

Tuesday, June 9, 2009

The Board met at its offices at 450 N Street, Sacramento, at 10:05 a.m., with Ms. Yee, Chairwoman, Dr. Chu, Vice Chair, Mr. Leonard and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARING

Christine Diane Peterson, 416186, 422998

2003, \$332.50

2004, \$332.50

2005, \$332.50

For Claimant:

Christine Peterson, Taxpayer

Alyssa Gendron, Representative

For Franchise Tax Board:

Lisa Lawson, Hearing Representative

Suzanne Small, Tax Counsel

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

Issues: Whether appellant's homeowner assistance claim for 2003 is barred by the statute of limitations.

Whether appellant was medically incapacitated for the appropriate period of time so that her homeowner assistance claims for 2004 and 2005 are timely.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 6.1)

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

Mr. Leonard asked the Board Members to initiate discussion with the Franchise Tax Board to ask for legislative remedies on medical incapacity regarding Homeowner and Renters Property Tax Assistance claims. Ms. Yee agreed to examine the issue.

Exhibits to these minutes are incorporated by reference.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Taiheiyo Cement USA, Inc., 332855

1998, \$74,173.00 Claim for Refund

For Appellant:

John Rucker, Representative

Frederick Thomas, Representative

Steve West, Representative

For Franchise Tax Board:

Ann Hodges, Tax Counsel

Bill Hilson, Tax Counsel

Jeanne Harriman, Auditor

Juan Mora, Auditor

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

Issue: Whether "qualified property" within the meaning of Revenue and Taxation Code section 23612.2 includes both capitalized and expensed property.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 6.2)

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

David Smith, 446006

2005, \$1,213.00 Tax, \$303.25 Late Filing Penalty

For Appellant:

David Smith, Taxpayer

For Franchise Tax Board:

Jane Perez, Tax Counsel

Craig Scott, Tax Counsel

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

Issues: Whether appellant has demonstrated error in the underlying tax assessment.

Whether appellant has shown reasonable cause for the abatement of the late filing penalty.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 6.3)

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

Mr. Leonard requested the Franchise Tax Board staff to revisit the mortgage industry ratio standard that the Franchise Tax Board uses.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matters: *Fouad Mohammed Zamzami, 425054 (CH)*; and, *Arco Terminal Services Corporation, 310137 (MT)*.

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

Fouad Mohammed Zamzami, 425054 (CH)

10-1-03 to 9-30-06, \$22,526.64 Tax, \$2,252.65 Penalty

Action: The Board took no action.

Arco Terminal Services Corporation, 310137 (MT)

07-01-98 to 12-31-01, \$155,842.76 Fees

Action: The Board took no action.

Anton Halteh, 484207 (ET)

November 25, 2008, \$32.97 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Ladiwalla Corporation, 474014 (ET)

September 3, 2008, \$112.50 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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Sayani Corporation, 474046 (ET)
September 3, 2008, \$86.25 Approximate Value
Action: Determined that staff properly seized the tobacco products.

GST Liquor, LLC, 479078 (ET)
October 28, 2008, \$3,525.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

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

Jose Alvarez, Jr., 424440
2004, \$2,226.00 Tax, \$1,238.00 Penalty and Fees
Action: Sustain the action of the Franchise Tax Board and impose a \$5,000.00 frivolous appeal penalty.

Jeffery T. Aubert and Vicki T. Aubert, 400128
2003, \$1,641.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Manny De La Cruz, 378330
1999, \$721.20 Claim for Refund
2001, \$7,321.78 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Larry T. Heale and Juanita J. Heale, 388650
2003, \$1,913.00 Tax
Action: Sustain the action of the Franchise Tax Board.

Laura Himes, 440945
2004, \$550.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Lanea D. Hysong, 424654
2004, \$482.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Milton E. Pedrazzi, 393409
2002, \$6,035.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

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Rita Ann Rapp, 347433

1994, \$29,011.00 Innocent Spouse Relief

1995, \$11,165.00 Innocent Spouse Relief

1996, \$1,429.00 Innocent Spouse Relief

Action: Sustain the action of the Franchise Tax Board.

Roland Leroy Reese, 393407

2003, \$3,194.00 Tax, \$798.50 Late Filing Penalty, \$825.75 Failure To File Upon Demand

Penalty, \$120.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board and impose a \$1,500.00 frivolous appeal penalty.

Jeremiah S. Ryder, 399886

2003, \$15,217.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Yolanda Salazar, 377388

1995, \$21,851.00 Innocent Spouse Relief, \$16,530.05 Penalty

Action: Reverse the action of the Franchise Tax Board.

Nancy E. Torge, 430700

1999, \$2,858.00 Tax, \$581.47 Penalty

Action: Sustain the action of the Franchise Tax Board.

Qyana Wallace, 397831

2004, \$815.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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 Dr. Chu, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Quitin Cheeseborough, 425371

2007, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Lois L. Clarkson, 437905

2007, \$297.50

Action: Sustain the action of the Franchise Tax Board.

Bong Hwa Lee, 431547

2007, \$343.00

Action: Sustain the action of the Franchise Tax Board.

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Nam Soo Park, 426925

2007, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Issa H. Parsia, 422647

2007, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Henry Poydras, 422855

2007, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Maria A. Sanchez, 422875

2007, \$332.50

Action: Sustain the action of the Franchise Tax Board.

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 Dr. Chu, seconded by Ms. Steel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 on *Walmart.com USA, LLC, 483101*; and, *American Bridge Company—Fluor Enterprises, Inc., A Joint Venture, 483590*, the Board made the following orders:

Praxair, Inc., 447214 (OH)

04-01-03 to 06-30-06, \$89,915.85

Action: Approve the redetermination as recommended by staff.

SMC Corporation of America, 415959 (OH)

01-01-03 to 03-31-06, \$50,890.02

Action: Approve the redetermination as recommended by staff.

Bank of the West, 397468 (UT)

12-30-04 to 12-30-04, \$105,186.00

Action: Approve the redetermination as recommended by staff.

Whittier Golf, LLC, 436848 (OH)

10-01-04 to 08-31-06, \$251,075.80

Action: Approve the redetermination as recommended by staff.

Victoria Golf, LLC, 436849 (OH)

10-01-04 to 08-31-06, \$170,002.93

Action: Approve the redetermination as recommended by staff.

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Arnold Palmer Golf Management, LLC, 436850 (OH)

10-01-04 to 03-31-07, \$144,365.73

Action: Approve the redetermination as recommended by staff.

Gateway Companies, Inc., 333344 (OH)

07-01-98 to 09-30-01, \$185,277.18

Action: Approve the redetermination as recommended by staff.

Cardinal Health 108, Inc., 400360 (OH)

01-01-00 to 03-31-03, \$53,136.70

Action: Approve the redetermination as recommended by staff.

Walmart.com USA, LLC, 483101 (EH)

05-01-08 to 06-15-08, \$50,206.92

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

American Bridge Company—Fluor Enterprises, Inc., A Joint Venture, 483590 (CH)

10-01-08 to 12-31-08, \$556,508.00

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

Ikon Office Solutions Technology Services, Inc., 378629 (OH)

10-01-01 to 09-30-04, \$127,000.00

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 Dr. Chu, seconded by Ms. Steel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Bel Air Wood Flooring, Inc., 476976 (AC)

07-15-05 to 12-31-05, \$81,889.80

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

Global Surf Industries, Inc., 482611 (GH)

07-01-04 to 06-30-05, \$80,637.59

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

Hollywood Wings, LLC, 483638 (AS)

04-01-08 to 09-30-08, \$58,604.77

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

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Commercial Scaffolding of California, Inc., 421716 (AS)

04-01-04 to 03-31-05, \$939,769.20

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

Art Center College of Design, 442671 (AP)

01-01-05 to 06-30-07, \$123,555.06

Action: Approve the refund as recommended by staff.

Plant Equipment, Inc., 447891 (EH)

01-01-07 to 09-30-07, \$96,567.72

Action: Approve the refund as recommended by staff.

Insync Media, 300198 (AS)

10-01-01 to 03-31-06, \$436,590.86

Action: Approve the refund as recommended by staff.

ECCO Equipment Corporation, 480195 (EA)

01-01-05 to 12-31-07, \$251,038.98

Action: Approve the refund as recommended by staff.

Sharp Chula Vista Medical Center, 473957 (FH)

07-01-08 to 09-30-08, \$86,392.74

Action: Approve the refund as recommended by staff.

Krones, Inc., 449992 (OH)

10-01-07 to 12-31-07, \$126,327.98

Action: Approve the refund as recommended by staff.

Ashton Abeck Design, LLC, 434310 (BH)

10-01-04 to 03-31-08, \$83,618.84

Action: Approve the refund as recommended by staff.

John F. Lazear, 316085 (AC)

04-01-98 to 12-31-99, \$113,615.76

Action: Approve the refund as recommended by staff.

That Corporation, 434363 (OH)

01-01-05 to 12-31-07, \$127,190.47

Action: Approve the refund as recommended by staff.

John Zink Company, LLC, 459076 (OH)

04-01-05 to 03-31-08, \$55,879.04

Action: Approve the refund as recommended by staff.

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Owens & Minor Distribution, Inc., 415033 (OH)
04-01-04 to 12-31-07, \$807,305.18
Action: Approve the refund as recommended by staff.

Longs Drug Stores California, Inc., 480047 (CH)
01-01-05 to 03-31-08, \$303,040.97
Action: Approve the refund as recommended by staff.

Westcom Credit Union, 473164 (AP)
07-01-08 to 09-30-08, \$95,249.60
Action: Approve the refund as recommended by staff.

SAP America, Inc., 346056 (OH)
10-01-02 to 12-31-03, \$489,340.66
Action: Approve the refund as recommended by staff.

Transouth Financial Corporation, 432795 (OH)
07-01-07 to 03-31-08, \$2,228,550.68
Action: Approve the refund as recommended by staff.

Burbank Wings, LLC, 469683 (AC)
04-01-08 to 09-30-08, \$50,916.09
Action: Approve the refund as recommended by staff.

Meriwest Credit Union, 416038 (GH)
04-01-04 to 09-30-08, \$105,638.59
Action: Approve the refund as recommended by staff.

Quality Financial, Inc., 358366 (AC)
04-01-03 to 12-31-07, \$347,672.14
Action: Approve the refund as recommended by staff.

Intergraph Corporation, 468903 (OH)
10-01-07 to 12-31-07, \$128,560.17
Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTERS, ADJUDICATORY

Speakers: Hardial Singh Pannu and Davinder K. Pannu, speaking on *Hardial Singh Pannu and Davinder K. Pannu, 390331 (GH)*

County of Los Angeles, 469243
01-01-1998 to 09-30-2005, \$153,809.00 Tax
Considered by the Board: Presented for Separate Discussion
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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Action: Upon motion of Dr. Chu, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be granted.

City of Los Angeles, 472907

10-01-1995 to 06-30-2002, \$39,536.00 Tax

Considered by the Board: Presented for Separate Discussion

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

Action: Upon motion of Dr. Chu, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be partially granted.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTER, ADJUDICATORY

Jacek Kostyrko and Zofia Kostyrko, 443905

2005, \$2,017.00 Claim for Refund

Considered by the Board: March 16, 2009

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

Action: Dr. Chu moved to sustain the action of the Franchise Tax Board. The motion was seconded by Ms. Yee. Mr. Leonard made a substitute motion to relieve the notice and demand penalty, otherwise sustain the action of the Franchise Tax Board. The substitute motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Ms. Yee, Dr. Chu and Ms. Mandel voting no.

Upon motion of Dr. Chu, seconded by Ms. Yee and duly carried, Ms. Yee, Dr. Chu and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board adopted a decision sustaining the action of the Franchise Tax Board.

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

Oracle Corporation, 460489 (BH)

07-01-95 to 12-31-95, \$76,101.14

Considered by the Board: October 28, 2008

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

Action: Upon motion of Dr. Chu, seconded by Ms. Yee and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the credit and cancellation as recommended by staff.

Oracle Corporation, 219810 (BH)

01-01-93 to 05-31-95, \$61,424.50

Considered by the Board: October 28, 2008

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

Action: Upon motion of Dr. Chu, seconded by Ms. Yee and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

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LEGAL APPEALS MATTER, ADJUDICATORY

Hardial Singh Pannu and Davinder K. Pannu, 390331 (GH)

04-01-03 to 03-31-06, \$57,160.94 Tax, \$5,716.14 Penalty

Considered by the Board: January 22, 2009

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

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

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**PROPERTY TAX MATTERS****Audits**

SLO Cellular, Inc., (2687)

2005, \$1,310,000.00 Excessive Assessment

2006, \$930,000.00 Excessive Assessment

2007, \$760,000.00 Excessive Assessment

2008, \$1,000,000.00 Excessive Assessment

Action: Upon motion of Dr. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit excessive assessment, as recommended by staff.

OFFERS-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Steel, seconded by Dr. Chu and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Hyunok O. Kim* and *Lynnda A. Fair*; as recommended by staff.

The Board recessed at 12:20 p.m. and reconvened at 1:30 p.m. with Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARINGS

Main Street California, Inc., 224746 (OH)

4-1-98 to 6-30-01, \$320,799.88 Tax, \$79,993.42 Amnesty Interest Penalty

For Petitioner:

Charles J. Moll III, Attorney

April Fogle, Witness

For Sales and Use Tax Department:

Cary Huxsoll, Tax Counsel

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

Issues: Whether the gratuities petitioner charged and collected for parties of eight or more (large parties) were voluntary and therefore not subject to sales tax.

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Whether additional adjustments are warranted for the audited unreported taxable gratuities.

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

Richard A. Trifiro, 434167 (UT)

10-7-04, \$11,833.00 Tax

For Petitioner:

Richard A. Trifiro, Taxpayer

For Sales and Use Tax Department:

Andrew Kwee, Tax Counsel

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

Issues: Whether the determination was timely issued to petitioner.

Whether the vehicle was purchased for use in California.

Mr. David Levine, Tax Counsel, Appeals Division, stated for the record that the measure of tax had been reduced by \$1,040.00 to allow for DMV fees.

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

PETITION FOR RELEASE OF SEIZED PROPERTY

Liston B. Bevard, 484215 (ET)

November 13, 2008 Notice of Seizure and Forfeiture

For Petitioner:

Liston Bevard, Taxpayer

For Property and Special Taxes Department:

Monica Silva, Tax Counsel

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

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

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

Mr. Leonard directed staff to look into the statute for flexibility to accept payment of the taxes in exchange for the return of seized property.

PUBLIC HEARING

Timber Harvest Values

Mitchell Cari, Principal Appraiser, Timber Tax Section, Property and Special Taxes Department, made introductory remarks regarding the timber harvest values. On or before June 30, 2009, the Board shall estimate the immediate harvest values of and adopt schedules for each species or sub-classification of timber harvested between July 1 and December 31, 2009. Revenue and Taxation Code section 38204[a]. (Exhibit 6.4.)

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Speakers were invited to address the Board, but there were none.

Action: Upon motion of Mr. Leonard, seconded by Dr. Chu and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board adopted the timber harvest values and modified harvest values as recommended by staff

CHIEF COUNSEL MATTERS

OTHER CHIEF COUNSEL MATTERS

Procedures Related to Revenue and Taxation Code section 7056

Jean Ogrod, Assistant Chief Counsel, Legal Department, made remarks regarding the procedures related to Revenue and Taxation Code section 7056 (Exhibit 6.5).

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 2:38 p.m. and reconvened immediately in closed session with Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Gov. Code § 11126(e)(2)(B)(i)) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 3:05 p.m. and reconvened immediately in open session with Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel present.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTER, CONSENT

With respect to the Administrative Matter, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Dr. Chu and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board made the following order:

Action: Adopt the following resolution extending its best wishes on her respective retirement and its appreciation for her service to the State Board of Equalization and the State of California (Exhibit 6.6).

Sandy Settles, Senior Information Systems Analyst, Technology Services
Division, Headquarters

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ADOPTION OF BOARD COMMITTEE REPORT AND APPROVAL OF COMMITTEE ACTION

Legislative Committee

Action: Upon motion of Dr. Chu, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein (Exhibit 6.7).

Committee votes were as follows:

A motion to adopt, as amended to: (1) provide the amount of attorney's fees shall be the same as R&T Code, section 19717, for the FTB and (2) remove the retroactive application, duly passed with Ms. Yee, Dr. Chu and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no.

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Ramon Hirsig, Executive Director, provided a report on time extensions to El Dorado, Shasta and Yuba Counties to complete and submit 2009-10 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 (Exhibit 6.8).

Deputy Directors Reports

Liz Houser, Deputy Director, Administration Department, made introductory remarks on the contract over a \$1 million the Board of Equalization has with the Department of Toxic Substances Control (Exhibit 6.9).

Action: Upon motion of Dr. Chu, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the contract over \$1 million.

Liz Houser, Deputy Director, Administration Department, provided an update regarding on-going projects at headquarters.

Liz Houser introduced Steven Davis, LaCroix Davis, who reported on the building assessment report.

Speaker: Bobby Smith, President, SEUI DLC 782, presented the Board Members a thank you card on behalf of the State Board of Equalization employees.

Liz Houser, Deputy Director, Administration Department, made introductory remarks regarding the 2009/10 budget. Liz Houser introduced Margaret Shedd, Chief, Legislative and Research Division, who provided an update on the 2009/10 budget and the collaboration efforts being taken by the Board of Equalization.

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Liz Houser, Deputy Director, Administration Department, provided information on the furlough plan and layoffs.

The Board directed staff to issue statements to the Senate Revenue and Taxation Committee regarding the Administration's proposal to create a Department of Revenue.

FINAL ACTION ON HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARING HELD JUNE 9, 2009

Christine Diane Peterson, 416186, 422998

Final Action: Upon motion of Dr. Chu, seconded by Ms. Steel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the appeal be submitted for decision, granting the appellant 60 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.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD JUNE 9, 2009

Taiheiyo Cement USA, Inc., 332855

Final Action: Mr. Leonard moved to grant the appeal. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Ms. Yee and Dr. Chu voting no, Ms. Mandel abstaining.

The Board deferred consideration of this matter to the June/July Culver City meeting.

David Smith, 446006

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

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD JUNE 9, 2009

Main Street California, Inc., 224746 (OH)

Final Action: Upon motion of Dr. Chu, seconded by Ms. Yee and duly carried, Ms. Yee, Dr. Chu, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Richard A. Trifiro, 434167 (UT)

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

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**FINAL ACTION ON PETITION FOR RELEASE OF SEIZED PROPERTY HELD
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Liston B. Bevard, 484215 (ET)

Final Action: Upon motion of Dr. Chu, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Dr. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board determined that staff properly seized the tobacco products.

The Board adjourned at 3:45 p.m.

The foregoing minutes are adopted by the Board on October 6, 2009.

Note: The following matters were removed from the calendar prior to the meeting: *Rodney Sloss, 440362; NB Trucking, Inc., 284086 (MT); and, Nijjar Brothers Trucking, Inc., 258549 (MT).*