

Tuesday, August 29, 2017

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Ms. Harkey, Chairwoman, Mr. Runner, Vice Chair, Ms. Ma, Mr. Horton and Ms. Yee present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Lou Ambrose, Tax Counsel, Appeals Bureau, who was a United States Air Force Intelligence Officer and Cryptologic Linguist.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Gilbert P. Hyatt, 435770

1991, \$1,876,471.00 Tax, \$1,407,353.25 Fraud Penalty

For Appellant:

Gilbert P. Hyatt, Taxpayer
 Bill Leonard, Representative
 Michael W. Kern, Representative
 Edwin P. Antolin, Attorney

For Franchise Tax Board:

Bill Hilson, Tax Counsel
 Scott DePeel, Tax Counsel
 Ann Hodges, Tax Counsel

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

Issues: Whether appellant is taxable as a resident of California on all of his income from September 26, 1991, to December 31, 1991.

Whether appellant's income is taxable as California source income.

Whether respondent Franchise Tax Board has shown that it properly imposed a fraud penalty.

Whether appellant has shown a legal basis for the abatement of interest under Revenue and Taxation Code section 19104.

Appellant's Exhibit: Miscellaneous Documents in twenty parts

(Exhibit 8.1: [part 1](#), [part 2](#), [part 3](#), [part 4](#), [part 5](#), [part 6](#), [part 7](#), [part 8](#), [part 9](#), [part 10](#), [part 11](#), [part 12](#), [part 13](#), [part 14](#), [part 15](#), [part 16](#), [part 17](#), [part 18](#), [part 19](#), [part 20](#))

Respondent's Exhibit: October 1991 Calendar of Events ([Exhibit 8.2](#))

Member's Exhibit: Legal Ruling Number 145 ([Exhibit 8.3](#))

Exhibits to these minutes are incorporated by reference.

The Board recessed at 10:59 a.m. and reconvened at 11:08 a.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Yee present.

Gilbert P. Hyatt, 435770 (Continued)

The Board recessed at 12:52 p.m. and reconvened at 1:45 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Yee present.

Tuesday, August 29, 2017

Gilbert P. Hyatt, 435770 (Continued)

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and duly carried, Ms. Harkey, Mr. Runner, Ms. Ma and Mr. Horton voting yes, Ms. Yee voting no, the Board reversed the action of the Franchise Tax Board as to the issue of fraud.

Upon motion of Mr. Runner, seconded by Ms. Harkey and duly carried, Ms. Harkey, Mr. Runner and Mr. Horton voting yes, Ms. Ma and Ms. Yee voting no, the Board determined that the California residency concluded on October 20, 1991.

Ms. Yee moved to sustain the action of the Franchise Tax Board as to the issue of California sourced income. The motion was seconded by Ms. Ma. Ms. Yee withdrew her motion.

Mr. Runner moved to reverse the action of the Franchise Tax Board as to the issue of California sourced income. The motion was seconded by Ms. Harkey but failed to carry, Ms. Harkey and Mr. Runner voting yes, Ms. Ma and Ms. Yee voting no, Mr. Horton abstaining.

Mr. Runner moved to continue the hearing as to the remaining issues, to the September meeting, and focus the related hearing of *Gilbert P. Hyatt, 446509*, on the issue of California sourced income. The motion failed for lack of a second.

Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Yee voting yes, the Board submitted the appeal for decision as to the issue of California sourced income.

The Board recessed at 6:23 p.m. and reconvened at 6:37 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Yee present.

Gilbert P. Hyatt, 435770 (Continued)

Action: Upon motion of Mr. Horton, seconded by Ms. Yee and duly carried, Ms. Ma, Mr. Horton and Ms. Yee voting yes, Ms. Harkey and Mr. Runner voting no, the Board sustained the action of the Franchise Tax Board as to the issue of California sourced income for 1991.

Ms. Yee left the Boardroom and Ms. Stowers entered on behalf of Ms. Yee in accordance with Government Code section 7.9.

PUBLIC HEARINGS

Property Taxpayers' Bill of Rights Hearings

Mark Sutter, Senior Specialist Property Appraiser, Taxpayer Rights Advocate Office, 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 8.4](#)).

Mr. Sutter entered into the record a written submission from Joseph Reinagal ([Exhibit 8.5](#)). Mr. Sutter also provided a verbal summary from a taxpayer, who wishes to remain anonymous, regarding the issue of undiscovered new construction.

Tuesday, August 29, 2017

Speakers: Howard Kato, President, T & M Kato Farms, Inc.
 Stephen L. Murphy, Sacramento County Homeowner
 Marc A. Aprea, Principal, Aprea & Michel, on behalf of California Alliance of
 Taxpayer Advocates (CATA) ([Exhibit 8.6](#))
 Richard N. Benson, Marin County Assessor/Recorder/Clerk and President of the
 California Assessors' Association
 John McKibben, Deputy Executive Officer, Los Angeles County Board of
 Supervisors, California Association of Clerks and Election Officials

Ms. Stowers left the Boardroom and Ms. Yee entered.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Gilbert P. Hyatt, 446509

1992, \$5,669,021.00 Tax, \$4,251,765.75 Fraud Penalty

For Appellant:

Gilbert P. Hyatt, Taxpayer
 Bill Leonard, Representative
 Michael W. Kern, Representative
 Edwin P. Antolin, Attorney
 For Franchise Tax Board:
 Bill Hilson, Tax Counsel
 Scott DePeel, Tax Counsel
 Ann Hodges, Tax Counsel

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

Issues: Whether appellant is taxable as a resident of California on all of his income from
 January 1, 1992 up to and including April 2, 1992.

Whether a portion of appellant's income in the year at issue is taxable as
 California source income.

Whether the FTB has shown that it properly imposed a penalty for fraudulently
 failing to file a tax return.

Whether appellant has shown a legal basis for the abatement of interest under
 Revenue and Taxation Code section 19104.

Appellant's Exhibit: Miscellaneous Documents in twenty parts (See Exhibit 8.1)

Respondent's Exhibit: January 1992 Calendar of Events ([Exhibit 8.7](#))

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and duly carried,
 Ms. Harkey, Mr. Runner and Mr. Horton voting yes, Ms. Ma and Ms. Yee voting no, the Board
 reversed the action of the Franchise Tax Board as to the issue of fraud and determined that
 residency in California concluded October 20, 1991.

Gilbert P. Hyatt, 435770 (Continued)

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and duly carried, Mr. Horton,
 Ms. Ma and Ms. Yee voting yes, Ms. Harkey and Mr. Runner voting no, the Board sustained the
 action of the Franchise Tax Board as to the issue of interest abatement.

Tuesday, August 29, 2017

Gilbert P. Hyatt, 446509 (Continued)

Action: Ms. Harkey moved to reverse the action of the Franchise Tax Board as to the issue of situs for the year 1992. The motion was seconded by Mr. Runner. Ms. Harkey withdrew her motion.

Ms. Harkey moved to reverse the action of the Franchise Tax Board as to the issue of situs in Nevada for the year 1992. The motion was seconded by Mr. Runner. Ms. Harkey offered an amendment to reverse the action of the Franchise Tax Board as to the issue of the California sourced income for 1992. The amended motion was seconded by Mr. Runner and duly carried, Ms. Harkey, Mr. Runner and Mr. Horton voting yes, Ms. Ma and Ms. Yee voting no.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 10:35 p.m. and reconvened immediately in closed session with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

CLOSED SESSION

The Board met to discuss pending litigation (Gov. Code § 11126(e)), and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 10:54 p.m. and reconvened immediately in open session with Ms. Harkey, Mr. Runner, Ms. Ma and Ms. Stowers present.

Joann Richmond, Chief, Board Proceedings Division, announced that closed session will be continued to August 31, 2017.

The Board recessed at 10:55 p.m.

The foregoing minutes are adopted by the Board on October 24, 2017.

Wednesday, August 30, 2017

The Board met at its offices at 450 N Street, Sacramento, at 9:34 a.m., with Ms. Harkey, Chairwoman, Mr. Runner, Vice Chair, Ms. Ma and Mr. Horton present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

Braulio C. Godinez Lucachin, 728209 (GH)

04/01/09 to 03/31/12, \$17,153.97 Tax

For Petitioner:

Braulio Lucachin, Taxpayer

Consuelo Tamara Lucachin, Witness

For Business Tax and Fee Department:

Scott Lambert, Hearing Representative

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

Issue: Whether additional adjustments are warranted to the measure of unreported taxable sales.

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

Hubert Daniel, 546540 (KH)

10/01/05 to 02/17/09, \$82,907.80 Tax, \$8,290.78 Finality Penalty

For Taxpayer:

Hubert Daniel, Taxpayer

Charmaine Morad-Daniel, Witness

Naresh Channaveerappa, Attorney

For Business Tax and Fee Department:

Monica Silva, 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 HCD Properties LLC pursuant to Revenue and Taxation Code section 6829.

Whether adjustments are warranted to the audited understatement of HCD's reported taxable sales.

Whether taxpayer has established reasonable cause sufficient for relieving the finality penalty originally assessed against HCD.

Whether relief of interest is warranted.

The Board recessed at 12:41 p.m. and reconvened at 1:36 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

Hubert Daniel, 546540 (KH) (Continued)

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

Wednesday, August 30, 2017

Greg Moss, 807243 (KH)

04/01/11 to 08/09/11, \$27,928.00 Tax, \$2,792.80 Late-Payment Penalty

For Petitioner:

Greg Moss, Taxpayer

Gerard F. Keena II, Representative

For Business Tax and Fee Department:

Andrew Kwee, Tax Counsel

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

Issues: Whether petitioner is personally liable as a responsible person for the unpaid tax liabilities of Moss Lumber Co., Inc. for the period April 1, 2011, through June 30, 2011, pursuant to Revenue and Taxation Code section 6829.

Whether there is reasonable cause to relieve the late-payment penalty assessed against Moss Lumber and included in petitioner's responsible person liability.

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

Zimmer US, Inc., 773995, 801742 (EA)

04/01/08 to 03/31/11, \$2,166,903.00 Claim for Refund

04/01/11 to 09/30/13, \$1,494,199.00 Claim for Refund

For Claimant:

Susan Bittick, Representative

Brian Browdy, Representative

Erica Love, Representative

For Business Tax and Fee Department:

Brad Heller, Tax Counsel

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

Issue: Whether a refund of use tax reported and paid on the cost of medical instruments shipped to California medical facilities is warranted.

Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and duly carried, Ms. Harkey, Mr. Runner and Ms. Ma voting yes, Mr. Horton and Ms. Stowers voting no, the Board ordered that the claim for refund be granted.¹

Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board rescinded its prior vote.

Upon motion of Mr. Runner, seconded by Ms. Ma and duly carried, Ms. Harkey, Mr. Runner and Ms. Ma voting yes, Ms. Stowers voting no, Mr. Horton abstaining, the Board ordered that the claim for refund be granted.

The Board recessed at 4:14 p.m. and reconvened at 4:24 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

¹ The Board rescinded this action immediately.

Wednesday, August 30, 2017

Dish Network California Service Corporation, 836050, 974472 (OH)

01/01/09 to 12/31/11, \$254,595.70 Tax

01/01/09 to 12/31/11, \$631,631.39 Claim for Refund

For Petitioner/Claimant: Susan Bittick, Representative
Amanda Angelo, Representative

For Business Tax and Fee Department: Andrew Kwee, Tax Counsel

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

Issues: Whether petitioner owes sales tax on its sales of fixtures furnished and installed pursuant to construction contracts and, if so, whether an offset is warranted for sales tax paid by Dish.

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

The Board recessed at 5:36 p.m. and reconvened at 5:47 p.m. with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

Key Events, Inc., 600095 (BH)

07/01/01 to 12/31/09, \$52,313.03 Tax, \$887.18 Amnesty Interest Penalty

Key Events, Inc., 953675 (BH)

04/01/10 to 07/31/14, \$40,615.76 Tax

For Petitioner: Heather Keenan, Taxpayer
Priscilla A. Burpee, Witness
Jesse McClellan, Attorney

For Business Tax and Fee Department: Kevin Smith, Tax Counsel

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

Issues in the matter of 600095:

Whether additional adjustments to the measure of unreported taxable sales are warranted.

Whether further relief of interest is warranted.

Issue for in the matter of 953675:

Whether adjustments to the measure of disallowed claimed nontaxable sales are warranted.

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and duly carried, Ms. Harkey, Mr. Runner, Ms. Ma and Mr. Horton voting yes, Ms. Stowers voting no, the Board ordered that the petition be granted, and the tax be redetermined accordingly. The Board directed the Appeals Bureau to prepare a Memorandum Opinion for Board consideration.

Wednesday, August 30, 2017

Mana, Allison & Associates, Inc., 599640 (BH)

01/01/02 to 12/31/09, \$483,344.31 Tax, \$4,793.71 Amnesty Interest Penalty

For Petitioner: Glenn Allison, Witness
Dave Mana, Witness
Deshiell Shapiro, Attorney

For Business Tax and Fee Department: Kevin Smith, Tax Counsel

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

Issue: Whether adjustments to the measure of disallowed claimed nontaxable sales are warranted.

Action: Ms. Stowers moved to grant the petition based on meeting the 10 percent threshold as a safe harbor. Ms. Stowers withdrew her motion.

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

Incentive Destination Productions, Inc., 742443 (AR)

01/01/03 to 12/31/09, \$69,579.22 Tax, \$00.00 Failure to File Penalty

For Petitioner: James Dumler, Representative
Jesse McClellan, Attorney

For Business Tax and Fee Department: Kevin Smith, Tax Counsel

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

Issues: Whether adjustments to the measure of disallowed claimed nontaxable sales are warranted.

Whether additional interest should be relieved.

Jeff Angeja, Tax Counsel, Appeals Bureau, Legal Division, advised of the revised recommendation of the Appeals Bureau based on Key Events precedential decision, the liability is redetermined in accordance with the precedential decision which will now eliminate the liability.

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and duly carried, Ms. Harkey, Mr. Runner, Ms. Ma and Mr. Horton voting yes, Ms. Stowers voting no, the Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Bureau.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD AUGUST 30, 2017

Public Motors Orange County, LLC, 766507 (EA)

01/01/10 to 12/31/12, \$19,670.24 Tax

For Petitioner: Waived Appearance

For Business Tax and Fee Department: Nenita DeLa Cruz, Hearing Representative

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

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

Wednesday, August 30, 2017

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

The Board recessed at 6:45 p.m.

The foregoing minutes are adopted by the Board on October 24, 2017.

Note: The following matter was removed from the calendar prior to the meeting: *Medimarts, Inc., 763614.*

Thursday, August 31, 2017

The Board met at its offices at 450 N Street, Sacramento, at 9:35 a.m., with Ms. Harkey, Chairwoman, Mr. Runner, Vice Chair, Ms. Ma and Mr. Horton present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

Ms. Harkey discussed the remaining 2017 workload and the December 2017 Sacramento meeting dates. Ms. Harkey directed staff to work with Members' offices to consider adding a third meeting day in December.

SALES AND USE TAX APPEALS HEARINGS

Robin Groth-Hill, 814350 (CH)

10/01/08 to 08/24/11, \$1,913,195.34 Tax, \$725,775.60 Failure to Remit Collected Tax Penalty, \$191,085.36 Finality Penalty, \$465.04 Late-Payment Penalty, \$7,885.20 Negligence Penalty, \$1,755.55 Failure-to-File Penalty

For Petitioner: Robin Groth, Taxpayer

For Business Tax and Fee Department: Scott Claremon, Tax Counsel

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

Issues: Whether petitioner is personally liable as a responsible person for the unpaid liabilities of Groth Bros. Oldsmobile, Inc. (Groth), pursuant to Revenue and Taxation Code section 6829.

Whether adjustments are warranted to the tax assessed in the determinations issued to Groth.

Whether the 40-percent penalty for failure to report collected sales tax reimbursement is supported by clear and convincing evidence.

Whether relief of the penalties assessed against Groth and included in petitioner's liability under section 6829 is warranted.

Whether Groth was negligent during the liability period 1Q11 through May 17, 2011.

Whether relief of interest is warranted.

Action: The Board continued the hearing to the October 2017 Sacramento meeting.

Jagtar Singh Kandola, 809478 (KH)

10/01/09 to 09/30/10, \$37,985.58 Tax, \$7,110.91 Late-Payment Penalty

For Petitioner: Jagtar S. Kandola, Taxpayer

For Business Tax and Fee Department: Scott Claremon, Tax Counsel

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

Issues: Whether petitioner is personally liable as a responsible person for the unpaid liabilities of K & W Slocum, Inc., pursuant to Revenue and Taxation Code section 6829.

Whether relief of the penalties assessed against Slocum and included in petitioner's liability under section 6829 is warranted.

Action: Mr. Runner moved to lower the amount of equal liability for the liquor license and remove the late payment penalty. The motion was seconded by Ms. Harkey. Ms. Harkey made a substitute motion that the petition be granted and the tax be redetermined accordingly. The substitute motion was seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes.

Thursday, August 31, 2017

SPECIAL TAXES APPEALS HEARING

James R. Kidder, 668928, 690129, 690130 (STF)

07/01/11 to 06/30/12, \$1,918.00 Fee, \$00.00 Failure-to-File Penalty

07/01/09 to 09/30/09, \$118.56 Fee

07/01/10 to 09/30/10, \$90.72 Fee

For Petitioner:

Gary Kimzey, Representative

For Business Tax and Fee Department:

Joseph Boniwell, Tax Counsel

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

Issue: Whether petitioner is liable for the underground storage tank maintenance fees.

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

LEGAL APPEALS MATTERS, CONSENT

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

Agoura Auto Spa, Inc., 851962 (AR)

07/01/10 to 03/31/14, \$13,728.26 Tax, \$0.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Edward Joseph Dumaine, III, 717962 (EH)

07/01/08 to 10/08/09, \$52,343.59 Tax, \$19,552.30 Failure to File Penalty, \$574.30 Late Payment Penalty

Action: Redetermine as recommended by the Appeals Division.

Shelton Lang Gayles, 733871 (EA)

03/01/08 to 12/31/09, \$22,445.00 Tax, \$820.00 Failure to File Penalty, \$1,804.40 Late Payment Penalty, \$820.00 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Michael Henderson, 841751 (FH)

01/01/10 to 12/31/12, \$40,678.89 Tax, \$10,169.76 Fraud Penalty

Action: Redetermine as recommended by the Appeals Division.

Jonathan Francis Knecht, 586615 (AC)

01/01/98 to 03/31/00, \$00.00 Tax, \$47,779.08 Fraud Penalty, \$18,747.40 Finality Penalty, \$925.00 Collection Cost Recovery Fee

Action: Redetermine as recommended by the Appeals Division.

Thursday, August 31, 2017

Kaisuen Kong, 516021 (EA)

07/01/05 to 09/30/06, \$188,003.38 Tax, \$18,799.41 Finality Penalty, \$925.00 Collection Cost Recovery Fee

Action: Redetermine as recommended by the Appeals Division.

Nu Ground, Inc., 841096 (EA)

04/01/10 to 02/04/14, \$113,812.47 Tax

Action: Redetermine as recommended by the Appeals Division.

PJ Elite, LLC, 594364 (AR)

01/01/08 to 03/31/11, \$6,007,738.00 Tax, \$3,735.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Patricia S. Serna, 790470 (FH)

07/01/09 to 06/30/12, \$5,967.83 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Kurt William Walker, 733406 (RC)

01/01/06 to 01/14/10, \$1,524.04 Tax, \$3,632.10 Late Payment Penalty, \$1,723.60 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Elmer Munoz, 849940 (AA)

07/01/10 to 12/31/13, \$32,787.18 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

East Bay Supply, Inc., 745876 (CH)

10/01/05 to 09/30/08, \$103,673.08 Tax

Action: Redetermine 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. Horton, seconded by Mr. Runner and unanimously carried, Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board made the following orders:

Kashif Ahmed and Ana J. Ahmed, 937348

2009, \$9,200.00 Tax, \$1,840.00 Accuracy-related Penalty

Action: Sustain the action of the Franchise Tax Board.

Biofyz, LLC, 972763

2015, \$851.68 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Thursday, August 31, 2017

Susanna L. Chenette, 949716

2012, \$4,951.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Vinay Devaki, 926547

2012, \$2,147.25 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Easy Care Medical Clinic, PLLC, 933497

Claim for Refund

2010, \$425.00 Demand Penalty, \$82.00 Filing Enforcement Fee, \$170.00 Collection Cost Fee, \$42.00 Lien Fee

2011, \$200.00 Demand Penalty, \$78.00 Filing Enforcement Fee

2012, \$200.00 Late Payment Penalty

Action: Modify the action of the Franchise Tax Board.

Estate of Sheldon D. Schott (Dec'd) and Pamela E. Schott, 931596

2009, \$7,261.55 Interest

Action: Sustain the action of the Franchise Tax Board.

Thomas C. Ford, 927547

2013, \$21,754.66 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Winston Francis and Christine Francis, 959389

2014, \$584.38 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Geniciity, Inc., 957433

2013, \$437.96 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Eric K. Gonzalez, 942377

2010, \$549.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Ernest Graham and Janice Smith, 668153

2001, \$141,774.00 Tax, \$211,611.53 Penalties

2003, \$112,623.00 Tax, \$22,524.60 Accuracy-related Penalty

2005, \$1,280,646.00 Tax, \$532,919.25 Penalties

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

Edgar J. Green and Ruth Green, 870132

2010, \$1,584.00 Assessment

2011, \$996.00 Assessment

2012, \$2,055.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Thursday, August 31, 2017

Robert Hicks and Monica Hicks, 856691

2010, \$14,352.00 Tax, \$2,870.40 Accuracy-related Penalty

Action: Sustain the action of the Franchise Tax Board.

Chandra E. Hunt, 946689

2011, \$3,608.00 Tax

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

Andre Jackson, 937588

2013, \$9,568.00 Tax, \$2,392.00 Late Filing Penalty, \$2,392.00 Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$5,000.00 frivolous appeal penalty.

Sheen Xavier James, 951158

2009, \$1,772.88 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Reuben V. Legaspi, 954483

2009, \$1,947.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Conrad J. Lopes and Ramona Burdeos, 935750

2014, \$16,424.00 Claim for Refund

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

Jorge M. Lopez, 957175

2012, \$1,058.96 Tax

Action: Sustain the action of the Franchise Tax Board.

Matoza Investments, Inc., 925476

2013, \$433.78 Tax

Action: Sustain the action of the Franchise Tax Board.

Juan Morales, 950895

2014, \$127.00 Tax, \$127.00 Late Filing Fee

Action: Sustain the action of the Franchise Tax Board.

Orbis Invest, LLC, 939664

2013, \$437.96 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Maria A. Pacheco, 941520

2013, \$1,755.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Thursday, August 31, 2017

Anil L. Pandya and Sheetal A. Pandya, 871577

2010, \$32,328.00 Assessment

2011, \$29,745.00 Assessment

2012, \$42,073.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Kevin Perteete, 939671

2005, \$1,613.12 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Primrose Wallace, LLC, 953146

2010, \$200.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Maria S. Raigoza, 923762

2010, \$1,817.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Sabar, LLC, 976564

2014, \$396.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Norman E. Schrock and Claudia M. Schrock, 956829

2010, \$4,237.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Bo Shen and Xin Shen, 930531

2010, \$6,670.00 Tax

Action: Sustain the action of the Franchise Tax Board.

William C. Smail, 856271

2012, \$12,911.00 Tax, \$3,227.75 Late Filing Penalty

2013, \$19,423.00 Tax, 4,855.75 Late Filing Penalty, \$5,247.50 Demand Penalty, \$76.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board.

Deepa Sreenivasan, 943530

2014 \$1,327.68 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

The Sierra Trust No. 2, 941655

2014, \$8,420.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Thursday, August 31, 2017

United Southwest Construction, Inc., 974829
2014, \$200.00 Claim for Refund, \$12.10 Estimated Tax Penalty
Action: Sustain the action of the Franchise Tax Board.

Thomas G. Van Dyke and Margaret S. Van Dyke, 864562
2000, \$18,809.00 Tax, \$4,702.25 Late Filing Penalty, \$3,171.40 Post-Amnesty Penalty
2001, \$13,633.00 Tax, \$3,408.25 Late Filing Penalty, \$3,408.25 Post-Amnesty Penalty
Action: Sustain the action of the Franchise Tax Board.

Rosario Velasco, 937788
2013, \$1,183.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Frederick Scott Walmsley, 941222
2013, \$1,123.00 Tax, \$280.75 Late Filing Penalty, \$280.75 Demand Penalty, \$76.00 Filing
Enforcement Fee
Action: Sustain the action of the Franchise Tax Board as modified by its concessions on
appeal.

Qingli Zhang, 954411
2012, \$465.00 Tax
Action: Sustain the action of the Franchise Tax Board as modified by its concessions on
appeal.

LEGAL APPEALS MATTER, ADJUDICATORY

Stars Holding Co., LLC, 855845 (CH)
04/01/13 to 12/31/13, \$35,238.66 Claim for Refund
Considered by the Board: March 29, 2017
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Ms. Harkey, seconded by Mr. Runner and unanimously carried,
Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers voting yes, the Board ordered
that the petition for rehearing be denied as recommended by the Appeals Bureau.

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

David Gau, Executive Director, provided a report regarding the status of pending
and upcoming organizational issues.

Thursday, August 31, 2017

ANNOUNCEMENT OF CLOSED SESSION (Continued from August 29, 2017)

The Board recessed at 12:42 p.m. and reconvened immediately in closed session with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

CLOSED SESSION

The Board met to discuss pending litigation (Gov. Code § 11126(e)), and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 1:10 p.m. and reconvened immediately in open session with Ms. Harkey, Mr. Runner, Ms. Ma, Mr. Horton and Ms. Stowers present.

The Board adjourned at 1:12 p.m.

The foregoing minutes are adopted by the Board on October 24, 2017.

Note: The following matter was removed from the calendar prior to the meeting: *Max Rogers, 639424.*