

Tuesday, July 28, 2015

The Board met at its offices at 450 N Street, Sacramento, at 10:01 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 Randy Ferris, Chief Counsel.

PUBLIC COMMENT

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

The Board recessed at 10:11 a.m. and reconvened at 10:27 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

SPECIAL PRESENTATIONS

Cynthia Bridges, Executive Director, and Bill Hain, Acting Chief, External Affairs Outreach Section, provided a brief update on the Volunteer Income Tax Assistance (VITA) Program and participation by BOE employees ([Exhibit 7.1](#)). Mr. Hain gave special thanks to Rafael Zuniga, Outreach Services Division, Third District Office, for coordinating the BOE-sponsored events this year.

Members made complementary remarks about the program and expressed appreciation to those BOE employees that volunteer, as they are a huge asset in getting funds collected.

Exhibits to these minutes are incorporated by reference.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Clovus M. Sykes, 817237

2011, \$5,349.00 Assessment, \$1,337.25 Late Filing Penalty, \$1,337.25 Demand Penalty, \$78.00 Filing Enforcement Fee

For Appellant:

Clovus M. Sykes, Taxpayer

Juanita Woods, Witness

For Franchise Tax Board:

Brian Werking, Tax Counsel

Mary Yee, Tax Counsel

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

Issues: Whether appellant has demonstrated error in the Franchise Tax Board's (FTB or respondent) proposed assessment of additional tax.

Whether appellant has shown reasonable cause for failing to timely file.

Whether appellant has shown reasonable cause for failing to reply to the FTB's

Demand for Tax Return (Demand).

Whether the filing enforcement fee may be abated.

Whether the Board should impose a frivolous appeal penalty.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 7.2](#))

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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.

Robert E. Valdez and Judy M. Valdez, 819052

2007, \$1,362.00 Claim for Refund

2008, \$1,858.00 Claim for Refund

For Appellants:

Robert E. Valdez, Taxpayer

Judy M. Valdez, Taxpayer

Ryan Malloy, 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 the statute of limitations bars appellants' claims for refund.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 7.3](#))

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.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Duong Family Investment, Inc., 867934 (STF)*.

With respect to the Legal Appeals 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:

Alibris, 609518 (CH)

07/01/05 to 06/30/08, \$144,171.68 Tax

Action: Redetermine as recommended by the Appeals Division.

Chef De Cuisine Catering, Inc., 609690 (BH)

04/01/08 to 09/17/09, \$18,101.73 Tax

Chef De Cuisine Catering, LLC, 716720 (BH)

09/18/09 to 03/31/11, \$13,226.24 Tax

Action: Redetermine as recommended by the Appeals Division.

Lucy's Tamale Factory, Inc., 556410 (GH)

04/01/06 to 12/31/09, \$00.00 Tax, \$2,434.82 Negligence Penalty, \$2,434.59 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

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McKinney Griff., Inc., 426234, 434298 (CH)
07/01/04 to 12/31/06, \$60,700.30 Tax, \$6,070.05 Negligence Penalty, \$6,069.95 Finality Penalty
01/01/04 to 06/30/04, \$21,091.15 Claim for Refund
Action: Redetermine as recommended by the Appeals Division.

Consuelo Olivera, 527216 (DF)
04/01/05 to 12/31/08, \$66,420.90 Tax
Action: Redetermine as recommended by the Appeals Division.

Desiree Madden, 732614 (STF)
01/01/07 to 09/30/07, \$313.00 Tax
Desiree Madden, 732616 (STF)
01/01/07 to 09/30/07, \$39.00 Tax
Action: Redetermine as recommended by the Appeals Division.

Ascona Pizza Company, Inc., 547773 (CH)
07/01/04 to 06/30/07, \$31,751.17 Tax, \$00.00 Negligence Penalty
Action: Redetermine as recommended by the Appeals Division

Quinsey Kawasaki, Inc., 507429 (FH)
04/01/02 to 03/31/05, \$23,910.81 Tax, \$00.00 Negligence Penalty
Action: Redetermine as recommended by the Appeals Division.

Desert Rose Bar and Lounge, Inc., 867921 (STF)
February 20, 2015 Seizure Date, \$46.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Gasquet Market, LLC, 867920 (STF)
March 4, 2015 Seizure Date, \$3,000.83 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Duong Family Investment, Inc., 867934 (STF)
March 2, 2015 Seizure Date, \$1,037.92 Approximate Value
Action: The Board took no action.

Ultimate Star, Inc., 867050 (STF)
February 20, 2015 Seizure Date, \$4,145.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

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

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Neville Bothwell and Ila Bothwell, 838800

2009, \$956.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Salem Eloudi and Saba Alaoudi, 812225

2009, \$988.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Viet H. Nguyen, 799155

2009, \$518.00 Tax

Action: Sustain the action of the Franchise Tax Board.

James K. Truhe, 561535

2003, \$10,501.00 Claim for Refund

2004, \$14,669.00 Claim for Refund

2005, \$17,463.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Nazar J. Benny and Raida T. Benny, 742227

2009, \$9,059.00 Tax

Action: Modify the action of the Franchise Tax Board.

Richard Cavanagh and Cheryl Cavanagh, 745171

2008, \$1,595.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Richard J. Fels and Tracy E. Fels, 800221

2009, \$2,239.00 Tax, \$447.80 Accuracy-Related Penalty

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

Forterra, Inc., 839865

2010, \$432.00 Claim for Refund

2011, \$432.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kenneth J. Frank and Judy A. Frank, 612480

2002, \$4,529.40 Assessment

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

Negisti Hintsa Girmay, 774398

2011, \$1,181.00 Tax

Action: Sustain the action of the Franchise Tax Board.

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Trent Harrloe, 796713

2011, \$792.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Richard I. Hastings, 625180

2009, \$2,529.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Curtiss Hayden III and Rosamaria Hayden, 693102

2008, \$23,606.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Daniel Jones and Kathleen Jones, 814039

2010, \$6,279.75 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Denis L. Jost, 796313

2011, \$1,096.00 Tax, \$274.00 Late Filing Penalty, \$274.00 Demand Penalty, \$82.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

Garth Donald Mooney, 791903

2009, \$870.00 Tax, \$163.20 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Rosanne Rabito, 769915

2005 to 2009, \$2,034.82 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Thomas A. Sanchez, Jr. and Lisa M. Sanchez, 798783

2008, \$718.00 Tax

2010, \$2,152.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Carole Sanderson, 844673

2012, \$1,315.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Louis Schwartz, 838656

2012, \$557.88 Claim for Refund

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

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Greg Siebert, 804624

2009, \$5,387.00 Tax, \$1,346.75 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Jack Slevkoff, 811119

2009, \$1,411.00 Tax, \$352.75 Late Filing Penalty, \$352.75 Demand Penalty, \$78.00 Filing Enforcement Fee

2010, \$1,898.00 Tax, \$474.50 Late Filing Penalty, \$474.50 Demand Penalty, \$78.00 Filing Enforcement Fee

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

Milton Smith, Jr., 743531

2003, \$2,736.82 Tax

Action: Sustain the action of the Franchise Tax Board.

Andrea M. Stauber, 789453

2009, \$554.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Mar C. Tano and Amelita T. Tano, 791854

2008, \$11,427.00 Tax

Action: Sustain the action of the Franchise Tax Board.

The MYTA Corporation, 824316

2010, \$445.28 Claim for Refund

2011, \$423.32 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Garrett J. Zelen

2007, \$13,369.00 Tax, \$2,673.80 Accuracy-Related Penalty

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. 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:

Benihana National Corp., 724082 (OH)

06/23/08 to 01/02/11, \$343,359.24

Action: Approve the redetermination as recommended by staff.

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August L. Shubel, 469241 (KH)

04/01/06 to 12/31/06, \$130,656.20

Action: Approve the redetermination as recommended by staff.

Soft Computer Consultants, 850045 (OH)

10/01/10 to 09/30/13, \$106,506.91

Action: Approve the redetermination as recommended by staff.

Hallelujah Junction Market, Inc., 450765 (KH)

04/01/05 to 03/31/08, \$209,280.00

Action: Approve the redetermination as recommended by staff.

JPC Foods, Inc., 779746 (DF)

07/01/09 to 06/30/12, \$59,813.93

Action: Approve the redetermination as recommended by staff.

Basf Catalysts, LLC, 715578 (CH)

07/01/07 to 03/31/10, \$308,080.32

Action: Approve the redetermination as recommended by staff.

Disney Store USA, LLC, 868237 (OH)

10/01/14 to 12/31/14, \$177,448.30

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

Famsa, Inc., 852233 (OH)

01/01/11 to 06/30/14, \$207,072.66

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

L-1 Secure Credentialing, Inc., 774770 (OH)

10/01/10 to 09/30/13, \$43,362.80

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

GHH Ministries, 848084 (EH)

01/01/013 to 06/30/14, \$148,458.00

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

The Walter Family Partnership, 868240 (EH)

10/01/14 to 12/31/14, \$72.70

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

Magnussen's Fremont Imports, Inc., 868238 (CH)

10/01/14 to 12/31/14, \$4,099.02

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

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Ply Gem Pacific Windows Corp., 868246 (OH)

10/01/14 to 10/31/14, \$632.53

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

Conergy, Inc., 868248 (OH)

10/01/14 to 12/31/14, \$2.00

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

Black Bear Diner-Sac Natomas LP, 868249 (KH)

01/01/15 to 01/31/15, \$105.71

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

Rejuvenation, Inc., 868239 (OH)

10/01/14 to 12/31/14, \$523.52

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

Henley Pacific LA, LLC, 868241 (OH)

01/01/15 to 01/31/15, \$1,620.42

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

Anm Sales, Inc., 868250 (CH)

10/01/14 to 12/31/14, \$483.49

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

Luxury Motors of Bay Area, LLC, 868247 (CH)

01/01/15 to 01/31/15, \$47.41

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:

Jason Allen Riley, 809510 (EH)

01/01/04 to 02/11/11, \$343,761.98

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

Richard Pekarske, 849637 (EH)

10/01/10 to 12/02/13, \$100,246.54

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

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PD Financial Corp., 868409 (AS)

10/01/09 to 01/08/10, \$301,071.82

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

Orange County Restaurant Group, LLC, 867649 (EA)

01/01/10 to 12/31/12, \$333,070.07

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

The Golden 1 Credit Union, 861509 (KH)

10/01/14 to 12/31/14, \$108,533.00

Action: Approve the refund as recommended by staff.

KHS USA, Inc., 864991 (OH)

04/01/12 to 06/30/14, \$564,662.43

Action: Approve the refund as recommended by staff.

West Hills Hospital, 594115 (AR)

07/01/08 to 12/31/12, \$178,541.13

Action: Approve the refund as recommended by staff.

Chevrolet Motor Division, 866165 (OH)

11/01/14 to 03/05/15, \$861,588.26

Action: Approve the refund as recommended by staff.

UPS Oasis Supply Corp., 843543 (OH)

07/01/09 to 03/31/14, \$1,029,940.95

Action: Approve the refund as recommended by staff.

Valero Refining Company -CA, 868849 (OH)

04/01/10 to 12/31/13, \$1,068,339.33

Action: Approve the refund as recommended by staff.

Siemens Industry, Inc., 715550 (OH)

04/01/09 to 03/31/10, \$361,238.53

Action: Approve the refund as recommended by staff.

Famsa, Inc., 852233 (OH)

01/01/11 to 06/30/14, \$608,312.95

Action: Approve the refund as recommended by staff.

I2 Technologies US, Inc., 727462 (OH)

01/01/10 to 12/31/11, \$129,682.47

Action: Approve the refund as recommended by staff.

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Pitney-Bowes, Inc., 864217 (OH)

01/01/14 to 03/31/14, \$261,921.68

Action: Approve the refund as recommended by staff.

American Airlines, Inc., 362784 (OH)

04/01/97 to 12/31/00, \$105,258.31

Action: Approve the refund as recommended by staff.

Quest Diagnostics Incorporated, 813162 (OH)

01/01/11 to 12/31/11, \$120,724.69

Action: Approve the refund as recommended by staff.

Forescout Technologies, Inc., 848554 (GH)

10/01/12 to 06/30/14, \$108,550.72

Action: Approve the refund as recommended by staff.

Lobel Financial Corporation, 862168 (EA)

10/01/14 to 12/31/14, \$484,796.00

Action: Approve the refund as recommended by staff.

Nextel Systems Corp., 804727 (OH)

04/01/08 to 03/31/11, \$2,707,645.91

Action: Approve the refund as recommended by staff.

L-1 Secure Credentialing, Inc., 774770 (OH)

10/01/10 to 09/30/13, \$871,694.84

Action: Approve the refund as recommended by staff.

Super Micro Computer, Inc., 851231 (GH)

01/01/12 to 06/30/14, \$129,449.63

Action: Approve the refund as recommended by staff.

Metroplex Theatres, LLC, 851338 (AS)

01/01/11 to 12/31/13, \$110,817.81

Action: Approve the refund as recommended by staff.

Vidsys, Inc., 774002 (OH)

10/01/10 to 09/30/12, \$249,790.25

Action: Approve the refund as recommended by staff.

CRI Catalyst Company LP, 815886 (OH)

01/01/12 to 03/31/13, \$565,411.64

Action: Approve the refund as recommended by staff.

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Centurylink Communications, LLC, 841720 (OH)

04/01/10 to 12/31/13, \$308,120.00

Action: Approve the refund as recommended by staff.

Everyday Communications, Corp., 869083 (FH)

10/01/10 to 09/30/13, \$181,467.20

Action: Approve the refund as recommended by staff.

Trojan Energy Systems, Inc., 733590 (OH)

05/01/11 to 03/31/14, \$122,146.03

Action: Approve the refund as recommended by staff.

Carfinance Capital, LLC, 862267 (EA)

10/01/14 to 12/31/14, \$106,469.00

Action: Approve the refund 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 Ms. Harkey, seconded by Ms. Ma 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 *Nationwide Life Insurance Company, 856228 (STF)*, and, *Amco Insurance Company, 856229 (STF)*, the Board made the following orders:

California Income Fund, LTD, 625767 (STF)

10/01/99 to 03/31/03, \$121,444.06

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

Central Valley Gas Storage, L.L.C., 844621 (STF)

07/01/11 to 03/31/14, \$167,675.00

Action: Approve the refund as recommended by staff.

Nationwide Life Insurance Company, 856228 (STF)

01/01/13 to 12/31/13, \$118,563.00

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

Amco Insurance Company, 856229 (STF)

01/01/13 to 12/31/13, \$1,338,241.00

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

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PROPERTY TAXES MATTER, CONSENT

With respect to the Property Taxes Matters, 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:

Petition for Reassessment of Escaped Assessment

Calcatchers, Inc., 839867 (8113)

2010 to 2013, \$1,541,000 Unitary Escape Assessment, \$154,100.00 Penalty, \$320,880.00 Interest

Action: Reduce the 2010 to 2013 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Fox Meadows Software, LTD., 739078

2010, \$13,403.03 Tax, \$3,350.75 Late Filing Penalty, \$3,350.75 Demand Penalty, \$2,000.00

Nonqualified Suspended Forfeited Penalty, \$89.00 Filing Enforcement Fee

Considered by the Board: January 21, 2015

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

Action: Upon motion of Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board as modified by its concessions on appeal.

Florence D. Vinluan, 796078

2009, \$864.00 Assessment

Considered by the Board: April 28, 2015

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

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

Paula Trust, 759422

2007, \$150,655.00 Claim for Refund

Considered by the Board: September 23, 2014

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

Action: Upon motion of Ms. Ma, seconded by Mr. Runner 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.

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TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**Board Roll Changes****2012, 2013 and 2014 State-Assessed Property Rolls**

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner 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 approved corrections to the 2010, 2011, 2012 and 2013 Board Rolls of State-Assessed Property as recommended by staff ([Exhibit 7.4](#)).

OFFER-IN-COMPROMISE RECOMMENDATIONS

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 approved the Offer in Compromise Recommendations of *Sang S. Choi; Raul Cosio, Jr. and Ana Lidia Cosio; Deco Brass, Inc. and Mark Allan Levy; Franz Dorninger; Olavo Georgem Dourado; Paul Hernandez and Imtrek Corporation; Mary Ann Lynn Pagliaro, Glenn Allen Thompson and Gator Fresh Start, Inc.; Sabzin, Inc.; Jerry Mousa Safar; and, Hasan Burak Terzioglu;* as recommended by staff.

CHIEF COUNSEL MATTERS**OTHER CHIEF COUNSEL MATTERS****Delegation of Authority to Deputy Director, Sales and Use Tax Department – Relief from Liability – Tax, Interest, and Penalties**

Kimberly Willy, Tax Counsel, Settlement & Taxpayer Services Division, Legal Department, made introductory remarks regarding the delegation of authority, which confirms and updates the delegation to the Deputy Director of the Sales and Use Tax Department to relieve a taxpayer of any tax, including penalties and interest added thereto, as provided under Revenue and Taxation Code 6596 ([Exhibit 7.5](#)).

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 delegation of authority to the Deputy Director of the Sales and Use Tax Departments as presented by staff.

Delegation of Authority to Deputy Director, Special Taxes and Fees Department – Relief from Liability – Tax or Fee, Interest, and Penalties

Kimberly Willy, Tax Counsel, Settlement & Taxpayer Services Division, Legal Department, made introductory remarks regarding the delegation of authority, which delegates authority to the Deputy Director of the Special Taxes and Fees Department to relieve a person of any special tax or fee, including any penalties and interest added thereto, imposed pursuant to a special tax or fee program administered by the Board ([Exhibit 7.6](#)).

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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 delegation of authority to the Deputy Director of the Special Taxes and Fees Department as presented by staff.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative 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:

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 7.7](#)).

Riad C. Alard, Business Taxes Administrator I, Compliance, Sales and Use Tax Department, San Diego District Office,

Easter Jang, Staff Programmer Analyst, Technology Services Department, Headquarters

Connie Madrosen, Graphic Designer III, Graphic Design Services Unit, ePublishing Section, Publication Services Division, Administration Department, Headquarters

Chris Mejia, Associate Governmental Program Analyst, Media Production Service Department, Publication Services Division, Administration Department, Headquarters

Carol Reisinger, Supervising Tax Auditor II, Appeals and Data Analyst Branch, Special Taxes and Fees Department, Headquarters

Carrie Sundahl, Associate Governmental Program Analyst, Document Management Unit, ePublishing Section, Publication Services Division, Administration Department, Headquarters

Action: Approve the Board Meeting Minutes of June 23-25, 2015.

Action: Approve proposed revisions to Audit Manual (AM) Chapter 4, *General Audit Procedures* and Chapter 6, *Vehicle, Vessel, and Aircraft Dealers* ([Exhibit 7.8](#)).

Action: Approve proposed revisions to Compliance Policy and Procedures Manual (CPPM) Chapter 2, *Registration* ([Exhibit 7.9](#)).

Action: Approve proposed revisions to Compliance Policy and Procedures Manual (CPPM) Chapter 7, *Collections* ([Exhibit 7.10](#)).

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OTHER ADMINISTRATIVE MATTERS**Property Taxes Deputy Director's Report**

Mark Durham, Chief, Research and Statistics Section, Legislative and Research Division, reported that the 2015/16 private railroad car tax rate is set at \$1.141 in accordance with the computation under the provisions Revenue and Taxation Code, section 11403 ([Exhibit 7.11](#)).

Action: (Motion Expunged.)

Executive Director's Report

Cynthia Bridges, Executive Director, provided a report regarding time extensions to Del Norte, Imperial, Napa and San Benito counties to complete and submit the 2015/16 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 ([Exhibit 7.12](#)).

Property Taxes Deputy Director's Report (continued)

Mike Harris, Manager, State-Assessed Properties Division, Property Tax Department, made introductory remarks regarding the 2015 private railroad car roll ([Exhibit 7.13](#)).

Action: Upon motion of Ms. Ma, 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 adopted the 2015 private railroad car roll as recommended by staff.

Mike Harris, Manager, State-Assessed Properties Division, Property Tax Department, made introductory remarks regarding the 2015 state-assessed property roll ([Exhibit 7.14](#)).

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 2015 state-assessed property roll as recommended by staff.

Randy Ferris, Chief Counsel, clarified for the record that the authority to set the private railroad car tax rate was delegated to the Executive Director and that no action was required of the Board on that item.

Action: Upon motion of Mr. Runner, 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 Boards ordered its previous motion to set the 2015-16 private railroad car tax rate be expunged.

Tuesday, July 28, 2015

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 12:18 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 pending litigation (Gov. Code § 11126(e)), settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 12:55 p.m. and reconvened immediately in open session with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Mr. Horton, on behalf of the Board, announced the appointment of Benjamin Tang to the position of Chief, County-Assessed Properties Division, Property Tax Department.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD JULY 28, 2015

Thomas L. Wilson, 780908

2000, \$4,774.00 Tax, \$1,193.50 late filing penalty, \$954.80 Accuracy-Related Penalty, \$933.73 Post-Amnesty Penalty

For Appellant:

No Appearance

For Franchise Tax Board:

Joel Smith, Tax Counsel

Diane Ewing, Tax Counsel

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

Issues: Whether appellant established error in the Franchise Tax Board's (respondent or FTB) proposed assessment, which is based on a final federal determination for the tax year at issue.

Whether appellant has established reasonable cause for the late filing of his return to abate the late filing penalty.

Whether the Board has jurisdiction to review the proposed post-amnesty penalty.

Whether the Board should impose a frivolous appeal penalty.

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 and imposed a \$200.00 frivolous appeal penalty.

Clovus M. Sykes, 817237

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 and imposed a \$5,000.00 frivolous appeal penalty.

Robert E. Valdez and Judy M. Valdez, 819052

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.

Tuesday, July 28, 2015

The Board recessed at 12:59 p.m. and reconvened at 2:36 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers / Ms. Yee present.

SPECIAL PRESENTATIONS

Cynthia Bridges, Executive Director, made introductory remarks regarding the California Department of Technology (CalTech) presentation on the Oversight of the Centralized Revenue Opportunity (CROS) Project. David Gau, Chief Deputy Director, provided a brief update on the status of the CROS project to replace BOE's two current tax legacy technology systems.

Cynthia Bridges, introduced Carlos Ramos, Director/State CIO, CalTech, and Rebecca Stilling, Deputy Director, IT Project Oversight Division, CalTech. Mr. Ramos and Ms. Stilling provided the Board with a background of the CROS project's comprehensive transformation, risks, oversight and overall concerns ([Exhibit 7.15](#)).

Members made complimentary remarks regarding the CROS project and how far they have gone to deliver the best product. They agreed that when the project is complete it will have a positive impact on the State of California and will be a pathway to success for the Board of Equalization.

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 7.16](#)).

Business Taxes 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 Business Taxes Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 7.17](#)).

The Board adjourned at 3:25 p.m.

The foregoing minutes are adopted by the Board on September 16, 2015.

Note: The following matters were removed from the calendar prior to the meeting: *Eddie Marie Harbin, 827668*; and, *CROS Project Update and Actions*.