

Tuesday, October 23, 2012

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:40 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Gerald J. Marcil and Carol L. Marcil, 458832

2001, \$307,466.00 Tax, \$14,591.81 Post-Amnesty Penalty

For Appellants:

Gerald J. Marcil, Taxpayer

Layton L. Pace, Attorney

For Franchise Tax Board:

David Gemmingen, Tax Counsel

Michael Cornez, Tax Counsel

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

Issue: Whether appellants' limited partnership satisfied the requirements for a "like-kind" exchange pursuant to Internal Revenue Code (IRC) section 1031.

Respondent's Exhibit: Miscellaneous Documents ([Exhibit 10.1](#))

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

Exhibits to these minutes are incorporated by reference.

Thomas L. Cantor and Cheryl A. Cantor, 597487

2009, \$51,503.00 Claim for Refund

For Appellants:

Thomas L. Cantor, Taxpayer

Melody S. Thornton, Representative

For Franchise Tax Board:

Eric Yadao, Tax Counsel

Karen Smith, Tax Counsel

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

Issue: Whether appellants have demonstrated that they are entitled to a refund of the underpayment of estimated tax penalty.

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

JK Group, LLC, 448306

2001, \$10,254.00 Claim for Refund

2002, \$9,914.00 Claim for Refund

2003, \$9,278.00 Claim for Refund

2004, \$7,977.00 Claim for Refund

2005, \$7,337.00 Claim for Refund

For Appellant:

James I. Kozen, Taxpayer

Edwin P. Antolin, Attorney

For Franchise Tax Board:

Todd Watkins, Tax Counsel

Michael Cornez, Tax Counsel

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

Note: These minutes are not final until Board approved.

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Issues: Whether the appellant operated the Burger King restaurant businesses during the taxable years 2001 through 2005, and therefore is obligated to pay LLC fees based upon the total income generated from those businesses.

Whether the proposed assessment of the LLC fees is unconstitutional.

Whether the refund amounts at issue are properly calculated.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 10.2](#))

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

The Board recessed at 12:27 p.m. and reconvened at 1:50 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARING

Mordehay Rabinowiz, 489446 (AC)

7-1-03 to 6-30-08, \$26,390.83 Tax, \$6,621.22 Fraud Penalty

For Petitioner:

Mordehay Rabinowiz, Taxpayer

Niel Ruben, Representative

Leron Rabinowiz, Witness

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

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

Whether adjustments are warranted to the allowance for exempt sales of food.

Whether adjustments are warranted to the disallowed deduction for sales tax included in reported total sales.

Whether the Department has established fraud by clear and convincing evidence.

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

The Board recessed at 2:46 p.m. and reconvened at 2:56 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

LEGAL APPEALS MATTERS, CONSENT

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

Mica Industries, Inc., 352527 (EA)

10-1-01 to 3-31-05, \$0.00 Tax, \$0.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Ibrahim Fayez Saloum, 533106 (EH)

9-1-06 to 6-30-09, \$33,094.56 Tax, \$3,309.46 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

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Luis Gerardo Mendivelso Torres, 522897 (EA)

4-1-06 to 6-30-09, \$14,996.46 Tax

Action: Redetermine as recommended by the Appeals Division.

PAD, 460686 (EH)

10-1-04 to 10-23-06, \$36,646.14 Tax, \$0.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Dolce Enoteca, LLC, 532495 (AS)

1-1-07 to 9-30-09, \$41,239.57 Tax, \$4,123.96 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Luis Alfredo Miranda and Eva Guardado, 528936 (AC)

7-1-06 to 6-30-09, \$47,569.61 Tax, \$4,756.94 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

The Entertainment Group (TEG), Inc., 533444 (AA)

7-1-05 to 6-30-08, \$144,934.35 Tax, \$14,675.50 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Behzad Bandari, 518636, 607169 (AR)

4-1-05 to 10-13-05, \$7,943.00 Tax, \$794.30 Finality Penalty

4-1-05 to 10-13-05, \$13,614 Claim for Refund

Action: Redetermine as recommended by the Appeals Division.

Guillermina Ahumada and Jose A. Ahumada, 425152 (AR)

7-1-03 to 6-30-06, \$0.00 Tax, \$5,730.70 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

West Bay Motors Incorporated, 552181 (AS)

4-1-04 to 3-31-07, \$18,507.84 Tax

Action: Redetermine as recommended by the Appeals Division.

Thomas Edward Kinder, 546324, 546328 (AS)

7-1-07 to 6-30-08, \$1,881.00 Tax, \$188.10 Failure to File Penalty

7-28-06 to 6-30-07, \$645.00 Tax, \$64.50 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

Armen Hovhannisyan, 389682 (ET)

8-22-05 to 12-31-05, \$109,098.00 Tax, \$10,909.80 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Atco Enterprises, Inc., 359307, 359854 (ET)

6-1-02 to 12-31-03, \$36,262 Unreported Distribution of Tobacco Products

1-1-04 to 12-31-04, \$25,850 Unreported Distribution of Tobacco Products

Action: Redetermine as recommended by the Appeals Division.

Dhanoa, Inc., 624561 (ET)

May 24, 2012 Seizure Date, \$387.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Note: These minutes are not final until Board approved.

Tuesday, October 23, 2012

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

(Motion expunged on October 24, 2012.)

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

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

Orange County Plastering Co., Inc., 329383 (EA)

10-1-02 to 9-30-02, \$310,755.56

Action: Approve the redetermination as recommended by staff.

St. Francis Medical Center, 585711 (AA)

7-1-06 to 6-30-09, \$276,896.93

Action: Approve the redetermination as recommended by staff.

Jacobson, David Enterprise, Inc., 572115 (EH)

1-1-07 to 12-31-09, \$124,367.96

Action: Approve the redetermination as recommended by staff.

Alpha Beta Company, 623588 (AA)

2-26-12 to 3-24-12, \$105,000.00

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

Tractor Supply Company, 592483 (OH)

4-1-06 to 3-31-09, \$408,276.00

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

Medcal Sales, LLC, 577725 (EH)

1-1-10 to 9-30-10, \$116,015.00

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

Boral Stone Products, LLC, 539352 (JH)

4-1-07 to 12-31-09, \$75,189.41

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

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

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

Marty James Orosco, 624120 (CH)

10-1-03 to 12-31-07, \$1,357,402.37

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

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Mikial Singh Nijjar, 624113 (CH)

10-1-03 to 12-31-07, \$1,339,261.60

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

SCP Distributors, LLC, 620956 (OH)

1-1-07 to 12-31-09, \$174,150.81

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

Superior Auto-Mission Hills, LLC, 621426 (AC)

1-1-09 to 2-24-09, \$324,109.24

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

Manchester Resorts, L.P., 599651 (FH)

7-1-11 to 9-30-11, \$150,925.00

Action: Approve the refund as recommended by staff.

Chevrolet Motor Division, 613937 (OH)

9-1-11 to 5-4-12, \$1,048,707.25

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA, LLC, 612935 (KH)

1-27-12, \$2,729,960.54

Action: Approve the refund as recommended by staff.

Insurance Company of the West, 531594 (FH)

1-1-07 to 12-31-09, \$351,075.68

Action: Approve the refund as recommended by staff.

BMW of North America, 614384 (OH)

3-29-12 to 6-13-12, \$1,443,767.39

Action: Approve the refund as recommended by staff.

Elgin Laib, Jr., 609925 (EA)

1-1-02 to 9-30-02, \$278,823.71

Action: Approve the refund as recommended by staff.

Caridianbct, Inc., 513661 (OH)

7-1-06 to 3-31-09, \$140,041.47

Action: Approve the refund as recommended by staff.

Save Mart Supermarkets, 614175 (KH)

3-30-09 to 9-26-10, \$120,955.10

Action: Approve the refund as recommended by staff.

Boral Stone Products, LLC, 539352 (JH)

4-1-07 to 12-31-09, \$113,582.56

Action: Approve the refund as recommended by staff.

Home Acceptance Corporation, 557531 (EA)

4-1-09 to 12-31-10, \$ 328,269.44

Action: Approve the refund as recommended by staff.

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SPECIAL TAXES MATTERS, REDETERMINATIONS AND RELIEF OF PENALTIES, CONSENT

With respect to the Special Taxes Matters, Redeterminations and Relief of Penalties, Consent Agenda, upon a single motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Verizon Business Network Services, Inc.*, 437657; Ms. Mandel not participating in accordance with Government Code section 7.9 in *Molina Healthcare of CA Partner Plan, Inc.*, 604897 (ET); *MillerCoors, LLC*, 613558 (ET); *Vitol, Inc.*, 620434 (MT); and, *Aetna Life Insurance Co.*, 624675 (ET); the Board made the following orders:

Verizon Business Network Services, Inc., 437657 (ET)

10-1-03 to 12-31-05, \$936,980.79

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

Molina Healthcare of CA Partner Plan, Inc., 604897 (ET)

4-1-10 to 6-30-10, \$111,921.60

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

MillerCoors, LLC, 613558 (ET)

3-1-12 to 3-31-12, \$218,993.10

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Vitol, Inc., 620434 (MT)

8-1-11 to 8-31-11, \$162,107.63

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Aetna Life Insurance Co., 624675 (ET)

10-1-11 to 12-31-11, \$1,013,471.90

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Haycock Petroleum Company, 466750 (MT)

4-1-03 to 12-31-05, \$871,068.62

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

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The Wine Group, LLC, 550312, 552965, 557368 (ET)
6-1-10 to 6-30-10, \$496,244.16

Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTER, ADJUDICATORY

Frangi's Restaurant, Inc., 433581 (AS)

1-1-98 to 9-30-06, \$177,036.72 Tax, \$191,613.21 Fraud Penalty, \$79,477.77 Amnesty Double Fraud Penalty

Considered by the Board: January 31, 2012

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

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition for rehearing be granted.

Ms. Mandel requested staff to talk with the taxpayer's representative to clarify staff's assertions.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

OFFER-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Offer in Compromise Recommendations of *Bruce Terrance Busby; Kathleen Ann Busby; Atwill, L.L.C.; Stephen Williams Churchill; Karen P. Kukkonen; Fountains Plus Garden Center, Inc.; Barbara Renae McWherter; Michael Timothy Scott, Jr.; Floyd Thorne; Wionics Technologies, Inc.*; and, *Tommy Vaughn Woods*; as recommended by staff.

CHIEF COUNSEL MATTERS

RULEMAKING

Adoption of Emergency Regulations – Lumber Products Assessment

Robert Tucker, CEA, Legal Administration/Tax and Fee Programs Division, Legal Department, and Stephen Smith, Tax Counsel IV, Legal Administration/Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for Board authorization to promulgate an emergency regulation to implement the provisions of AB 1492 (Chapter 289, Stats of 2012) ([Exhibit 10.3](#)).

Speakers: Mandy Lee, Director, Government Affairs, California Retailers Association
Gerry Charron, Software Development Manager, Stock Building Supply
Ken Dunham, Executive Director, West Coast Lumber & Building Material Association
Craig Evans, Vice President, Learned Lumber
David Bischel, President, California Forestry Association

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Action: Ms. Yee moved to adopt the emergency regulation *Lumber Products Assessment* as recommended by staff and direct staff to commence rulemaking by publishing the regulation and notice to comment. The motion was seconded by Ms. Mandel but no vote was taken.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Mr. Runner voting no, Ms. Steel abstaining, the Board adopted the emergency regulation *Lumber Products Assessment* as recommended by staff.

Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board directed staff to begin the rulemaking process and referred the matter to the Business Tax Committee.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

The Board deferred consideration of the following matter to a later date in this meeting: *Board resolution to Regina Evans-Jarrett*.

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

Action: Adopt the Emergency Telephone Users Surcharge Rate of 0.50 percent for calendar year 2013 as recommended by staff and publish the rate in these Board meeting minutes ([Exhibit 10.4](#)).

Action: Approve the 2013 Board Workload Plan as recommended by staff ([Exhibit 10.5](#)).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Eric Steen, CROS Project Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

Property and Special Taxes Deputy Director's Report

David Gau, Deputy Director, Property and Special Taxes Department, provided an update regarding the Fire Prevention Fee Program ([Exhibit 10.6](#)).

Administration Deputy Director's Report

Liz Houser, Deputy Director, Administration Department, reported that there are no updates on the Governor's 2012/13 Budget at this time.

Liz Houser, Deputy Director, Administration Department, made introductory remarks regarding two 2012/13 Legislative Budget Change Proposals (BCPs) ([Exhibit 10.7](#)).

Ms. Houser introduced BCP No. 7: *AB 1492 Lumber Products Assessment*, which requests the necessary resources for additional costs to implement the new lumber products assessment ([Exhibit 10.8](#)).

Note: These minutes are not final until Board approved.

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Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board approved BCP No. 7: *AB 1492 Lumber Products Assessment*, as recommended by staff.

Ms. Houser introduced BCP No. 8: *AB 2323 Publication of Board Opinions*, which requests the necessary resources to implement the provisions of Assembly Bill 2323. Ms. Houser introduced Randy Ferris, Chief Counsel, who discussed the Board's options in response to the Department of Finance's actions with regard to this proposal ([Exhibit 10.9](#)).

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board approved BCP No. 8: *AB 2323 Publication of Board Opinions*, as recommended by staff, and directed staff to appeal the decision of the Department of Finance on this matter.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 5:07 p.m. and reconvened immediately in closed session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel 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 5:40 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Mr. Horton announced the appointment of Michele Pielsticker to the position of Chief, Legislative and Research Division.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD OCTOBER 23, 2012

Gerald J. Marcil and Carol L. Marcil, 458832

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

The Board deferred consideration of the matter to the next day.

Thomas L. Cantor and Cheryl A. Cantor, 597487

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board sustained the action of the Franchise Tax Board.

Tuesday, October 23, 2012

JK Group, LLC, 448306

Final Action: Mr. Runner moved to reverse the action of the Franchise Tax Board. The motion was seconded by Ms. Steel but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board sustained the action of the Franchise Tax Board.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD
OCTOBER 23, 2012**

Mordehay Rabinowiz, 489446 (AC)

Final Action: Mr. Runner moved to remove the fraud penalty and reduce the taxable food ratio from 75 percent to 25 percent. The motion was seconded by Ms. Steel but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

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

The Board recessed at 6:12 p.m.

The foregoing minutes are adopted by the Board on May 22, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Shin P. Yang and Connie L. Deng, 589501; Bret A. Curtis and Yecenia M. Curtis, 594236; Sean Brunske, 597425; Cha Radiology Associate, 595850; Deanna Robinson Interiors, Inc., 519485 (EA); Life-Care Home Health and Medical Supplies, Inc., 495335 (AS); and, Stainless Fixtures, Inc., 505327 (AP).*

Wednesday, October 24, 2012

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:35 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

Macradij Sarkis Yacoubian, 508838 (AC)

5-1-05 to 3-31-08, \$ 89,450.83 Tax, \$8,945.09 Negligence Penalty

For Petitioner: Macradij Yacoubian, Taxpayer

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

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

Issues: Whether adjustments are warranted to unreported taxable sales.

Whether petitioner was negligent.

Action: Mr. Runner moved that the petition be submitted for decision, 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. Ms. Yee made a substitute motion that the petition be submitted for decision. The substitute motion was seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes.

Café 976, LLC, 479006, 504670 (FH)

10-1-99 to 12-31-02, \$23,183.43 Tax, \$2,288.76 Finality Penalty, \$2,288.76 Amnesty Double Finality Penalty, \$2,650.28 Amnesty Interest Penalty

For Taxpayer/Claimant: Anne Dierickx, Taxpayer

For Sales and Use Tax Department: Marc Alviso, Hearing Representative

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

Issues: Whether adjustments are warranted to the disallowed claimed exempt food sales.

Whether the Notice of Determination dated November 14, 2008, for the period July 1, 2001, through December 31, 2002, was timely issued.

Whether taxpayer has established a basis for relief of the finality penalty.

Whether taxpayer has established a basis for relief of the amnesty penalties.

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

Miguel Orejel and Magdalena Orejel, 529908 (AA)

4-1-06 to 3-31-09, \$0.00 Tax, \$3,122.87 Negligence Penalty

For Petitioners: Miguel Orejel, Taxpayer

Joyce Rebhun, Representative

For Sales and Use Tax Department: Marc Alviso, Hearing Representative

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

Issue: Whether petitioner was negligent.

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

Note: These minutes are not final until Board approved.

Wednesday, October 24, 2012

The Board recessed at 11:54 a.m. and reconvened at 12:02 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Melika, Inc., 549416 (AS)

4-1-05 to 3-31-08, \$183,221.23 Tax, \$18,322.13 Negligence Penalty

For Petitioner: Joyce Rebhun, Representative

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

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

Issues: 1: Whether additional adjustments to the audited amount of unreported taxable sales are warranted.

Whether petitioner was negligent.

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

The Board recessed at 12:17 p.m. and reconvened at 1:39 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that its previous motion of October 23, 2012 be expunged.

The Board deferred consideration of the following matter: *RMDI Corporation, 594848.*

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

Howard B. Han and Seung W. Han, 577081

2006, \$78,376.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Yoshio Aoki, 553610

2006, \$717.00 Assessment

Action: Modify the action of the Franchise Tax Board.

Mary Ann Ault, 534656

2007, \$13,895.00 Assessment, \$3,497.25 Late Filing Penalty

Action: Sustain the action with concession by the Franchise Tax Board.

Cornerstone Real Estate Fund A, LLC, 574006

2008, \$2,308.16 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Note: These minutes are not final until Board approved.

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Gervase F. Eline III, 567681

2009, \$384.28 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Cristiana Ferrari, 551247

2000, \$11,738.00 Assessment, \$4,695.20 Accuracy Related Penalty, \$2,216.65 Amnesty Penalty

Action: Sustain the action of the Franchise Tax Board.

Danny L. Gantt and Marilyn J. Gantt, 560555

2006, \$132.00 Tax

Action: Sustain the action of the Franchise Tax Board.

James A. Gregoline, 557786

2007, \$9,070.00 Tax, \$2,267.50 Late Filing Penalty, \$2,267.50 Demand Penalty

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

Ricardo Hinestroza, 553528

2003, \$2,638.00 Tax

2004, \$7,316.00 Tax, \$1,463.20 Accuracy-Related Penalty

2005, \$10,211.00 Tax, \$2,042.20 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Mark E. Holm, 576514

2008, \$513.00 Tax, \$128.25 Late Filing Penalty, \$128.25 Demand Penalty

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

Jennifer Hu, 571278

2008, \$1,210.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Sheila Kennedy, 530951

2007, \$791.00 Tax, \$197.75 Late Filing Penalty, \$239.75 Demand Penalty

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

William Kwok, 571820

2008, \$1,811.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Rebecca Martz, 573096

2007, \$409.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Barbara Olstad, 573721

2009, \$121.28 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

RMDI Corporation, 594848

2008, \$65,484.00 Claim for Refund

Action: The Board took no action.

Note: These minutes are not final until Board approved.

Wednesday, October 24, 2012

Douglas Samski, 559019

2008, \$1,131.00, \$282.75 Late Filing Penalty, \$282.75 Demand Penalty

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

Vittaria.com, Inc., 563333

2008, \$800.00 Tax, \$200.00 Late Filing Penalty, \$200.00 Demand Penalty

Action: Sustain the action of the Franchise Tax Board.

Ronald P. Cox and Chen Li, 537134

2005, \$1,358.00 Assessment

Action: Deny the petition for rehearing.

Angela Real, 536331

2006, \$130.00 Assessment

Action: Deny the petition for rehearing.

SALES AND USE TAX APPEALS HEARINGS

Jose E. Sanchez, 489568, 505671(EA)

10-1-05 to 9-30-08, \$59,616.77 Tax, \$0.00 Fraud Penalty

For Taxpayer/Claimant:

Jose Sanchez, Taxpayer

Carlos E. Chait, Representative

For Sales and Use Tax Department:

Kevin Smith, Tax Counsel

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

Issues: Whether adjustments are warranted to the disallowed claimed exempt sales of food.

Whether adjustments are warranted to the disallowed claimed tax-included deductions.

Whether taxpayer is entitled to relief because he received erroneous oral advice from the Board.

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

Heidi Rachael Mendez, Edgardo Mendez and Rachel Mendez, 495816 (FH)

7-1-06 to 9-30-07, \$3,806.00 Claim for Refund

For Claimants:

Edgardo Mendez, Taxpayer

For Sales and Use Tax Department:

Lawrence Mendel, Tax Counsel

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

Issue: Whether claimant has established that the sales at issue were nontaxable sales for resale.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the claim be submitted for decision.

The Board recessed at 3:00 p.m. and reconvened at 3:30 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Note: These minutes are not final until Board approved.

Wednesday, October 24, 2012

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARING HELD OCTOBER 23, 2012**

Gerald J. Marcil and Carol L. Marcil, 458832 (continued)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Steel and duly carried, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Mr. Horton voting no, the Board reversed the action of the Franchise Tax Board.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
OCTOBER 24, 2012**

Macradij Sarkis Yacoubian, 508838 (AC)

Final Action: Ms. Mandel moved that the petition be submitted for decision, 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. The motion was seconded by Ms. Yee. Ms. Steel made a substitute motion to reduce the deficiency by 15 percent to reflect the potential credits and remove the negligence penalty. The substitute motion was seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes.

Café 976, LLC, 479006, 504670 (FH)

Final Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that taxable sales ratio be adjusted to 45 percent for the third and fourth quarters of 2001 and 55 percent for 2002.

Miguel Orejel and Magdalena Orejel, 529908 (AA)

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

Melika, Inc., 549416 (AS)

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

Club Red Square, LLC, 510332 (AC)

10-1-05 to 6-30-08, \$70,032.69 Tax, \$8,227.35 Negligence Penalty, \$7,667.35 Finality Penalty

For Taxpayer: Waived Appearance

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

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

Issues: Whether adjustments are warranted to the unreported taxable sales.

Whether adjustments are warranted to the disallowed claimed deductions.

Whether taxpayer was negligent.

Note: These minutes are not final until Board approved.

Wednesday, October 24, 2012

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise program and of payment options.

The Board further reaffirmed its direction to staff to inform taxpayers of the Offer in Compromise program and of payment options as a general practice.

Nabil W. Waniss, 491575 (EA)

10-1-05 to 6-4-08, \$17,550.20 Tax, \$3,813.39 Negligence Penalty

For Petitioner:

Waived Appearance

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

Issues: Whether adjustments are warranted to the amount of unreported taxable sales of auto parts.

Whether an adjustment should be made for unclaimed state diesel fuel tax.

Whether petitioner was negligent.

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

Jose E. Sanchez, 489568, 505671 (EA)

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

Heidi Rachael Mendez, Edgardo Mendez and Rachel Mendez, 495816 (FH)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the claim be denied as recommended by the Appeals Division.

The Board recessed at 4:01 p.m.

The foregoing minutes are adopted by the Board on May 22, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Anwer Ali Jadhavji, 202563 (AC); Jerry Pena, 478061 (EH); Craig Robert Hansen, 518238 (EH); Salim Ramzan Ali Jivani and Farida Salim Jivani, 513980 (KH); Salim Ramzan Ali Jivani and Farida Salim Jivani, 513982 (KH); Salim Ramzan Ali Jivani and Farida Salim Jivani, 513983 (KH); and, Salim Ramzan Ali Jivani and Farida Salim Jivani, 513984 (KH).*

Note: These minutes are not final until Board approved.

Thursday, October 25, 2012

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:35 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

Mohamad Marwan Nafeh, 326425, 515731(AP)

3-1-01 to 12-31-03, \$36,480.20 Tax, \$12,837.13 Penalties

7-1-05 to 3-31-08, \$30,973.47 Tax, \$3,097.35 Negligence Penalty

For Petitioner:

Mohamad Nafeh, Taxpayer

Abdul J. Muhammad, Representative

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

Issues: Whether further adjustments are warranted.

Whether petitioner has established that adjustments are warranted to the unreported taxable cigarette rebates from manufacturers.

Whether petitioner was negligent.

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

Rebhya Abdeljawad, 553035 (EH)

4-1-07 to 12-31-08, \$30,867.18 Tax, \$3,086.75 Negligence Penalty

For Petitioner:

Rebhya Abdeljawad, Taxpayer

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

Issues: Whether adjustments are warranted to the audited understatements of taxable measure.

Whether petitioner was negligent.

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

Mr. Horton directed the Department to inform the taxpayer of her options.

Anderson Audio Visual-East Bay, LLC, 511892 (CH)

4-1-05 to 3-31-08, \$42,703.07 Tax

For Petitioner/Claimant:

Alan Durant, Representative

Joseph Matranga, Representative

Shane Parkes, Representative

For Sales and Use Tax Department:

Kevin Smith, Tax Counsel

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

Issue: Whether petitioner should be relieved from the tax due on freight charges because its failure to report the tax was the result of its reasonable reliance on written advice from the Board.

Note: These minutes are not final until Board approved.

Thursday, October 25, 2012

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

Yin Mei Liang, 492980 (EA)

4-1-05 to 12-31-07, \$6,184.12 Tax, \$378.15 Negligence Penalty, \$240.25 Failure to File Penalty

For Petitioner: Yin Mei Liang, Taxpayer

For Sales and Use Tax Department: Marc Alviso Hearing Representative

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

Issues: Whether adjustments are warranted to the audited understatement of reported taxable sales.

Whether petitioner was negligent.

Whether relief of the failure-to-file penalty is warranted.

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

The Board recessed at 12:07 p.m. and reconvened at 12:30 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SPECIAL TAXES APPEALS HEARING

Ashraf Alfonose Youssef, 358704 (ET)

For Petitioner: Ashraf Alfonose Youssef, Taxpayer

For Property and Special Taxes Department: Pamela Mash, Tax Counsel

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

Action: Upon motion of Mr. Horton and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board granted the taxpayer's postponement request and ordered that the hearing be postponed to December 18, 2012 in Sacramento as agreed upon by the taxpayer, and directed staff to arrange an interpreter for that hearing.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

The Board deferred consideration of the following matter to the next Board Meeting: *Board resolution to Regina Evans-Jarrett.*

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD OCTOBER 25, 2012

Baron L. Jones, 523682 (EH)

7-1-05 to 6-30-08, \$115,999.49 Tax, \$11,599.93 Negligence Penalty

For Petitioner: Waived Appearance

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

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

Note: These minutes are not final until Board approved.

Thursday, October 25, 2012

Issues: Whether adjustments to the audited understatement of taxable sales are warranted.

Whether petitioner was negligent.

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

Joaquin E. Hernandez, 523684 (AA)

4-1-06 to 3-31-09, \$51,767.98 Tax, \$5,277.66 Negligence Penalty

For Petitioner: No Appearance

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

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

Issues: Whether adjustments are warranted to the audited understatement of reported taxable sales.

Whether petitioner was negligent.

David Levine, Tax Counsel IV, Appeals Division, Legal Department, advised of the revised recommendation of the Appeals Division to reduce unreported taxable sales and some of the unreported taxable consumption, total reduction to the measure of \$6,470.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division.

Stephen H. McCorkle and Jennifer L. McCorkle, 486206 (UT)

3-29-05, \$4,561.00 Tax, \$0.00 Failure to File Penalty

For Petitioners: Waived Appearance

For Sales and Use Tax Department: Lawrence Mendel, Tax Counsel

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

Issues: Whether petitioners' acquisition of an additional 50 percent interest in a vessel is subject to use tax.

Whether petitioners' use tax liability was discharged in their bankruptcy filing.

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

Rebhya Abdeljawad, 553035 (EH)

Final Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the negligence penalty be deleted, and that the petition otherwise be redetermined as recommended by the Appeals Division.

Mohamad Marwan Nafeh, 326425, 515731(AP)

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

Note: These minutes are not final until Board approved.

Thursday, October 25, 2012

Anderson Audio Visual-East Bay, LLC, 511892 (CH)

Final Action: Ms. Steel moved that the petition be granted. The motion was seconded by Mr. Runner. Ms. Steel withdrew her motion.

Ms. Steel moved that the decision on the petition be held in abeyance pending regulatory decision on the issue of whether Revenue and Taxation Code section 6596, subdivision (a), should limit relief to the person who actually received the written advice from the Board or that person's legal or statutory successor in certain circumstances such as this case. The motion was seconded by Mr. Runner but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board referred the issue of whether Revenue and Taxation Code section 6596, subdivision (a), should limit relief to the person who actually received the written advice from the Board or that person's legal or statutory successor in certain circumstances such as this case, to the Business Tax Committee.

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

Yin Mei Liang, 492980 (EA)

David Levine, Tax Counsel IV, Appeals Division, Legal Department, advised of the revised recommendation of the Appeals Division to reduce the deficiency by 50 percent and sustain the penalties.

Final Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division.

The Board adjourned at 1:16 p.m.

The foregoing minutes are adopted by the Board on May 22, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Richard Festo Bwogi, 514577 (AS); Tim Finnell, Inc., 521823, 577253 (EH); Gordon W. Kelley, 475764 (AC); Terry D. Eaves, 475767 (AC); Nirvair Corporation, 529714 (EA); Ibrahim Said Mekhail, 445466, 473541 (AA); Ibrahim Said Mekhail, 473538 (AP); Ibrahim Said Mekhail, 445467, 473537 (AA); Ibrahim Said Mekhail, 473539 (AS); Ibrahim Said Mekhail, 445468, 473540 (AA); Ibrahim Said Mekhail, 475481 (AP); Ibrahim Said Mekhail, 475476, 524559 (AS); and, Ibrahim Said Mekhail, 475478, 524544 (AS).*

Note: These minutes are not final until Board approved.