



STATE BOARD OF EQUALIZATION
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MICHELLE STEEL
Third District, Rolling Hills Estates

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
September 22 - 23, 2009

PRELIMINARY RECORD OF BOARD ACTION

RAMON J. HIRSIG
Executive Director

Tuesday, September 22, 2009

The following is a preliminary record of Board actions taken at the September 22-23, 2009 Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

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A. Homeowner and Renter Property Tax Assistance Hearings

A1. Asuncion P. Hamoy, 437618

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

A2. Elaine M. Nichols, 458679

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

B. Corporate Franchise and Personal Income Tax Appeals HearingsB1a. ~~Donald R. Diamond and Joan B. Diamond, 441030~~B1b. ~~Frank A. Aries and Mary Lou Aries, 464475~~

B2. Takashi Watanabe and Marcia Watanabe, 461159

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee Mr. Leonard Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	

B3. Loren Zelmer, 426246

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee Mr. Leonard Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	Yes Yes Yes Absent Yes

C. Sales and Use Tax Appeals Hearings

These items are scheduled for Wednesday, September 23, 2009.

There are no items for the following matters:

- D. Special Taxes Appeals Hearings
- E. Property Tax Appeals Hearings
- F. Public Hearings

G. Tax Program Nonappearance Matters – Consent

G1. Legal Appeals Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
No final determination on sub item 1.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

- Hearing Notices Sent – No Response
 1. ~~Michael Donovan Thompson, 381893 (AR)~~
 2. Liberty Balloons Wholesale, Inc., 434590 (EH)
 3. Rachel Erica Mitchell and David Edward Mitchell, 443228 (EA)
 4. O’Harley’s, Inc., 379328 (FH)
 5. 21st Century Tile & Stone, 293083 (AC)
 6. Intuitive Race Products, Inc., 417992 (EA)
- Petitions for Release of Seized Property
 7. Basem Samir Salama, 491674 (ET)
 8. Edwin Ching Lin and Sylvia S. Wu, 488752 (ET)
 9. SSB Brothers, Inc., 488825 (ET)
 - 10a. Robert Anthony Rascon and Amar Daroch, 491597 (ET)
 - 10b. Robert Anthony Rascon and Amar Daroch, 494258 (ET)
 11. Michelle Choi, 488184 (ET)
 12. Ki Bong Jung and Dong Soon Bae, 488808 (ET)
 13. Ahmed Obad Al-Ali, 491642 (ET)
 14. Malek Sail Abousamra, 488804 (ET)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
No final determination on sub items 20, 30, 36, 37, 43, 53, 60 and 61.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

- Decisions
 1. John Acierno and Luanne Acierno, 431414
 2. Nathan Anderson, 406126
 3. Sean Ballow, 432903
 4. William Bernard and Darla Bernard, 423968
 5. Charles H. Bond, 468891
 6. Stanley Brumer, 401755
 7. Lennette Camera, 351786
 8. Debra Carson, 441272
 9. Roger J. Cartwright and Cindy S. Cartwright, 439461
 10. James Roy Chandler, Jr., 439446
 11. Phillip A. Conwell, Jr., 400992
 12. Brian S. Davis and Shannon S. Smith, 451046
 13. Hilary J. De Puy and Andrew J. McUsic, 422243
 14. Nasser Deljoo, 406109
 15. Amy Garcia Des Jardins, 393601
 - 16a. Peter Desoto, 415505
 - 16b. Sarah W. Guthrie, 416505
 - 16c. Jay K. Poppleton, 420323
 17. Jorge M. Domingo, 431507
 18. Eclipse Solutions, Inc., 417834
 19. El Metate Foods, Inc., 427498

- ~~20. David M. Gallegos, 390980~~
21. Maria Gallo, 424330
22. Jose A. Garcia, 424680
23. Gustavo Gonzalez, 421040
24. Samar Hazzan, 435046
25. Milaina I. Hernandez, 416506
26. Michael Leroy Hopkins, 402152
27. Tom Horsley, 349127
28. Helen Jackson and F. Fritschle, and B. Fritschle, 431855
29. Ulf K. Jensen, M.D., 395548
- ~~30. Terry Jones, 420950~~
31. Brock Kruzic, 424322
32. Carlos Kultemberg, 419986
33. Danielle Ledesma-O'Gorman and George O'Gorman, 426815
34. Arturo G. Lopez, 439520
35. Jesus Lujan and Ivania Lujan, 420949
- ~~36. David L. McKibbin and Sherri L. McKibbin, 340534~~
- ~~37. Gregory E. Mudwilder and Patricia A. Mudwilder, 444049~~
38. Mary Ognar-Murphy, 424067
39. Darrell Parker, 424172
40. Damon P. Quinby, 414378
41. Erendira Ramirez, 429357
42. Edmund Joseph Regan II, 429332
- ~~43. Rene L. Reyes, 424121~~
44. Taising K. Rodriguez, 422556
45. Rufino Sim, 383400
46. David Socher and Tamsen Socher, 430635
47. Alexander G. Tzoumas, 431756
48. Ada L. Unruh, 361477
49. Liam Z. Wang Trust, 417775
50. Bette E. Watts, 417863
- Petitions for Rehearing
51. Harry Cho, 449340
52. Robert Doyle, 446892
- ~~53. Mervin L. George, Sr. and Laura Lee George, 443087~~
54. Bill Hamlin, 443354
55. Benjamin Killen, 443341
56. Dan Pickell, 429756
- Hearing Notices Sent – Appearance Waived
57. Leonard Magness, 441637
58. Shawn Mills, 441635
59. Steven Olmos, 441632
- ~~60. Marc Pretscher, 441638~~
- ~~61. Marc Pretscher, 444263~~
62. Marianne Pretscher-Johnson, 440770
63. Marianne Pretscher-Johnson, 444214
64. Roger Romero, 444040
65. Rodney Walker, 461172

G3. Homeowner and Renter Property Tax Assistance Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
No final determination on sub items 8, 16 and 22.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

➤ Decisions

1. Selma Allen, 431675
2. Consolacion V. Astromono, 475482
3. Charles E. Brink, 447845
4. Delwin Burleson, 463860
5. Mark Chizhik, 426974
6. Virginia B. De Leon, 433756
- 7a. Ronald J. De Roo, 416834
- 7b. Conrad Gonzales, 416839
- 7c. Ronald I. Richards, 416852
- 7d. Cleve Frazier, 416894
- ~~8. Harold Gayles, 394688~~
9. Ramon G. Gonzales, 426802
10. John Gordon, 444279
11. Jimmy Paul Green, Sr., 443890
12. Taffy L. Holly, 436712
- 13a. Jimmy Lee Horn, 423627
- 13b. Ollie Mae Horn, 422841
14. Gabriel Jacobo, 425155
15. Joe N. Jennings, 447850
- ~~16. Melva M. Johnson, 443872~~
17. Alma Lee Jones, 426099
18. Dixie Ann Jones, 432229
19. Rosemarie Kelly, 472596
20. Connie McCormack, 480585
21. Lorine Menefee, 447964
- ~~22. Giup V. Nguyen, 431698~~
23. Timothy Patton, 423934
24. Thanh Van Pham, 433987
25. Mary Reid, 463953
26. Jasper Scott, 444429
27. Larry Shlansky, 398220
28. Patricia Sinogui, 426569
29. Gloria Vasquez, 423674
30. Kevin Wain, 394366
31. Virginia Walker, 463670
32. Hynek Tony Washington, 425199

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
No final determination on sub item 11.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 1

- Redeterminations
 1. Computer Associates International, Inc., 433591 (OH)
 2. TXI Operations, LP, 330843 (OH)
 3. Circa 1925, Inc., 334784 (AS)
 4. Ultramar, Inc., 379967 (OH)
 5. The Boc Group, Inc., 463603 (OH)
 6. FusionStorm, 285784 (OH)
 7. Broadvision, Inc., 245622 (BH)
 8. C4 Holdings, Inc., 458636 (KH)
 9. M.D. Hydraulics, Inc., 434899 (AP)
- Relief of Penalty/Interest
 10. Gucci America, Inc., 493589 (OH)
 11. ~~General Petroleum Corporation, 493595 (AA)~~
- Denials of Claims for Refund
 12. Fleet Card Fuels, 492113 (AR)
 13. Morgan Stanley Capital Group, Inc., 491765 (OH)
 14. Capital One Auto Finance, Inc., 481112 (OH)
 15. Siemens One, Inc., 434372 (OH)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
No final determination on sub items 3, 7, 13 and 14.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-items 28, 37 and 54.

- Credits and Cancellations
 1. King's Western Wear, Inc., 492887 (AC)
 2. King's Western Wear, Inc., 492888 (AC)
 3. ~~Artoor Keshish-Moses, 493010 (AC)~~
 4. Synchronex, 373172 (GH)
- Refunds
 5. Bowne of Los Angeles, Inc., 389573 (AS)
 6. Nissan North America, Inc., 479493 (OH)

- ~~7. Unico Replacement Parts, Inc., 244216 (JH)~~
8. Pentair Pool Products, Inc., 435155 (OH)
9. Wei West, 467804 (OH)
10. Primary Resources, Inc., 448948 (AS)
11. Sulzer Pumps (US), Inc., 426429 (OH)
12. Fireside Bank, 480713 (CH)
- ~~13. Associated Process Controls, 244205 (CH)~~
- ~~14. Alfred Conhagen, Inc. of California, 261656 (JH)~~
15. Fleet Card Fuels, 492113 (AR)
16. County of San Bernardino Attn.Aud, 491253 (EH)
17. Hawthorne Machinery Co., 434178 (FH)
18. San Luis Obispo County Farm Supply Co., 477962 (GH)
19. Runyon Saltzman & Einhorn, Inc., 481115 (KH)
20. Hudson Products Corporation, 482554 (OH)
21. Ethan Allen Retail, Inc., 491678 (OH)
22. Made2Manage Systems, Inc., 472113 (OH)
23. Ford Motor Company, 492563 (OH)
24. Mercedes-Benz USA, LLC, 492015 (KH)
25. 21st Century Insurance Company, 415444 (AC)
26. Waste Mgmt Collection Recycling, Inc., 447670 (UT)
27. AT&T Solutions, Inc., 472122 (OH)
28. General Electric International, Inc., 344762 (OH)
29. Komo Machine, Inc., 467805 (OH)
30. Morgan Stanley Capital Group, Inc., 491765 (OH)
31. ARI Fleet, LT, 482556 (OH)
32. Santiago Communities, Inc., 474060 (EH)
33. Owens & Minor Distribution, Inc., 468179 (OH)
34. H & H Catering, LP, 478767 (AS)
35. Muddy Water's Coffeehouse, Inc., 459647 (BH)
36. San Diego Gas & Electric Co., 238528 (FH)
37. National Broadcasting Company, Inc., 272628 (AC)
38. Girish Patel, 466553 (AR)
39. Convergent Media Systems Corporation, 492457 (OH)
40. Spectrum Communications Cabling Services, Inc., 488754 (EH)
41. Schawk Holdings, Inc., 360147 (AA)
42. Arcadia Financial, LTD, 478415 (OH)
43. Lobel Financial Corporation, 482550 (EA)
44. Household Automotive Finance Corporation, 425873 (FH)
45. Balboa Thrift & Loan Association, 480343 (FH)
46. Capital One Auto Finance, Inc., 481112 (OH)
47. Transouth Financial Corporation, 480349 (OH)
48. Wadsworth Glass, Inc., 488756 (CH)
49. Discount DME, LLC, 460972 (EA)
50. Siemens One, Inc., 493840 (OH)
51. Marukome U.S.A., Inc., 459967 (EA)
52. Schawk USA, Inc., 394849 (OH)
53. Valero California Retail Company, 478770 (OH)
54. Franklin Capital Corporation, 437373 (OH)

G6. Special Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee Mr. Leonard Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	

- Relief of Penalty
 1. ~~Life Insurance Company of North America, 468866 (ET) 'CF'~~
 2. ~~Connecticut General Life Ins. Co., 468867 (ET) 'CF'~~

G7. Special Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Ms. Yee Mr. Leonard Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	Yes Yes Yes Absent Not participating

- Refund
 1. The Wine Group, LLC, 461816 (ET) 'CF'

There are no items for the following matters:

- G8. Property Tax Matters
- G9. Cigarette License Fee Matters
- G10. Legal Appeals Property Tax Matters

There are no items for the following matters:

- H. Tax Program Nonappearance Matters – Adjudicatory
- I. Tax Program Nonappearance Matters

Chief Counsel Matters

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session**N. Consent Agenda****N1. Approval of 2010 Diesel Fuel Tax Rate for Interstate Users**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved by recommended by staff.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

There are no items for the following matters:

- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

Q. Closed Session**B. Corporate Franchise and Personal Income Tax Appeals Hearings****B4. Andra R. Sachs, 446027**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. 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.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

B5. ~~Alfred J. Alvarez and Maria S. Alvarez, 435082~~

B6. Prudential Commercial Leasing, Inc., 468875

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee	Yes
The Board ordered that the appeal be submitted for decision, granting the Franchise Tax Board 30 days to provide its explanation of the Federal adjustment computation, the appellant 30 days to respond, and the Appeals Division 30 days thereafter to review the Franchise Tax Board's explanation, the appellant's response and provide its recommendation to the Board.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

B7. Joe L. Santos, 445970

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee	
	Mr. Leonard	
	Ms. Steel	
	Mr. Horton	
	Mr. Chiang/ Ms. Mandel	



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Executive Director

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C. Sales and Use Tax Appeals Hearings

C1. Gi Joyn Yoo and Kyung Ae Yoo, 390865 (AS)—Waved Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
Approved Staff Recommendation.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

C2. Select Office Solutions, Inc., 187460, 345451 (AP)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee	
	Mr. Leonard	
	Ms. Steel	
	Mr. Horton	
	Mr. Chiang/ Ms. Mandel	

C3. James Williams, 376621 (UT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim granted.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

C4. Tom Dworkin Associates, 341727 (AC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

C5. James Stephen Mustard, 336696 (AS)—Waved Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied. Approved Staff Recommendation.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

C6. Chad Kimo Kukahiko, 334779 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition granted.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Mr. Horton	Absent
	Mr. Chiang/ Ms. Mandel	Yes

C7. L & S Restaurant, Inc., 425516 (AA)

C8. Liberty Supplies Company, Inc., 405242 (AA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Ms. Yee Mr. Leonard Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	Yes Yes Yes Absent Yes

C9. Elufa Corporation, 350440 (AA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee Mr. Leonard Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	

C10. Jerry Pena, 384853, 426907 (EH) –No Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board postponed the matter as requested by the taxpayer.	Ms. Yee Mr. Leonard Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	