EH)

10/01/09 to 06/30/12, \$140,312.08

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 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 order:

Haycock Petroleum Company, 575827 (STF)

06/01/08 to 09/29/09, \$140,069.52

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

With respect to the Special Taxes Matters, Redeterminations, 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 order:

RK Company, Inc., 525133 (STF)

01/01/06 to 12/31/08, \$3,119,531.51

Action: Approve the redetermination as recommended by staff.

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LEGAL APPEALS MATTER ADJUDICATORY

Andrew Steven Roganson, 538417, 737457 (AC)

Speaker: Andrew Roganson, Taxpayer

06/08/06 to 12/31/08, \$6,328.42 Tax

Considered by the Board: June 25, 2014

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

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 for rehearing be denied as recommended by the Appeals Division.

The Board recessed at 12:22 p.m. and reconvened at 1.38 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

PUBLIC HEARINGS**Business Taxpayers' Bill of Rights Hearings**

Todd Gilman, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, made introductory remarks regarding the Business Taxpayers' Bill of Rights hearings. Individuals have the opportunity to present ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs, including sales and use taxes, environmental fees, fuel taxes, and excise taxes, and any problems identified in the Taxpayers' Rights Advocate's Annual Report ([Exhibit 6.4](#)).

Speakers: William M. Connell, Military Veteran and owner of All American Surf Dog ([Exhibit 6.5](#))
Mark Brandeis, Brandeis & Associates, LLC

Property Taxpayers' Bill of Rights Hearings

Todd Gilman, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, made introductory remarks regarding the Property Taxpayers' Bill of Rights hearings. Individuals have the opportunity to present their ideas, concerns, and recommendations regarding legislation, the quality of agency services, and other issues related to the Board's administration of its tax programs, including state and county property tax programs, and any problems identified in the Taxpayers' Rights Advocate's Annual Report ([Exhibit 6.6](#)).

Speakers: Thomas Crandall, Property owner in Humboldt County ([Exhibit 6.7](#))
Tim Phillis, Taxpayer ([Exhibit 6.8](#))

Mr. Gilman entered into the record written comments from Chris O'Neall, Cahill, Davis & O'Neal LLP ([Exhibit 6.9](#)).

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Timber Harvest Values and Modified Harvest Values

Mike Harris, Manager, County-Assessed Properties Division, Property Taxes Department, made introductory remarks regarding the timber harvest values and modified harvest values. On or before June 30, 2015, the Board shall estimate the immediate harvest values of and adopt schedules for each species or sub-classification of timber harvested between July 1 and December 31, 2015. Additionally, the Board may modify immediate harvest values to reflect material changes in timber values that result from fire or other catastrophic cause for any area or part thereof in which damaged timber is located. Revenue and Taxation Code section 38204 ([Exhibit 6.10](#)).

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Robert Carpio and Virginia Carpio, 793495

2003, \$15,806.00 Tax, \$3,161.20 Accuracy-Related Penalty

For Appellants:

Ernest H. Mattison, Jr., Representative

For Franchise Tax Board:

Diane Ewing, Tax Counsel

Marguerite Mosnier, Tax Counsel

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

Issue: Whether appellants have shown that the proposed assessment was issued by the Franchise Tax Board within the statute of limitations.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 6.11](#))

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 submitted the appeal for decision.

Michael I. Cohen, 795873

2010, \$2,710.25 Claim for Refund

For Appellant:

Michael Cohen, Taxpayer

Wilton Robinson, Representative

For Franchise Tax Board:

Joel Smith, Tax Counsel

Marguerite Mosnier, Tax Counsel

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

Issue: Whether appellant has shown that he had reasonable cause for failing to reply to respondent's Demand for Tax Return (Demand).

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 submitted the appeal for decision.

The Board recessed at 4:18 p.m. and reconvened at 4:38 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

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Gary Mellinger and Christa Mellinger, 811123

2007, \$16,816.00 Assessment

For Appellants:

Philip G. Panitz, Attorney

Barbara E. Lubin, Attorney

For Franchise Tax Board:

Judy Hirano, Tax Counsel

Ciro Immordino, Tax Counsel

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

Issue: Whether appellants have shown that the Franchise Tax Board erred by not allowing damages awarded in a settlement agreement to be excluded from their taxable income.

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 submitted the appeal for decision.

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

Rago Development Corporation, 735761

2003, \$30,249.00 Assessment

Fredrick M. Wooster and Mary L. Wooster, 727483

2003, \$64,081.00 Assessment

2005, \$10,545.00 Assessment

Paul H. Verriere and Patricia R. Verriere, 727493

2003, \$156,096.00 Assessment

Michael J. Smith and Lynn M. Smith, 725834

2003, \$152,162.00 Assessment

Louis Rago and June E. Rago, 725839

2003, \$174,472.00 Assessment

Martin Bramante and Estate of Velia Bramante, 632713

2003, \$130,720.00 Assessment

Frank Sabella, 633944

2003, \$128,533.00 Assessment

Louis La Torre Living Family Trust, Louis La Torre Trustee, 633028

2003, \$128,074.00 Assessment

Considered by the Board: March 25, 2015 (Rev. & Tax. Code, § 40)

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

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

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 decision be a precedential Formal Opinion.

Peter St. Geme and Polly Plumer St. Geme, 693089

2000, \$914,847.00 Assessment

Considered by the Board: March 25, 2015 (Rev. & Tax. Code, § 40)

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

Action: (Motion expunged the following day.)

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SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY

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

01/01/04 to 12/31/09, \$2,216,870.09

Considered by the Board: April 28, 2015

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 approved the refund as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**OFFER-IN-COMPROMISE RECOMMENDATIONS**

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 the Offer in Compromise Recommendations of *Guillermina Ahumada* and *Latino-Meat Market, Inc.*; *Jeanne Sue Barton*; *Muhammad Saeed Bhumbala*; *Richard Pierce Campbell*; *Jian Zhong Deng* and *GND Enterprises, Inc.*; *Jeffrey David Gallagher*; *William Greenberg* and *The New Green's Furniture, Inc.*; *Jacob Auto Sales, Inc.* and *Ramin J. Beth-Jacob*; *Cherylynn Ann Johnson*, *Jeffrey Alan Johnson* and *Urban Board Shop, Inc.*; *James Allen Miller*; *Laurent Aimable Quenioux* and *LQ Foods, Inc.*; *Ronald James Routhier*, *Cynthia Ann Routhier* and *Trendz, Inc.*; *Jeffrey I. Schwimmer* and *Evelyn Schwimmer*; and, *George Abraham Vazhappally*; as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

The Board deferred consideration of the following matter: *Proposed Revisions to Audit Manual (AM), Chapter 4, General Audit Procedures.*

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

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 6.12](#)).

Maria Delgado, Staff Services Manager III, External Affairs Department,
Headquarters

Action: Approve the Board Meeting Minutes of May 27-28, 2015.

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Ms. Stowers congratulated Maria Delgado on her well-deserved retirement and made many complementary remarks as to her experiences working with Maria.

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Customer Services and Administrative Efficiency Committee

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 the Customer Services and Administrative Efficiency Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 6.13](#)).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Cynthia Bridges, Executive Director, provided a report regarding time extensions to Amador, Colusa, Humboldt, Inyo, Lassen, Los Angeles, Mendocino, Modoc, Nevada, Placer, and Santa Cruz Counties to complete and submit the 2015/16 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 ([Exhibit 6.14](#)).

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.

The Board recessed at 6:16 p.m. and reconvened at 6:26 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD JUNE 23, 2015

Noreen B. Schneider Rucinski and Fred Rucinski, 789657

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.

Robert Carpio Virginia Carpio, 793495

Final Action: Ms. Stowers moved to sustain the Franchise Tax Board. The motion was seconded by Ms. Ma. Ms. Harkey made a substitute motion to waive the accuracy-related penalty and otherwise sustain the action of the Franchise Tax Board. The substitute motion was seconded by Mr. Runner. Ms. Harkey withdrew her substitute motion.

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

Michael Cohen, 795873

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

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 sustained the action of the Franchise Tax Board.

Tuesday, June 23, 2015

Gary Mellinger and Christa Mellinger, 811123

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 6:44 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 6:46 p.m. and reconvened immediately in open session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

The Board recessed at 6:48 p.m.

The foregoing minutes are adopted by the Board on July 28, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Karchmer, Inc., 815455 and Caplan, LLC, 815457; Maurice Rosaler and Charlotte Rosaler, 788388; and, Gregory Wimmer, 842007.*

Wednesday, June 24, 2015

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:36 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.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Peter St. Geme and Polly Plumer St. Geme, 693089 (Continued)

2000, \$914,847.00 Assessment

Considered by the Board: March 25, 2015 (Rev. & Tax. Code, § 40)

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 ordered that its previous motion of June 23, 2015 to adopt the summary decision be expunged.

Upon motion of Mr. Runner, seconded by Ms. Harkey and duly carried, Mr. Horton, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Ms. Stowers voting no, the Board adopted the written summary decision as presented by staff.

SALES AND USE TAX APPEALS HEARINGS

PCS Wireless, Inc., 572015 (EA)

01/01/08 to 12/31/10, \$126,147.86 Tax, \$12,614.80 Negligence Penalty

For Petitioner:

Andrew B. Mai, Taxpayer

Hai V. Dang, Representative

For Sales and Use Tax 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 Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the 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. Mr. Horton directed staff to inform the taxpayer of the Offer in Compromise and Settlement Programs.

G & C Equipment Corporation, 373826 (AS)

04/01/02 to 03/31/05, \$108,346.95 Tax, \$1,655.20 Amnesty Interest Penalty

For Petitioner:

Gene Hale, Taxpayer

Bill DuFour, Taxpayer

Marty Dakessian, Attorney

Mike Shaikh, Attorney

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

Wednesday, June 24, 2015

Issue: Whether additional adjustments to the amount of disallowed claimed nontaxable sales for the second quarter 2002 (2Q02) are warranted.

Action: Ms. Harkey moved to apply the 1.67 percent error ratio to 2Q02 and otherwise redetermine the petition as recommended by the Appeals Division. The motion was withdrawn.

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 granted, and the tax be redetermined accordingly.

The Board recessed at 11:54 p.m.

The foregoing minutes are adopted by the Board on July 28, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Eric Christopher Dutra, 607843, 746362 (FH)*; and, *G3 Mastering Solutions, Inc., 549262 (AA)*.

Thursday, June 25, 2015

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

SALES AND USE TAX APPEALS HEARING

John Paul Richard, Inc., 613971 (AC)

07/01/07 to 06/30/10, \$10,813.34 Tax

For Claimant:

Marc Brandeis, Representative

Greg Reynolds, Representative

For Sales and Use Tax Department:

Scott Claremon, Tax Counsel

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

Issue: Whether an additional adjustment is warranted for tax-paid purchases resold.

Action: Ms. Stowers moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Mr. Horton. Mr. Horton made a substitute motion to continue the hearing 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. Mr. Runner made a new substitute motion that the purchases of garment bags and hangers be adjusted by the reduced error percentage, and that the petition otherwise be redetermined as recommended by the Appeals Division. Mr. Runner's new substitute motion was seconded by Ms. Harkey and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton and Ms. Stowers voting no.

SPECIAL TAXES APPEALS HEARING

Truck Insurance Exchange, 240627 (STF)

01/01/00 to 12/31/00, \$1,057,500.00 Claim for Refund

For Claimant:

Richard G. De La Mora, Attorney

Special Taxes and Fees Department:

Andrew Kwee, Tax Counsel

For Dept. of Insurance:

David Okumura, Representative

Laszlo Komjathy, Jr. Representative

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

Issue: Whether the claim for refund should be granted because the subject payment was deductible from gross premiums as a return of premiums or as a return of savings to subscribers.

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and duly carried, Mr. Runner, Ms. Ma and Ms. Harkey voting yes, Mr. Horton voting no, Ms. Stowers absent and not participating in accordance with Government Code section 7.9, the Board allowed the claim for refund measured by the \$29,189,229 portion of the disputed payment actually remitted to the policyholders, and denied the claim for refund as to the remaining portion of the payment, which was remitted to attorneys as fees and costs.

Thursday, June 25, 2015

The Board adjourned at 12:25 p.m.

The foregoing minutes are adopted by the Board on July 28, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Terberg Tucker, Inc.*, 738568 (AA); *Maria Guadalupe Ramos*, 611491 (AP); and, *H. M. Holloway, Inc.*, 552594.