

Wednesday, September 28, 2005

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Mr. Chiang, Chair, Ms. Yee present, Mr. Chivaro present on behalf of Mr. Westly in accordance with Government Code section 7.9.

PUBLIC HEARING

Board of Equalization Rules for California Tax Administration and Appellate Review

Mr. Chiang made introductory remarks regarding the Board of Equalization Rules for California Tax Administration and Appellate Review. Mr. Chiang expressed the Board's interest in the comments and suggestions of the audience and the Board's dedication to improve these administrative procedures.

Part 5: General Board Hearing Procedures

Bradley M. Heller, Tax Counsel, Legal Department, made introductory remarks regarding Part 5, *General Board Hearing Procedures*, to gain public comment.

Communication with Board Members

Speakers: Bruce Langston, Franchise Tax Board, Legal Department
Lenny Goldberg, California Tax Reform Association
David R. Doerr, California Taxpayers' Association

Contribution Disclosure

Speakers: Lenny Goldberg, California Tax Reform Association
Teresa Casazza, California Taxpayers' Association

Article 1, Application and Definitions

Speakers: No comments

Article 2, Requirements of Scheduling Board Hearings

Speaker: Lenny Goldberg, California Tax Reform Association

Article 3, Public Notification of Board Meeting

Speakers: No comments

Article 4, Day of the Oral Hearing

Speakers: No comments

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Article 5, Board Meeting

Speakers: David R. Doerr, California Taxpayers' Association

Article 6, VotingSpeakers: Lenny Goldberg, California Tax Reform Association
David R. Doerr, California Taxpayers' Association**Article 7, Post Hearing**

Speakers: Bruce Langston, Franchise Tax Board, Legal Department

Article 8, Correspondence and Public Documents

Speakers: No comments

Other General Comments:Speakers: Lenny Goldberg, California Tax Reform Association
Bruce Langston, Franchise Tax Board, Legal Department
Sarah Zimmerman, SEIU Local 1000

The Board adjourned at 10:35 a.m.

The foregoing minutes are adopted by the Board on March 29, 2006.

Tuesday, January 31, 2006

The Board met at its offices at 450 N Street, Sacramento, at 11:15 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Carolyn Bailey-Thomas, 308455
1997, \$1,085.36 Claim for Refund

For Claimant: Carolyn Bailey-Thomas, Taxpayer
For Franchise Tax Board: Dennis Haase, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether respondent abused its discretion in refusing to abate interest.
Appellant's Exhibit: Miscellaneous Documents (Exhibit 1.1)
Action: Mr. Parrish moved that the interest be abated. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Mr. Chiang, seconded by Mr. Parrish and duly carried, Mr. Chiang, Mr. Parrish and Mr. Leonard voting yes, Ms. Yee and Ms. Mandel voting no, the Board modified the action of the Franchise Tax Board by abating the interest that accrued from August 15, 2003 to present.

Exhibits to these minutes are incorporated by reference.

Tuan Q. Nguyen and Jacqueline Hoang, 306870
1999, \$166,193.00 Assessment

For Appellant: Martin A. Logies, CPA
For Franchise Tax Board: William Gardner, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether appellants' family foundation was a "private operating foundation," as defined in the Internal Revenue Code, thereby allowing appellants to deduct the fair market value of property they contributed to the foundation.
Appellant's Exhibit: Miscellaneous Documents (Exhibit 1.2)
Respondent's Exhibit: Miscellaneous Documents (Exhibit 1.3)
Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

The Board recessed at 11:58 a.m. and reconvened at 1:35 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Deluxe Corporation, 297128
1997, \$104,896.00 Claim for Refund
1998, \$238,471.00 Claim for Refund
1999, \$254,320.00 Claim for Refund
2000, \$206,177.00 Claim for Refund
2001, \$175,877.00 Claim for Refund

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For Claimant: Jeffrey M. Vesely, Attorney
Marty Dakessian, Attorney
Brett E. Scribner, Corporate Officer

For Franchise Tax Board: Ann Hodges, Tax Counsel

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

Issues: Whether respondent has the authority to determine whether or not "vouchers" that employers are required to obtain that verify that employees are qualified employees for purposes of the Enterprise Zone hiring credit, are invalid.

If so, whether appellant has established that it is entitled to all of the Enterprise Zone hiring credits claimed in its amended returns.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 1.4)

Respondent's Exhibit: Miscellaneous Documents (Exhibit 1.5)

Department's Exhibit: Miscellaneous Documents (Exhibit 1.6)

Action: Mr. Parrish moved that vouchers M2 and T2 exhibited in Appendix B of respondent's supplemental brief be disqualified and that the claim as to the remaining 49 vouchers be granted. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish voting no, the Board ordered the appeal be submitted for written opinion sustaining the action of the Franchise Tax Board as to the authority to audit Enterprise Zone hiring credit vouchers. The Board's decision on this matter shall not become final until the matter is brought back to the Board for adoption of the proposed opinion.

Upon motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Chiang, Mr. Parrish and Mr. Leonard voting yes, Ms. Yee and Ms. Mandel abstaining, the Board ordered that the appeal be submitted for decision, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the appellant's supporting documents, the Franchise Tax Board's response and provide its recommendation to the Board.

James Bagley and Jean A. Bagley, 217274

1994, \$436,394.00 Assessment

1995, \$214,272.00 Assessment

1996, \$525,255.00 Assessment

1997, \$57,700.00 Assessment

For Appellant:

Derick J. Brannan, Representative

James Bagley, Taxpayer

Jean A. Bagley, Taxpayer

For Franchise Tax Board:

John Penfield, Tax Counsel

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

Issues: Whether appellants were California residents during the years at issue.

Whether respondent's conduct at the prior hearing prejudiced the Board's determination that appellants were California residents during 1995, 1996 and 1997.

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Action: Mr. Chiang moved to reverse the action of the Franchise Tax Board as to 1994 and 1995. Mr. Parrish seconded the motion. Ms. Yee made a substitute motion to reverse the action of the Franchise Tax Board for the entire appeal. The substitute motion was seconded by Mr. Parrish and duly carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no.

Craig Woods Schiemann, 300905

2002, \$1,439.00 Assessment, \$359.75 Late Filing Penalty

For Appellant:

Craig Woods Schiemann, Taxpayer

For Franchise Tax Board:

Mark McEvilly, Tax Counsel

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

Issues: Whether appellant has met his burden to prove error in the proposed assessment.
Whether appellant has shown reasonable cause for relief from the late filing penalty.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

The Board recessed at 3:50 p.m. and reconvened at 4:00 p.m. with Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARINGS

Christopher Joseph Neal and Zack John Colburn, 89002251130 (KHO)

4-1-94 to 3-31-97, \$34,470.99 Tax

For Petitioner:

Zack John Colburn, Taxpayer

For Sales and Use Tax Department:

Sharon Jarvis, Tax Counsel

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

Issues: Whether rebates petitioner received directly from cigarette manufacturers for discounting cigarette prices to its customers constitute additional taxable gross receipts.

Whether petitioner received erroneous advice from the Board and is entitled to relief under Revenue and Taxation Code section 6596.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board ordered that the petition be submitted for decision.

William E. Wehrli, 253121 (CH)

10-1-96 to 9-30-02, \$729,658.20 Tax, \$182,414.74 Fraud Penalty

For Petitioner:

R. William Wehrli, Representative

For Sales and Use Tax Department:

Trecia Nienow, Tax Counsel

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

Issues: Whether petitioner is entitled to adjustments to the audit liability for refunds to purchasers (returned merchandise), nontaxable installation labor, and nontaxable delivery charges.

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Whether there is sufficient evidence to sustain the fraud penalty.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board ordered that the petition be submitted for decision.

Ms. Mandel left and Mr. Chivaro entered the Boardroom on behalf of Mr. Westly in accordance with Government Code section 7.9.

Hilton Supply Management, Inc., 236447 (AS)

1-1-97 to 3-31-00, \$96,625.66 Tax

For Petitioner:

Joseph A. Vinatieri, Attorney
Michael Fannon, Representative
Edwina Burt, Representative
Bradley Heller, Tax Counsel

For Sales and Use Tax Department:

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

Issue: Whether a purchasing management fee petitioner charged as part of petitioner's retail sales of equipment and supplies to hotels owned by its parent corporation was part of petitioner's taxable gross receipts.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Mr. Leonard and Mr. Chivaro voting yes, Mr. Chiang absent and not participating, Mr. Parrish absent, the Board ordered that the petition be submitted for decision.

Mr. Chivaro left and Ms. Mandel entered the Boardroom on behalf of Mr. Westly in accordance with Government Code section 7.9.

CHIEF COUNSEL MATTERS

RULEMAKING

Request for authorization to amend Sales and Use Tax Regulation 1707, Electronic Funds Transfer, Section 100 Change

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the section 100 change to Regulation 1707, *Electronic Funds Transfer* (Exhibit 1.7).

Request for authorization to amend Property and Special Taxes Regulation 4905, Payment by Electronic Funds Transfer, Section 100 Change

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the section 100 change to Regulation 4905, *Payment by Electronic Funds Transfer* (Exhibit 1.8).

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Revisions to State Board of Equalization Rules of Practice

Kristine Cazadd, Chief Counsel, Legal Department, made introductory remarks regarding the request for approval of Board of Equalization Rules for California Tax Administration and Appellate Review (New Rules), Chapter 1, *Title*, and Chapter 2, *Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees*. In addition, Ms. Cazadd provided a status report on proposed revisions to the State Board of Equalization Rules of Practice (Cal. Code Regs., tit. 18, §§ 5010-5095) into the Board of Equalization Rules for California Tax Administration and Appellate Review (New Rules). The New Rules provide more comprehensive guidance regarding the administrative and appellate review processes for all of the tax and fee programs administered by the Board, including Taxpayer Bill of Rights Reimbursement Claims. (Exhibit 1.9.)

Mr. Leonard stated for the record that his notes regarding this matter will be posted to his website.

Speaker: Joseph A. Vinatieri, Attorney, Bewley Lasseben & Miller LLP

Action: The Board deferred consideration of this matter.

PROPERTY TAX**Board Consideration of Findings and Decisions**

Cingular Wireless, LLC (2606), 315682

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee not participating, Mr. Parrish absent, the Board approved the Findings and Decision as recommended by staff.

Calpine Construction Finance Company (1132), 315964

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the Findings and Decision as recommended by staff.

Metcalf Energy Center, LLC (1133), 315913

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the Findings and Decision as recommended by staff.

Los Esteros Critical Energy Facility, LLC (1143), 315962

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the Findings and Decision as recommended by staff.

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Delta Energy Center, LLC (1128) 315963

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the Findings and Decision as recommended by staff.

High Desert Power Trust 2000-A (1127), 316098

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating, Mr. Parrish absent, the Board approved the Findings and Decision as recommended by staff.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**James R. Bullard and Michelle M. Bullard, 312880**

2003, \$181.00 Claim for Refund

For Claimant:

No Appearance

For Franchise Tax Board:

Suzanne Small, Tax Counsel

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

Issue: Whether appellants have shown reasonable cause exists to abate the late filing penalty.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD JANUARY 31, 2006**Tuan Q. Nguyen and Jacqueline Hoang, 306870**

Final Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board.

Craig Woods Schiemann, 300905

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD JANUARY 31, 2006**Christopher Joseph Neal and Zack John Colburn, 89002251130 (KHO)**

Final Action: The Board deferred consideration of the petition and referred the issue to the March Sacramento Chief Counsel Matters to expedite the rulemaking process.

Ms. Mandel left and Mr. Chivaro entered the Boardroom on behalf of Mr. Westly in accordance with Government Code section 7.9.

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Hilton Supply Management, Inc., 236447 (AS)

Final Action: Ms. Yee moved that the petition be redetermined as recommended by the Appeals Division. The motion failed for lack of a second.

Upon motion of Mr. Leonard, seconded by Mr. Chivaro and duly carried, Mr. Leonard and Mr. Chivaro voting yes, Ms. Yee voting no, Mr. Chiang not participating, Mr. Parrish absent, the Board ordered that the petition be granted and the tax be redetermined accordingly.

Mr. Chivaro left and Ms. Mandel entered the Boardroom on behalf of Mr. Westly in accordance with Government Code section 7.9.

William E. Wehrli, 253121 (CH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

The Board adjourned at 5:49 p.m.

The foregoing minutes are adopted by the Board on March 29, 2006.

Note: The following matters were removed from the calendar prior to the meeting: *Charles M. Corbalis and Linda J. Corbalis, 298787; P.J. Helicopters, Inc., 224188; Verizon California, Inc. (201), 316353; and, UNOCAP (480), 316350.*

Wednesday, February 1, 2006

The Board met at its offices at 450 N Street, Sacramento, at 9:32 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

Tareq Sulaiman and Kathy Sulaiman, 249880 (GH)

10-1-00 to 12-31-02, \$97,444.37 Tax, \$9,776.44 Penalty

For Petitioner: Tareq Sulaiman, Taxpayer

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

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

Issues: Whether audited taxable sales are overstated because audited costs of taxable merchandise to be marked up are excessive and insufficient deduction made for tax-paid purchases resold.

Whether the 10 percent penalty imposed for negligence should be deleted.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Balvir Singh and Charan Singh, 223362 (KH)

7-1-99 to 6-30-02, \$28,683.27 Tax

For Petitioner: Hargit Singh, Taxpayer

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

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

Issue: Whether the audited understatement of reported taxable sales is excessive.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Stephen S. Hiller, 240369, 240370 (UT)

7-7-98, \$72,189.00 Tax

3-9-01, \$303,988.00 Tax

For Petitioner: Abe Golomb, Representative

Warren Alston, Representative

For Sales and Use Tax Department: Carla Caruso, Tax Counsel

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

Issues: Whether petitioner's purchase and use for the subject aircraft are exempt from use tax because the aircraft were used principally in common carriage operations.

Whether petitioner has established reasonable cause to abate the amnesty penalty that will apply to Case ID: 240369.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

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Mustafa Mufit Aybar, 265609 (KH)

2-1-03 to 4-11-03, \$1,121.44 Claim for Refund

For Claimant:

Mustafa Mufit Aybar, Taxpayer

For Sales and Use Tax Department:

Cary Huxsoll, Tax Counsel

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

Issue: Whether claimant is entitled to a refund of the amount levied from his bank account as a partner for the taxes, interest, and penalties owed by Aybarcar Auto Repair.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

PUBLIC HEARING**Property Taxes – State Assessee Presentations on Capitalization Rates & Other Factors Affecting Values**

Stanley Siu, Chief, Valuation Division, Property and Special Taxes Department, was available to answer questions regarding 1) state assessee's presentations on capitalization rates and other factors and procedures affecting 2005-06 values of California state-assessed public utilities and railroads; and, 2) private railroad car assessee's presentations on factors and procedures affecting 2005-06 taxable values of private railroad cars.

Speakers: Peter Michaels, Cooper, White and Cooper, spoke on behalf of State-assessed gas/electric, inter-county pipeline and railroad companies.

LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following order:

Stephen J. Heuer, 258408 (GH)

7-1-01 to 12-31-03, \$167,050.00 Tax, \$16,705.00 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *John T. Berg, 300516*; and, *Geoffrey K. Wascher, 307238*.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

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Corey L. Allen and Cheryl Bentyne, 286713

1997, \$7,086.34 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

John T. Berg, 300516

1984, \$778.00 Claim for Refund

Action: The Board deferred consideration of this matter.

Butch Berry, 296582

2002, \$561.25 Assessment

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

Larry L. Bloom, 296926

2002, \$505.00 Tax, \$252.50 Penalties

Action: Sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

Charles C. Cahn, Jr. and Jane Cahn, et al., 305566

Charles C. Cahn, Jr. and Jane Cahn, 305566

1993, \$5,537.00 Claim for Refund

1995, \$17,501.00 Claim for Refund

Kenneth Abramowitz and Nira Abramowitz, 305568

1993, \$2,595.00 Claim for Refund

1996, \$6,255.00 Claim for Refund

Paul Bagnoli and Lauren Bagnoli, 305569

1995, \$1,832.00 Claim for Refund

1996, \$2,406.00 Claim for Refund

Gregory Sawers and Jill Sawers, 305570

1996, \$3,190.00 Claim for Refund

Marc Mayer and Meera Mayer, 305577

1995, \$2,489.00 Claim for Refund

Jonathon Mann and Debra Mann, 305584

1995, \$1,980.00 Claim for Refund

Marilyn Fedak, 305585

1995, \$9,318.00 Claim for Refund

Alan Feld and Robin Feld, 305586

1995, \$1,911.00 Claim for Refund

Roger Hertog and Susan Hertog, 305589

1995, \$46,849.00 Claim for Refund

Paul Bernstein, 305591

1995, \$11,940.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Kennan Cline, 309816

2002, \$762.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Coffee Partners, L.P., 288689

1993 to 2000, \$4,037.39 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Thomas R. DeLong, 297163

2002, \$1,060.25 Assessment

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

Brooks Dunlap and Helen Dunlap, 281165

1993, \$15,247.32 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Marshall Finch and Helen Finch, 258525

1998, \$17,974.89 Claim for Refund

1990, \$5,569.82 Claim for Refund

Action: Modify the action of the Franchise Tax Board.

Galvantech, Inc., 288289

1999, \$107,009.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Matthew J. Gaspar and Elizabeth R. Gaspar, 301573

2003, \$71.99 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Mark J. Levin, 295818

2002, \$2,213.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kenneth A. Minkus, 304417

1992 and 1995, \$10,422.96 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Brooks Morgan, 305124

1996, \$4,384.49 Assessment

1997, \$5,654.80 Assessment

1998, \$1,629.48 Assessment

2000, \$3,557.67 Assessment

2002, \$765.25 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Oceanic Bank, 286855

1998, \$18,284.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Natasha J. Parsakia, 303402

2002, \$1,443.58 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Juan C. Reynoso, 298618

2002, \$931.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jesse J. Roth, 294194

1992, \$97,470.05 Assessment

Action: Sustain the action of the Franchise Tax Board.

Kevin Spicer, 300904

1995, \$1,235.68 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Charles E. Travis, 219338, 250420

2000, \$1,460.00 Tax, \$365.00 Late Filing Penalty

2001, \$12,244.00 Tax, \$1,485.25 Late Filing Penalty, \$3,280.00 Notice and Demand Penalty

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

Michael Van Wagner and Sally Ann Crain, 289997

2001, \$721.94 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Mary Olivia Vargo, 294752

2000, \$1,837.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ada D. Voth, 308142

2002, \$1,101.00 Assessment/Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Geoffrey K. Wascher, 307238

1983, \$165.00 Claim for Refund

Action: The Board deferred consideration of this matter.

Douglas L. Black and Patricia A. Black, 268563

1999, \$5,204.00 Assessment

2000, \$5,956.00 Assessment

2001, \$6,135.00 Assessment

2002, \$6,498.00 Assessment

Action: Deny the petition for rehearing.

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HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Isaac L. Chan, 313197

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Soon Ok Choi, 306361

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Starquet K. Edwards-Crosby, 310459

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Alex Elshirbiny, 295490

2001, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Sharon Hochdortfer, 298071

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Cecilia Hood, 298063

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Kit Chun Chow Huang, 298082

2004, \$1.00 or more

Action: Reverse the action of the Franchise Tax Board, granting appellant's claim for assistance in the amount of \$101.25.

Cassandra McKissack, 310013

2004, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Mohammad Yunus Naviwala and Kulsum Yunus Naviwala, 308813

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Deborah Quick, 300487

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Alta M. Rymer, 296234

2004, \$320.00

Action: Sustain the action of the Franchise Tax Board.

Yvonne Sterling, 309084

2002, \$28.84

Action: Sustain the action of the Franchise Tax Board.

Loc Tran, 311710

2004, \$1.00 or more

Action: Modify the action of the Franchise Tax Board consistent with respondent's concession to pay \$28.96.

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

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties/Interest and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Faramarzipour USA, Inc., 255916 (AA)

1-1-99 to 12-31-01, \$156,312.92

Action: Approve the redetermination as recommended by staff.

Eurodesign Cabinet, Inc., 293205 (EH)

1-1-01 to 12-31-01, \$71,503.62

Action: Approve the redetermination as recommended by staff.

Advantest America, Inc., 246244 (GH)

10-1-99 to 9-30-02, \$133,351.63

Action: Approve the redetermination as recommended by staff.

Unisys Corporation, 244383 (OHB)

10-1-96 to 12-31-00, \$2,073,785.26

Action: Approve the redetermination as recommended by staff.

Phase Shift Technology, Inc., 224874 (OH)

1-1-93 to 12-31-00, \$503,562.99

Action: Approve the redetermination as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

Richard Preston Apgar, 218835 (FH)

10-1-93 to 12-30-00, \$177,463.46

Action: Approve the redetermination as recommended by staff.

Infineon Technologies Corporation, 282020 (GH)

4-1-99 to 6-30-02, \$201,842.12

Action: Approve the redetermination as recommended by staff.

Castro-Krause's Industries, Inc., 219178 (EA)

10-1-02 to 12-31-02, \$54,503.80

Action: Approve the redetermination as recommended by staff.

Waterman Industries, Inc., 282011 (KHQ)

4-1-01 to 2-9-04, \$890,961.94

Action: Approve the redetermination as recommended by staff.

Intellution, Inc., 308721 (OHB)

7-1-01 to 12-31-04, \$53,959.33

Action: Approve the redetermination as recommended by staff.

Tessenderlo Kerley, Inc., 290113 (OH)

7-1-00 to 3-31-04, \$464,612.11

Action: Approve the redetermination as recommended by staff.

Whole Foods Market California, Inc., 333366 (GH)

2-1-05 to 2-28-05, \$51,939.67

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

Kern Oil & Refining Company, 333303 (ARH)

11-1-04 to 11-30-04, \$211,667.39

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

Levy Premium Food Service LP, 333319 (AS)

4-1-05 to 4-30-05, \$56,510.22

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

Dal-Tile SSC West, Inc., 333242 (OHC)

4-1-05 to 6-15-05, \$199,210.92

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

Pommon's Tower Market, Inc., 172716 (BH)

7-1-00 to 8-6-00, \$63,751.00

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

Wednesday, February 1, 2006

Martin Lee Manning, 242309 (AC)

1-1-97 to 3-31-99, \$61,008.83

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

Leiner Health Products, LLC, 305492 (AS)

4-1-03 to 3-31-04, \$108,759.00

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

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

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105 in *Polycor, Inc., 308489*; and, *Johnson & Johnson Health Care System, 164608*; Ms. Mandel not participating in accordance with Government Code section 87105 in *GE Warranty Management, Inc., 262559*; *General Electric Capital Corporation, 224054*; and, *Johnson & Johnson Health Care System, 164608*; the Board made the following orders:

Scrantom Engineering, Inc., 332681 (EAA)

10-1-01 to 11-14-03, \$153,072.27

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

Pivot Interiors, Inc., 333506 (GH)

7-1-05 to 9-30-05, \$763,629.00

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

Leiner Health Products, Inc., 187836 (AS)

10-1-97 to 9-30-00, \$452,802.11

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

Jlacredit Corporation, 217944 (OHB)

10-1-96 to 7-31-00, \$3,100,849.31

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

Circle K Stores, Inc., 330368 (OH)

1-1-97 to 3-31-00, \$5,885,597.34

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

Castro-Krause's Industries, Inc., 207287 (EA)

4-1-02 to 9-30-02, \$629,626.29

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

Wednesday, February 1, 2006

J's Tires, Inc., 304919 (GH)

1-1-97 to 3-31-00, \$75,893.84

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

L. A. Community College District, 331497 (AS)

1-1-01 to 12-31-03, \$141,812.79

Action: Approve the refund as recommended by staff.

The California Credit Union, 262414 (AC)

1-1-01 to 12-31-02, \$77,232.46

Action: Approve the refund as recommended by staff.

Contractors Wardrobe, Inc., 327435 (AR)

7-1-01 to 12-31-01, \$60,139.47

Action: Approve the refund as recommended by staff.

Earle M. Jorgensen Company, 333978 (AA)

4-1-00 to 12-31-02, \$105,816.76

Action: Approve the refund as recommended by staff.

Viewsonic Corporation, 330131 (AP)

10-1-00 to 6-30-05, \$98,687.48

Action: Approve the refund as recommended by staff.

Airlite, Inc., 311541 (AA)

10-1-00 to 12-31-02, \$69,442.20

Action: Approve the refund as recommended by staff.

Web Service Company, Inc., 308496 (AS)

10-1-00 to 3-31-04, \$64,020.64

Action: Approve the refund as recommended by staff.

Chevron U.S.A., Inc., 331498 (BH)

10-1-01 to 12-31-04, \$144,363.18

Action: Approve the refund as recommended by staff.

Good View Roofing Build Sup Corporation, 328904 (BH)

4-1-05 to 6-30-05, \$54,544.02

Action: Approve the refund as recommended by staff.

Fireside Bank, 332024 (CH)

4-1-05 to 6-30-05, \$1,830,627.02

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

Callaway Golf Company, 333980 (FHB)

7-1-01 to 12-31-02, \$232,993.19

Action: Approve the refund as recommended by staff.

Tustin Community Bank, 261240 (EA)

1-1-01 to 6-30-04, \$74,563.25

Action: Approve the refund as recommended by staff.

Professional Hospital Supply, Inc., 296873 (EH)

10-1-01 to 3-31-05, \$127,496.69

Action: Approve the refund as recommended by staff.

Legato Network Services, Inc., 331262 (GH)

7-1-01 to 10-31-03, \$81,952.75

Action: Approve the refund as recommended by staff.

Polycom, Inc., 308489 (CH)

10-1-01 to 9-30-04, \$88,522.95

Action: Approve the refund as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 87105.

Jeffrey Jon Iverson, 304491 (JH)

1-1-02 to 3-31-05, \$77,819.09

Action: Approve the refund as recommended by staff.

The Golden 1 Credit Union, 328560 (KH)

1-1-05 to 3-31-05, \$147,456.32

Action: Approve the refund as recommended by staff.

Hyundai Motor Finance Company, 185770 (EA)

7-1-98 to 3-31-00, \$166,816.25

Action: Approve the refund as recommended by staff.

Fresno Truck Center, 300322 (KH)

10-1-03 to 12-31-03, \$53,957.17

Action: Approve the refund as recommended by staff.

Ford Motor Company, 217289 (OHA)

10-1-98 to 12-31-02, \$5,101,281.13

Action: Approve the refund as recommended by staff.

MKS Instruments, Inc., 184483 (OHB)

4-1-99 to 12-31-02, \$55,425.60

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

Leiner Health Products, Inc., 196285 (AS)

10-1-97 to 9-30-00, \$454,110.96

Action: Approve the refund as recommended by staff.

Toys R Us, Inc., 331400 (OHB)

6-27-99 to 12-28-02, \$169,378.63

Action: Approve the refund as recommended by staff.

Daifuku America Corporation, 316912 (OHA)

1-1-05 to 3-31-05, \$110,062.56

Action: Approve the refund as recommended by staff.

Jlacredit Corporation, 331967 (OHB)

10-1-96 to 7-31-00, \$541,221.63

Action: Approve the refund as recommended by staff.

Chevron Stations, Inc., 56869 (CH)

7-1-97 to 12-31-04, \$477,987.18

Action: Approve the refund as recommended by staff.

Boston Scientific Corporation, 249947 (OHB)

10-1-00 to 3-31-05, \$60,193.93

Action: Approve the refund as recommended by staff.

Wayne Dalton Corporation, 266402 (OHA)

4-1-01 to 12-31-03, \$133,444.61

Action: Approve the refund as recommended by staff.

Reebok International, Ltd., 330964 (OHB)

4-1-00 to 12-31-03, \$77,073.02

Action: Approve the refund as recommended by staff.

Kern River Gas Transmission Company, 296979 (OH)

1-1-01 to 6-30-03, \$301,316.28

Action: Approve the refund as recommended by staff.

Univar USA, Inc., 138536 (OH)

10-1-98 to 6-30-00, \$147,480.25

Action: Approve the refund as recommended by staff.

Carrier Commercial Refrig., Inc., 329570 (OHA)

4-1-05 to 5-27-05, \$50,405.57

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

Mercedes-Benz USA, LLC., 325727 (KH)

8-16-05 to 9-20-05, \$325,827.00

Action: Approve the refund as recommended by staff.

Staples the Office Superstore, Inc., 331259 (OHB)

7-1-01 to 12-31-02, \$75,745.33

Action: Approve the refund as recommended by staff.

Providian Bancorp Services, 333981 (BH)

1-1-01 to 12-31-02, \$54,242.90

Action: Approve the refund as recommended by staff.

Abbott Laboratories, 271445 (OHA)

7-1-00 to 12-31-03, \$475,349.56

Action: Approve the refund as recommended by staff.

American Thieme Corporation, 311528 (OHA)

1-1-04 to 12-31-04, \$94,782.50

Action: Approve the refund as recommended by staff.

Infineon Technologies Corporation, 153097 (GH)

4-1-99 to 12-31-01, \$202,312.65

Action: Approve the refund as recommended by staff.

GE Warranty Management, Inc., 262559 (OHC)

10-1-01 to 12-31-03, \$297,745.38

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Cintas Corporation No. 2, 328339 (OHA)

4-1-01 to 12-31-02, \$64,426.43

Action: Approve the refund as recommended by staff.

US Bank NA, 266413 (OHA)

1-1-03 to 9-30-04, \$134,476.96

Action: Approve the refund as recommended by staff.

RDO Agriculture Equipment Company, 224775 (OHA)

1-1-01 to 12-31-02, \$344,894.82

Action: Approve the refund as recommended by staff.

Spirent Communications, Inc., 207962 (AC)

1-1-01 to 12-31-03, \$85,682.03

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

F. G. Edwards & Company, 331896 (KH)

4-1-02 to 3-31-05, \$121,593.06

Action: Approve the refund as recommended by staff.

City of Pasadena, 332987 (AP)

4-1-03 to 6-30-03, \$672,085.61

Action: Approve the refund as recommended by staff.

General Electric Capital Corporation, 224054 (OHC)

10-1-01 to 3-31-02, \$213,578.24

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Cedars-Sinai Medical Center, 196276 (AS)

10-1-99 to 12-31-02, \$89,040.86

Action: Approve the refund as recommended by staff.

Johnny Quik Food Stores, Inc., 303702 (KHO)

4-1-00 to 3-31-03, \$59,767.57

Action: Approve the refund as recommended by staff.

Komori America Corporation, 311039 (OHA)

10-1-03 to 12-31-03, \$82,341.40

Action: Approve the refund as recommended by staff.

Union Ice GP, Inc., 318619 (AA)

7-1-02 to 12-31-04, \$64,317.30

Action: Approve the refund as recommended by staff.

Johnson & Johnson Health Care System, 164608 (OHB)

1-1-99 to 9-30-04, \$281,347.54

Action: Approve the refund as recommended by staff. Mr. Chiang and Ms. Mandel not participating in accordance with Government Code section 87105.

Universal Sodexo, 263741 (GH)

10-1-03 to 3-31-04, \$67,763.70

Action: Approve the refund as recommended by staff.

Eric Scott Marriott, 309835 (FHB)

5-16-02 to 12-31-04, \$84,267.15

Action: Approve the refund as recommended by staff.

MHI Injection Molding Machinery, Inc., 317040 (OHA)

1-1-04 to 6-30-04, \$50,092.78

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

Barclays Global Investors, NA, 327439 (BH)

1-1-02 to 3-31-05, \$75,668.23

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, REFUNDS, CONSENT

With respect to the Special Taxes Matters, Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board made the following order:

Trepco Imports & Distribution Ltd, 330674 (ET)

10-13-05 to 10-13-05, \$186,881.16

Action: Approve the refund as recommended by staff. Mr. Chiang not participating.

LEGAL APPEALS MATTERS, ADJUDICATORY

Speaker: Robert E. Cenderas, Attorney, spoke regarding *Nelson Shane Garrett and Maxim Khokhlov, 235401*.

Modern Mold International, Inc. 46790, 151920 (FHB)

10-1-95 to 12-31-98, \$5,209,287.00 Claim for Refund

1-1-99 to 6-30-00, \$2,204,963.00 Claim for Refund

Internet Design Technologies, LLC, 104735, 202260 (FHB)

7-1-00 to 9-30-00, \$585,025.00 Claim for Refund

7-1-00 to 6-30-00, \$585,025.00 Claim for Refund

Considered by the Board: September 1, 2005

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Chiang, Mr. Parrish and Mr. Leonard voting yes, Ms. Yee and Ms. Mandel voting no, the Board ordered that the petition for rehearing be granted.

Nelson Shane Garrett and Maxim Khokhlov, 235401 (AS)

10-1-99 to 12-31-02, \$1,606,272.19 Tax

Considered by the Board: November 15, 2005

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang voting no, Mr. Parrish abstaining, the Board ordered that the petition be granted and referred the issue to the Business Taxes Committee.

Mohammad Abdizadeh and William G. Morschauer, 206397 (EH)

1-1-99 to 11-1-01, \$55,058.80 Tax, \$5,308.31 Negligence Penalty, \$87.67 Failure to File Penalty

Considered by the Board: September 21, 2005

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

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Billy Wayne Blanks and Gayle H. Blanks, 268581

1998, \$663,038.00 Assessment

1999, \$987,125.00 Assessment

BG Star Productions, 268579

1998, \$112,394.00 Assessment

1999, \$62,250.00 Assessment

Considered by the Board: December 13, 2005

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

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board as recommended by staff based on the finding that there was an agreement in place as of August 1, 1998 and the Franchise Tax Board properly calculated the tax.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Audits

EWI Holdings, Inc. (8021)

2004-2005, \$100,000.00 Escaped Assessment, \$11,400.00 Penalties, \$17,100.00 In-lieu Interest

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit escaped assessment for 2004, plus penalties and in-lieu interest, and an excessive assessment for 2005, as recommended by staff.

Board Roll Changes

2002, 2003 and 2004 Board Rolls of State-Assessed Property

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board approved Roll Correction Batch Roster 05-04 containing one change each to the 2002, 2003 and 2004 Board Rolls of State-Assessed Property as recommended by staff (Exhibit 2.1).

Exhibits to these minutes are incorporated by reference.

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

OFFERS-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Afshin, Inc.*; *Leo Altschuler*; *Patricia Dennis*; *Caroline Kim*; *Shmuel Krampf*; and, *Jesus Nunez and Margarita Nunez*; as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 2.2).

Nancy Alvaro, Associate Tax Auditor, Van Nuys District Office
Lucha Duarte, Tax Technician III, Out-of-State District Office
Ann Edwards, Associate Programmer Analyst, Headquarters
Daniel Ellsberry, Associate Tax Auditor, West Covina District Office
Julia Escobar, Tax Technician III, Riverside District Office
Helen M. Fulkerson, Personnel Supervisor I, Personnel Management Division,
Headquarters
Linda Goodman, Associate Tax Auditor, Stockton Branch Office
Karen G. Howard, Supervising Tax Auditor I, Santa Rosa District Office
Marguerite Kuhlman, Office Technician, Chicago Area Office
Cynthia Lewis, Tax Technician II, Santa Ana District Office
Robert Sherburne, Staff Services Manager II, Contract and Procurement Section,
Headquarters
Judith A. Staub, Associate Personnel Analyst, Personnel Management Division,
Headquarters

Action: Adopt a resolution honoring Skip Thomson, who retired as the Solano County Assessor/Recorder on December 2, 2005, extending its best wishes on his retirement and its appreciation for his service to Solano County, the State Board of Equalization, and the people of the State of California (Exhibit 2.3).

Action: Approve the Board Meeting Minutes of August 31-September 1, 2005; September 20-21, 2005; October 25, 2005; November 1, 2005; November 15, 2005; and, December 13, 2005.

Action: Approve the 2006 Timber Advisory Committee Membership (Exhibit 2.4).

Wednesday, February 1, 2006

BOARD COMMITTEE REPORTS**Legislative Committee**

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Legislative Committee report (Exhibit 2.5).

Customer Services and Administrative Efficiency Committee

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Customer Services and Administrative Efficiency Committee report (Exhibit 2.6).

Business Taxes Committee

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Business Taxes Committee report (Exhibit 2.7).

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
FEBRUARY 1, 2006**

Balvir Singh and Charan Singh, 223362 (KH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Tareq Sulaiman and Kathy Sulaiman, 249880 (GH)

Final Action: The Board deferred consideration of this matter.

Stephen S. Hiller, 240369, 240370 (UT)

Final Action: Mr. Parrish moved that the petition be granted. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

SALES AND USE TAX APPEALS HEARING

A. Diamond Production, Inc., 36630 (BH)

7-1-91 to 12-31-96, \$1,009,810.76 Tax, \$00.00 Fraud Penalty

For Petitioner: Appearance Waived

For Sales and Use Tax Department: Tim Treichelt, Tax Counsel

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

Note: These minutes are not final until Board approved.

Wednesday, February 1, 2006

Issues: Whether the evidence establishes that petitioner is entitled to further deductions for exempt sales in interstate commerce from its retail stores.

Whether the evidence establishes that the unreported taxable sales made under the "We Pay Your Sales Tax" campaign are sales tax-included.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD FEBRUARY 1, 2006

Mustafa Mufit Aybar, 265609 (KH)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 11:24 a.m. and reconvened immediately in closed session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Govt. Code § 11126(e)), settlements (R&T Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 11:59 a.m. and reconvened immediately in open session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

The Board adjourned at 12:00 p.m. in memory of the following: Ernie Bernardi, Former Los Angeles City Council Member; Lesley Devine, Member of the Calabasas City Council; Colonel Young Oak Kim, World War II hero; and, Corretta Scott King, wife of the late Rev. Martin Luther King, Jr.

The foregoing minutes are adopted by the Board on March 29, 2006.

Note: The following matters were removed from the calendar prior to the meeting: *Kam Yuen International, Inc., 216737*; and, *Chief Counsel Matter—Board Policy on Impact of Litigation on Appeals – Recommendation*.

Note: These minutes are not final until Board approved.