

Tuesday, November 17, 2015

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:41 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 William M. Connell, Military Veteran, American Legion Post 49, owner of All American Surf Dog.

PUBLIC COMMENT

Speaker: William M. Connell, Military Veteran, American Legion Post 49, owner of All American Surf Dog ([Exhibit 11.1](#)).

Exhibits to these minutes are incorporated by reference.

The Board recessed at 9:48 a.m. and reconvened at 10:03 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Robert H. Lowe and Sheryl L. Berkoff, 571973
2005, \$714,686.00 Assessment, \$178,671.50 Penalty

For Appellants:

Robert H. Lowe, Taxpayer
Sheryl L. Berkoff, Taxpayer
Matt McAllister, Witness
Carl Williams, Witness

Mark Bernsley, Attorney

For Franchise Tax Board:

Sonia Woodruff, Tax Counsel

Ron Hofsdal, Tax Counsel

Kory Dean Kruckenberg, Witness

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

Issues: Whether appellants have shown that respondent Franchise Tax Board erred in its determination of the basis of real property sold by appellants and the resulting taxable gain.

Whether appellants have established reasonable cause for the abatement of the penalty for the failure to furnish information.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 11.2](#))

Respondent's Exhibit: Miscellaneous Documents ([Exhibit 11.3](#))

Sonia Woodruff, Tax Counsel, Franchise Tax Board, stated that the penalty for the failure to furnish information is withdrawn.

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.

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The Board recessed at 12:52 p.m. and reconvened at 2:00 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

PUBLIC HEARING

Proposed Amendments to Sales and Use Tax Regulation 1525.4, *Manufacturing and Research & Development Equipment*

Robert Tucker, Assistant Chief Counsel, Tax & Fee Programs Division, Legal Department, made introductory remarks regarding proposed amendments clarifying that taxpayers may substantiate the useful life of property using a warranty, service contract, or industry practice ([Exhibit 11.4](#)).

Speaker: Therese Twomey, Fiscal Policy Director, California Taxpayers' Association

Action: 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 adopted the amendments to Regulation 1525.4 as published.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Maria Phillips (Santamaria-Del Campo) and Michael Del Campo, 741179

2004, \$7,782.72 Assessment

2005, \$5,918.76 Assessment

2006, \$3,517.22 Assessment

2007, \$3,933.38 Assessment

For Appellant:

Michael Del Campo, Taxpayer

For Franchise Tax Board:

Marguerite Mosnier, Tax Counsel

Diane Ewing, Tax Counsel

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

Issue: Whether respondent erred in denying appellant innocent spouse relief (ISR) pursuant to Revenue and Taxation Code (R&TC) section 18533, subdivision (f), or relief from joint liability pursuant to R&TC sections 19006, subdivisions (b) or (c), for the 2004, 2005, 2006, and 2007 tax years.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 11.5](#))

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

William R. Dobkin and Donya Dobkin, 728014

2006, \$181,348.00 Tax, \$36,269.60 Accuracy-Related Penalty

Deborah M. Dobkin, 725828

2006, \$121,923.00 Tax

For Appellants:

William R. Dobkin, Taxpayer

Joseph Mudd, Attorney

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For Franchise Tax Board:

David Gemmingen, Tax Counsel

Ron Hofsdal, Tax Counsel, Tax Counsel

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

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

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 11.6](#))

Respondent's Exhibit: Miscellaneous Documents ([Exhibit 11.7](#))

Anthony Epolite, Tax Counsel, Appeals Division, Legal Department, stated for the record that the parties agreed on the adjusted basis of the land in the amount of \$1.8 million, and that the adjusted basis of the land is no longer in dispute.

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

SALES AND USE TAX APPEALS HEARING

Ronald J. Blomquist, 467934, 565903 (FH)

01/01/05 to 11/28/05, \$326,833.34 Tax, \$38,571.50 Late Payment Penalties, \$6,346.90 Late Prepayment Penalties

For Taxpayer/Claimant:

Alfred "Ted" Ruemke, Attorney

For Sales and Use Tax Department:

Erin Dendorfer, Tax Counsel

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

Issues: Whether taxpayer is personally liable as a responsible person for the unpaid liabilities of Blomquist Enterprises, Inc. (BEI) (SR FHB 97-510789) pursuant to Revenue and Taxation Code section 6829.

Whether the amounts due from BEI or from taxpayer were discharged in bankruptcy.

Whether taxpayer has established reasonable cause for relieving penalties for late payment of returns and late prepayments originally assessed against BEI.

Jeff Angeja, Tax Counsel, Appeals Division, Legal Department, provided a revised recommendation of the Appeals Division to remove the first quarter 2005 and fourth quarter 2005 from the liability, delete the prepayment penalty for second quarter 2005, and redetermine the tax, penalties, and interest accordingly.

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 ordered that the petition be submitted for decision.

The Board recessed at 4:04 p.m. and reconvened at 4:18 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

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PUBLIC COMMENT

Speaker: Azim Shaalemi, Business Owner ([Exhibit 11.8](#))

LEGAL APPEALS MATTERS, CONSENT

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

Agean Group, LLC, 729924 (EA)

04/01/09 to 03/31/12, \$62,823.81 Tax, \$6,452.66 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Cathedral City Ventures, LLC, 613621, 742660 (EH)

01/16/09 to 12/31/11, \$144,807.44 Tax

Action: Redetermine as recommended by the Appeals Division.

Andrew Churukian, 780460 (UT)

01/12/13, \$370.00 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Coronado Business Supplies, 568083 (FH)

01/01/07 to 06/30/08, \$19,647.46 Tax, \$2,041.77 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Coronado Business Supplies, LLC, 568082 (FH)

07/01/05 to 12/31/06, \$7,214.03 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Federated Auction Systems, Inc., 328471, 328474 (EH)

10/01/96 to 12/31/96, \$177,710.81 Tax, \$44,427.72 Fraud Penalty

01/01/97 to 03/31/97, \$49,637.78 Fraud Penalty

Action: Redetermine as recommended by the Appeals Division.

Federated Public Auction Agency of San Jose, Inc., 328469, 328479 (GH)

01/01/97 to 03/31/97, \$15,645.50 Fraud Penalty

10/01/96 to 03/31/97, \$884,398.27 Tax, \$46,120.46 Failure-to-File Penalty, \$221,099.61 Fraud Penalty

Action: Redetermine as recommended by the Appeals Division.

Federated Public Auction Agency of Upland, Inc., 328505, 328512 (EH)

10/01/96 to 03/31/97, \$335,246.74 Tax, \$15,042.01 Failure-to-File Penalty, \$83,811.68 Fraud Penalty

01/01/97 to 03/31/97, \$48,111.19 Fraud Penalty

Action: Redetermine as recommended by the Appeals Division.

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Gerardo Herrera, 736765 (FH)

01/01/09 to 12/31/09, \$10,795.00 Tax, \$1,201.00 Failure-to-file Penalty, \$1,201.00 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Just Livin' The Dream, Inc., 763609 (EH)

06/01/08 to 12/31/11, \$25,001.21 Tax

Action: Redetermine as recommended by the Appeals Division.

Ravinder Kaur, 713053 (EH)

01/01/09 to 03/31/12, \$33,452.13 Tax

Action: Redetermine as recommended by the Appeals Division.

Sabina Khatun Khan, 609760 (EH)

07/01/08 to 06/30/11, \$89,756.30 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

L.A. Liquidators, Inc., 328467, 341048 (AS)

10/01/96 to 12/31/96, \$137,386.85 Tax, \$34,346.71 Fraud Penalty

01/01/97 to 03/31/97, \$318,524.00 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Liquor Castle, Inc., 627014 (AC)

01/01/09 to 03/31/11, \$38,470.19 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Migz Graphics and Printing, Inc., 611751 (AP)

01/01/07 to 12/31/10, \$690,292.33 Tax

Action: Redetermine as recommended by the Appeals Division.

Om Namah Shivam, Inc., 394740 (EH)

06/01/03 to 3/31/06, \$31,365.67 Tax, \$3,142.50 Negligence Penalty

Om Namah Shivam, Inc., 727104 (EH)

04/01/06 to 03/31/09, \$12,853.12 Tax, \$1,323.68 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Pollo Amigo, 803427 (EA)

01/01/10 to 12/31/12, \$41,278.80 Tax

Action: Redetermine as recommended by the Appeals Division.

James Paul Ramsey, 597044 (AA)

01/01/04 to 12/31/06, \$31,324.66 Tax, \$3,135.45 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

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Bijan Sharifi, 328545, 328546, 328547, 328548, 328549, 328550, 328551, 359618 (EH)
10/01/96 to 03/31/97, \$00.00 Tax, \$15,645.50 Fraud Penalty
10/01/96 to 03/31/97, \$875,945.90 Tax, \$218,986.52 Fraud Penalty, \$45,806.39 Failure-to-file
Penalty

10/01/96 to 03/31/97, \$54,179.71 Tax, \$33,584.92 Fraud Penalty

10/01/96 to 03/31/97, \$49,637.88 Fraud Penalty

10/01/96 to 03/31/97, \$111,101.97 Tax, \$43,365.51 Fraud Penalty

10/01/96 to 03/31/97, \$48,111.19 Fraud Penalty

10/01/96 to 03/31/97, \$266,001.12 Tax, \$14,846.04 Failure-to-file Penalty, \$82,460.28 Fraud
Penalty

10/01/96 to 03/31/97, \$146,544.75 Tax, \$14,744.48 Failure-to-file Penalty, \$14,654.48 Finality
Penalty

Action: Redetermine as recommended by the Appeals Division.

Rouhollah Nowrouzi, 916384 (STF)

July 8, 2015 Seizure Date, \$82.50 Approximate Value

Action: Determined that staff properly seized the tobacco products.

G & C Equipment Corporation, 373826 (AS)

04/01/02 to 03/31/05, \$477,923.44 Tax

Action: Deny the petition for rehearing as recommended by the Appeals Division. (The
Board rescinded this action at its January 26, 2016 meeting.)

Azim Shaalemi, 521073 (AC)

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

Action: Deny the petition for rehearing as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

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

Toni M. Ognibene, 607091

2006, \$1,091.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Margaret Albertson and John Albertson, 837570

2010, \$1,501.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Francisco Alvarez, 852205

2012, \$2,565.00 Tax

Action: Sustain the action of the Franchise Tax Board.

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Brett Burton, 840587

2012, \$1,287.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Edward J. Carroll and Joan L. Carroll, 809823

2003, \$1,850.00 Tax, \$462.50 Late Filing Penalty

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

Connie Carter, 796767

2008, \$27,446.00 Tax

Action: Sustain the action of the Franchise Tax Board.

CSL Behring, LLC, 837577

2012, \$204,598.48 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Karen Douglas and Estate of Richard J. Ellis (Dec'd), 843527

2004, \$4,117.00 Tax

Action: Sustain the action of the Franchise Tax Board..

Ramiro Flores, 841005

2010, \$887.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Dwayne L. Free, 815443

2010, \$886.00 Tax, \$177.20 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Lauren L. Johnson, 826596

2012, \$1,382.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Jeremy Oranje, 856316

2004, \$3,160.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Pitney Bowes, Inc., 625617

1995, \$213,658.00 Assessment, \$72,506.00 Accuracy-Related Penalty

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

Mark Rivest, 841194

2009, \$1,251.00 Tax

Action: Sustain the action of the Franchise Tax Board.

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Darren R. Saville, 799683

1999, \$68,028.00 Tax, \$27,181.00 Noneconomic Substance Transaction Penalty

2000, \$43,198.00 Tax, \$17,249.00 Noneconomic Substance Transaction Penalty

2001, \$30,143.00 Tax, \$12,405.00 Noneconomic Substance Transaction Penalty

2002, \$39,351.00 Tax, \$15,853.00 Noneconomic Substance Transaction Penalty

2003, \$36,972.00 Tax, \$14,772.00 Noneconomic Substance Transaction Penalty

2004, \$24,761.00 Tax, \$9,905.00 Noneconomic Substance Transaction Penalty

Michael S. Saville and Roberta S. Saville, 800046

1999, \$89,093.00 Tax, \$36,498.00 Noneconomic Substance Transaction Penalty

2000, \$56,545.00 Tax, \$22,795.00 Noneconomic Substance Transaction Penalty

2001, \$39,028.00 Tax, \$16,496.00 Noneconomic Substance Transaction Penalty

2002, \$48,733.00 Tax, \$20,952.00 Noneconomic Substance Transaction Penalty

2003, \$45,660.00 Tax, \$11,415.00 Noneconomic Substance Transaction Penalty

2004, \$32,168.00 Tax, \$13,065.00 Noneconomic Substance Transaction Penalty

Action: Sustain the action of the Franchise Tax Board.

Clifford L. Marshall and Deanna R. Marshall, 816195

2004, \$6,828.00 Assessment

2005, \$6,301.00 Assessment

2006, \$6,838.00 Assessment

2007, \$6,293.00 Assessment

Action: Deny the petition for rehearing.

Ruben Moriel and Diane Moriel, 797314

2009, \$6,845.00 Tax

Action: Deny the petition for rehearing.

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

With respect to the Sales and Use Tax Matters, Redeterminations, Denials of Claims for Refund, and, Grant-One Day Interest Relief, 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:

Children's Hospital of Los Angeles, 869257 (AC)

01/01/10 to 12/31/12, \$149,812.10

Action: Approve the redetermination as recommended by staff.

Alla S. Filmus, 835536 (BH)

01/01/09 to 02/28/12, \$110,019.19

Action: Approve the redetermination as recommended by staff.

GE-Prolec Transformers, Inc., 602987 (OH)

01/01/09 to 12/31/09, \$119,921.17

Action: Approve the redetermination as recommended by staff.

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A & J Assembly, Inc., 668215 (GH)

10/01/08 to 09/30/11, \$134,739.64

Action: Approve the redetermination as recommended by staff.

Ameripride Services, Inc., 733846 (OH)

07/01/07 to 03/31/11, \$534,760.50

Action: Approve the redetermination as recommended by staff.

Expotechnik Limited Partnership, 603236 (OH)

10/01/08 to 09/30/11, \$116,497.63

Action: Approve the redetermination as recommended by staff.

Logitech, Inc., 839868 (CH)

10/01/11 to 12/31/13, \$112,649.58

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

Federal Express Corporation, 812266 (OH)

07/01/08 to 09/30/10, \$63,985.62

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

Kraft Foods Group, Inc., 863664 (OH)

07/01/13 to 12/31/14, \$61,134.93

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

A & L Equipment, Inc., 915810 (DF)

04/01/15 to 04/30/15, \$66.57

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

Anthony Joe Lewis, 915811 (KH)

02/01/15 to 02/28/15, \$33.68

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:

Larry Sault, 627495 (EH)

07/01/06 to 03/31/09, \$177,377.00

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

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Mitra Jarrahzadeh, 914106 (AA)

04/01/11 to 12/31/13, \$176,888.51

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

Pavers Etc., Inc., 914403 (EH)

07/01/11 to 12/31/14, \$512,420.55

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

Unisource Worldwide, Inc., 908335 (OH)

10/01/11 to 12/31/14, \$351,132.15

Action: Approve the refund as recommended by staff.

Wells Fargo Bank, National Assn., 558357 (OH)

01/01/03 to 12/31/13, \$8,075,666.76

Action: Approve the refund as recommended by staff.

Capri Sun, Inc., 862297 (OH)

01/01/12 to 12/31/14, \$153,319.41

Action: Approve the refund as recommended by staff.

County Riverside Auditor-Controller, 744614 (EH)

01/01/15 to 12/31/12, \$173,273.26

Action: Approve the refund as recommended by staff.

Federal Express Corporation, 812266 (OH)

07/01/08 to 09/30/10, \$862,478.84

Action: Approve the refund as recommended by staff.

Chevrolet Motor Division, 910376 (OH)

03/01/15 to 06/01/15, \$918,260.22

Action: Approve the refund as recommended by staff.

Tata Technologies, Inc., 574178 (OH)

01/01/08 to 03/31/12, \$364,968.05

Action: Approve the refund as recommended by staff.

Kraft Foods Group, Inc., 863664 (OH)

07/01/13 to 12/31/14, \$159,921.94

Action: Approve the refund as recommended by staff.

Lobel Financial Corporation, 876288 (EA)

01/01/15 to 03/31/15, \$436,308.00

Action: Approve the refund as recommended by staff.

Medcal Sales, LLC, 850946 (EH)

01/01/13 to 12/31/13, \$417,026.90

Action: Approve the refund as recommended by staff.

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Harley-Davidson Credit Corp., 876292 (OH)

10/01/14 to 03/31/15, \$297,835.00

Action: Approve the refund as recommended by staff.

First American Title Insurance Company, 569009 (EA)

10/01/07 to 09/30/11, \$174,334.39

Action: Approve the refund as recommended by staff.

Disney Online, 850304 (OH)

01/01/10 to 12/31/12, \$109,285.47

Action: Approve the refund as recommended by staff.

U.S. Bank National Association ND, 745136 (OH)

04/01/08 to 12/31/12, \$2,718,052.35

Action: Approve the refund as recommended by staff.

**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,
CONSENT**

The Board deferred consideration of the following matter.

GFBC, Inc., 845603 (STF)

08/01/11 to 05/31/14, \$442,299.74

Action: The Board took no action.

LEGAL APPEALS PROPERTY TAXES MATTERS, CONSENTThe Board deferred consideration of the following matters: *Verizon California, Inc. (201), 903737*; and, *SES Americom California, Inc. (7621), 908059*.

With respect to the Legal Appeals Property Taxes Matters, Consent Agenda, upon a single 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 made the following orders:

Petitions for Reassessment of Unitary Value

La Paloma Generating Company, LLC (1112), 901576

2015, \$290,800,000.00 Unitary Value

Action: Deny the petition for reassessment of 2015 unitary value as recommended by the Appeals Division. Ms. Stowers not participating in accordance with Government Code section 7.9.

Verizon California, Inc. (201), 903737

2015, \$2,715,200,000.00 Unitary Value

Action: The Board took no action.

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Petition for Penalty Abatement on Unitary Value

SES Americom California, Inc. (7621), 908059

2015, \$328,000.00 Penalty

Action: The Board took no action.

LEGAL APPEALS MATTERS, ADJUDICATORY

California Restaurant Authority, Inc., 485060 (AC)

04/01/05 to 12/31/07, \$128,656.75 Tax, \$1,817.73 Failure-to-file Penalty, \$12,865.68 Finality Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

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

Haja, LLC, 674641 (AS)

10/01/08 to 07/13/12, \$40,575.58 Tax, \$00.00 Negligence Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

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

Hezghiahoo Aharon Investment, Inc., 611158 (AR)

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

Considered by the Board: Hearing Notice Sent – No Response

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

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Unified Precious Metals, Inc., 606172

2000, \$265,389.14 Assessment, \$292,283.88 Penalty

Considered by the Board: February 24, 2015 Summary Decision (Rev. & Tax. Code, § 40)

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

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

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OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Harkey, seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board approved the Offer in Compromise Recommendations of *Samir Rizk Abbushi; Anna Reina Caballero; Robert T. De Castro and Alive and Well, Inc.; Remik Davoodi Chigani; Constable Jack's, LLC, Timothy G. Looper and Jacquelin Looper; Thomas Dean Franciskovich and Colorworks Printing, Inc.; Brian Henry Jones; Rodney M. Maister, Rancho Barbeques, Inc. and Maister Enterprises, Inc.; Michael David Olivetti; Karl Heinz Sabarth; Gordgi Safarian; Asish Singh; and, Stella Sutton*; as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

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

Action: Adopt the following 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 11.9](#)).

K. John Emmett, Business Taxes Administrator, Use Tax Administration
Section, Headquarters
Tze-Ming Lau, Business Taxes Specialist II, San Francisco District Office
James M. Njiiri, Business Taxes Representative, San Diego District Office
Neil Shah, Deputy and Senior Advisor, Office of Board of Equalization Member
Diane Harkey

Action: Approve the 2016 Timberland Production Zone Values as recommended by staff ([Exhibit 11.10](#)).

Action: Approve Assessors' Handbook Section 581, *Equipment and Fixtures index, Percent Good and Valuation Factors*, as recommended by staff ([Exhibit 11.11](#)).

Action: Approve the proposed revisions to Compliance Policy and Procedures Manual (CPPM) Chapter 1, *General*; Chapter 7, *Collections*; Chapter 8, *Consumer Use Tax*; and Chapter 9, *Miscellaneous*, as recommended by staff ([Exhibit 11.12](#)).

Action: Approve the proposed revisions to Audit Manual (AM) Chapter 2, *Preparation of Field Audit Reports* and Compliance Policy and Procedures Manual (CPPM) Chapter 7, *Collections*, as recommended by staff ([Exhibit 11.13](#)).

Tuesday, November 17, 2015

ADOPTION OF BOARD COMMITTEE REPORT AND APPROVAL OF COMMITTEE ACTIONS**Customer Services and Administrative Efficiency Committee**

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 Customer Services and Administrative Efficiency Committee report and the actions therein as reflected by the committee members' votes ([Exhibit 11.14](#)).

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

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

Special Tax & Fees Deputy Director's Report

Richard Parrot, Business Tax Administrator, Special Taxes Policy & Compliance Division, Special Tax and Fees Department, provided a report regarding the effects of Proposition 10 on cigarette and tobacco products consumption ([Exhibit 11.15](#)).

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 approve the backfill determination of \$16.1 million for fiscal year 2014-15 for the effects of Proposition 10 on cigarette and tobacco products consumption as recommended by staff.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD NOVEMBER 17, 2015

Robert H. Lowe and Sheryl L. Berkoff, 571973

Final Action: Ms. Harkey moved to reverse the action of the Franchise Tax Board. The motion was seconded by Mr. Runner but no vote was taken.

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 modified the action of the Franchise Tax Board by determining an adjusted basis for the property of \$11,368,562 computed as follows: property acquisition price of \$2,854,959, estimated construction costs of \$8,433,506, landscaping costs of \$62,510 and related expenses and fees of \$17,587. (The Board rescinded this action at its December 16, 2015 meeting.)

Maria Phillips (Santamaria-Del Campo) and Michael Del Campo, 741179

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

Tuesday, November 17, 2015

William R. Dobkin and Donya Dobkin, 728014

Deborah M. Dobkin, 725828

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 as modified by its concessions.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
NOVEMBER 17, 2015**

Ronald J. Blomquist, 467934, 565903 (FH)

Final Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 5:10 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 5:22 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 5:23 p.m.

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

Note: The following matters were removed from the calendar prior to the meeting: *Gregory Wimmer, 842007; Richard Schotts, Jr., 798666 and Andrea Schotts, 800099; Larry Russ, 731267; Cesar Z. Lugo, 790947; Best RV & Self Storage, LLC, 856099; Joseph A. Sciarretta, 809250; John M. Callaghan and Doris K. Callaghan, 843533; and, 420 For The People Cooperative, Inc.*

Wednesday, November 18, 2015

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

Stainless Fixtures, Inc., 505327 (AP)

07/01/03 to 06/30/06, \$168,397.64 Tax, \$16,839.79 Negligence Penalty

For Petitioner: Lana Hammerton, Representative
David M. Berger, Attorney

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

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

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

Whether petitioner was negligent.

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

The Board recessed at 10:49 a.m. and reconvened at 11:14 a.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Port Petroleum, Inc., 474336, 551074 (AA)

01/01/06 to 12/31/08, \$151,193.53 Tax

For Petitioner/Claimant: Douglas Wallace, Taxpayer
Pat Gorman, Representative
Allen L. Thomas, Attorney

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

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

Issues: Whether adjustments are warranted to the amount of disallowed claimed prepayments of tax on fuel sales.

Whether petitioner is entitled to relief from the tax because its procedure for claiming sales tax prepayments was the result of its reliance on incorrect advice from the Board in a prior audit.

Whether further relief of interest is warranted.

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 petition be submitted for decision.

The Board recessed at 1:05 p.m. and reconvened at 1:23 p.m. with Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers present.

Wednesday, November 18, 2015

PETITION FOR RELEASE OF SEIZED PROPERTY HEARING

Almond Corporation, 867053 (STF)

February 2, 2015 Seizure Date, \$3,020.91 Approximate Value

For Petitioner: Sherif Loza, Taxpayer
Sofia Loza, Taxpayer

For Property and Special Taxes Department Pamela Mash, Tax Counsel

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

Issue: Whether the tobacco products should be forfeited because they are described by Business and Professions Code section 22974.3, subdivision (b).

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 petition be submitted for decision.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD NOVEMBER 18, 2015

Stainless Fixtures, Inc., 505327 (AP)

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 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.

Port Petroleum, Inc., 474336, 551074 (AA)

Final Action: Ms. Ma moved to grant the petition. The motion was seconded by Mr. Runner. Ms. Harkey made a substitute motion to relieve all interest, and that the petition otherwise be redetermined as recommended by the Appeals Division. The substitute motion was seconded by Ms. Ma and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes.

FINAL ACTION ON PETITION FOR RELEASE OF SEIZED PROPERTY HEARING HELD NOVEMBER 18, 2015

Almond Corporation, 867053 (STF)

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

The Board adjourned at 2:06 p.m. in the memory of Jane Inouye, Business Tax Representative with the Field Operations Division.

*The foregoing minutes are adopted by the Board on December 16, 2015.*Note: The following matters were removed from the calendar prior to the meeting: *Johnny Zegarra, 600482 (AA); Arturo Rojas Castaneda, 556722 (EH); and, Richard Clark Farrell, 600710 (EA).*