

Tuesday, October 29, 2013

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.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Ezra Ziv and Ruth Ziv, 567507

2006, \$57,374.00 Tax, \$11,474.80 Accuracy Related Penalty

For Appellants:

Robert G. McConihay, Witness

Mortimer Laski, Attorney

For Franchise Tax Board:

Daniel Biedler, Tax Counsel

Roman Johnston, Tax Counsel

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

Issues: Whether appellants have shown that the amount of the basis of a home they sold was greater than the amount allowed by the Franchise Tax Board (respondent).

Whether appellants have shown that respondent improperly imposed an accuracy related penalty against them.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 10.4](#))

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.

The Board recessed at 10:35 a.m. and reconvened at 10:54 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *LaBeau, LLC*, 556888, 558475, 608117.

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:

Vardan Armenovi Akopyan, 538289 (AC)

2-6-07 to 9-30-09, \$39,811.66 Tax, \$0.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Robert E. June, 573081 (EH)

7-1-07 to 6-30-10, \$47,684.29 Tax, \$4,768.46 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

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Jr Jr, Inc., 601474 (FH)

10-1-07 to 9-30-10, \$10,716.30 Tax

Action: Redetermine as recommended by the Appeals Division.

LaBeau, LLC, 556888, 558475, 608117 (AS)

10-1-04 to 8-31-08, \$9,752.01 Tax, \$0.00 Penalty

Action: The Board took no action.

Shore House Café, Inc., 574268 (EA)

1-1-07 to 12-31-09, \$199,910.65 Tax, \$20,201.78 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Raffie Peter Soro, 602144 (FH)

1-1-07 to 9-30-10, \$1,032.28 Tax, \$0.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Uomo, Inc., 506904 (AC)

10-1-05 to 9-30-08, \$64,146.18 Tax, \$6,414.69 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

White Sands Surf & Skate, Inc., 433623 (AR)

1-1-03, \$40,727.32 Tax, \$10,181.86 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Frank Kenneth Worth, 418652 (AR)

1-1-00 to 12-31-02, \$623,078.97 Tax, \$155,769.81 Fraud Penalty, \$62,307.90 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Marie A. Worth and Donald Kenneth Worth, 418691 (AR)

1-1-00 to 12-31-02, \$ 482,655.26 Tax, \$120,663.85 Fraud Penalty, \$48,265.53 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Innova Energy, 466702, 486116 (STF)

4-1-04 to 6-30-07, \$95,102.40 Tax, \$9,510.25 Penalty

7-1-07 to 9-30-08, \$38,149.84 Tax, \$3,814.99 Penalty

Action: Redetermine as recommended by the Appeals Division.

Selim Yildiz, 546843 (EH)

10-1-06 to 9-30-09, \$30,584.77 Tax

Action: Redetermine as recommended by the Appeals Division.

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Bonnie Benak, 700932 (STF)
 8-20-12 Seizure Date, \$42.00 Approximate Value
 Stuart Coburn, 700933 (STF)
 8-20-12 Seizure Date, \$84.00 Approximate Value
 Jennifer Falconer, 700928 (STF)
 8-20-12 Seizure Date, \$21.00 Approximate Value
 Jim Falconer, 700927 (STF)
 8-20-12 Seizure Date, \$63.00 Approximate Value
 Teresa Falconer, 700930 (STF)
 8-20-12 Seizure Date, \$84.00 Approximate Value
 Diane Headley, 700919 (STF)
 8-20-12 Seizure Date, \$105.00 Approximate Value
 Cassey Lamb, 700916 (STF)
 8-20-12 Seizure Date, \$168.00 Approximate Value
 Teri Neff, 700917 (STF)
 8-20-12 Seizure Date, \$105.00 Approximate Value
 Christina Slater, 700860 (STF)
 8-20-12 Seizure Date, \$84.00 Approximate Value
 Terri L. Vaughn, 700931 (STF)
 8-20-12 Seizure Date, \$84.00 Approximate Value
 Nancy Young, 700925 (STF)
 8-20-12 Seizure Date, \$63.00 Approximate Value
 Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Affina Soft, LLC, 609944; Richard M. Kerbel, 560503; and, Barry L. Weiss and Dorraine Gilbert Weiss, 605043.*

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Runner, 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:

Affina Soft, LLC, 609944
 2009, \$800 Tax, \$188.00 Late Payment Penalty, \$200.00 Notice and Demand Penalty, \$100.00 Late Filing Penalty
 Action: The Board took no action.

Stephen T. H. Altenburg, 607583
 2007, \$3,127.98 Claim for Refund
 Action: Sustain the action of the Franchise Tax Board.

Patrick J. Anderson and Sharon A. Anderson, 592013
 1992, \$3,398.00 Claim for Refund
 Action: Sustain the action of the Franchise Tax Board.

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Terri L. Bates, 612844

2007, \$1,999.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Travis Cluff and Amber Cluff, 620615

2007, \$2,034.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Kenneth Dawson and Joanna Dawson, 621438

2008, \$10,874.28 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Alex Fonseca, 611640

2010, \$2,051.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Rosie R. Grospe and Eciquias E. Grospe, 595720

2009, \$381.75 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Matthew Houts, 606179

2007, \$896.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

June Jackson, 576679

2007, \$681.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Greg Karraker, 620604

2008, \$2,082.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Andrew J. Kim, 554235

2009, \$581.29 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Roslyn Kirk and Willis Kirk, 588344

2007, \$840.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Michael Mclsaac and Christine Mclsaac, 609159

2006, \$3,328.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Carl K. Myers and Patricia Ann Myers, 620364

2005, \$10,724.13 Claim for Refund

2006, \$4,348.29 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Marsha Nakai, 577061

2009, \$901.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Clifford C. Okamoto and Bonnie A. Okamoto, 596447

2006-2009, \$19,733.65 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Richard J. Oleksa, Jr. and Michelle Oleksa, 600511

2008, \$15,501.10 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Remtron, Inc., 620357

2009, \$9,000.71 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Tom Robbins and Jacquelyn M. Robbins, 605013

2007, \$3,987.00 Assessment

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

Rasha Roshdy, 620355

2008, \$1,040.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

John Russell and Elizabeth Russell, 611129

2006, \$37,568.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Maria E. Saededdin, 620622

2010, \$832.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Scott Electronic Services, LLC, 600574

2008, \$800.00 Tax, \$88.00 Late Payment Penalty

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

SDX Corporation, 609642

2007, \$5,207.31 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Munir Sharif, 516143

1995, \$51,974.00 Tax, \$38,980.50 Fraud Penalty

1996, \$42,947.00 Tax, \$32,210.25 Fraud Penalty

1997, \$30,658.00 Tax, \$22,993.50 Fraud Penalty

1998, \$21,409.00 Tax, \$16,056.75 Fraud Penalty

1999, \$18,941.00 Tax, \$14,205.75 Fraud Penalty

Action: Sustain the action of the Franchise Tax Board.

Star Franchise, LLC, 612052

2010, \$608.21 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Opal White, 602392

2007, \$311.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Zhilan Zweiger, 597656

2009, \$1,259.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Frank F. Chen and Susan H. Chen, 603431

2005, \$5,070.00 Claim for Refund

2006, \$23,225.00 Claim for Refund

Action: Deny the petition for rehearing.

S.E. Fisk and Sandy K. Fisk, 561277

2004, \$14,587.00 Tax, \$2,917.40 Accuracy-Related Penalty

Action: Deny the petition for rehearing.

James Frankel, 525558

2005, \$3,508.00 Assessment

Action: Deny the petition for rehearing.

Eddie Glass, 573366

2006, \$1,825.00 Tax, \$453.25 Late Filing Penalty

Action: Deny the petition for rehearing.

Richard M. Kerbel, 560503

2005, \$13,437.00 Claim for Refund

Action: The Board took no action.

Haig Tacorian and Gilda Tacorian, 621172

2010, \$49,905.76 Claim for Refund

Action: Deny the petition for rehearing.

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Barry L. Weiss and Dorraine Gilbert Weiss, 605043

1993, \$524.00 Claim for Refund

1994, \$7,380.31 Claim for Refund

1996, \$26,453.34 Claim for Refund

1997, \$25,543.44 Claim for Refund

1998, \$11,879.00 Claim for Refund

2000, \$35,344.86 Claim for Refund

2001, \$5,542.91 Claim for Refund

2003, \$1,351.86 Claim for Refund

2004, \$1,303.36 Claim for Refund

2005, \$1,609.50 Claim for Refund

2006, \$619.55 Claim for Refund

Action: The Board took no action.

SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES, DENIALS OF CLAIMS FOR REFUND, AND, GRANT-ONE DAY INTEREST RELIEF, CONSENT

(Motion Expunged the following day.)

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. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel not participating in accordance with Government Code section 87105 in *Chevron U.S.A., Inc., 674618*; Ms. Mandel not participating in accordance with Government Code section 87105 in *Pitcal, Inc., 627526*; the Board made the following orders:

Shop Tools Incorporated, 739614 (CH)

4-1-09 to 12-31-09, \$160,317.88

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

Chevron U.S.A., Inc., 674618 (BH)

1-1-11 to 6-30-11, \$264,731.82

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

The Golden 1 Credit Union, 716835 (KH)

10-1-12 to 12-31-12, \$115,232.00

Action: Approve the refund as recommended by staff.

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Pitcal, Inc., 627526 (CH)

7-1-09 to 6-30-12, \$361,143.02

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

Chevrolet Motor Division, 740671 (OH)

12-3-12 to 6-5-13, \$870,915.52

Action: Approve the refund as recommended by staff.

Molex Connector Corporation, 547238 (OH)

4-1-07 to 6-30-07, \$141,933.55

Action: Approve the refund as recommended by staff.

Union Pacific Railroad Company, 665560 (OH)

1-1-07 to 12-31-10, \$2,516,002.01

Action: Approve the refund as recommended by staff.

CE Resource, Inc., 535014 (KH)

1-1-07 to 3-31-10, \$292,373.58

Action: Approve the refund as recommended by staff.

Coast Acceptance Corporation, 601328 (EA)

10-1-08 to 9-30-12, \$108,997.34

Action: Approve the refund as recommended by staff.

Guthy Renker, LLC, 738842 (EH)

10-1-08 to 9-30-11, \$581,777.33

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, REDETERMINATIONS, CONSENT

With respect to the Special Taxes Matters, Redeterminations, Consent Agenda, 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 made the following order:

Antonio Perez Gomez, 531560 (STF)

4-1-04 to 9-30-08, \$157,460.00

Action: Approve the redetermination as recommended by staff.

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 Mr. Runner, 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 7.9, the Board made the following orders:

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Cuna Mutual Life Insurance Company, 182717 (STF)

1-1-97 to 12-31-00, \$532,558.08

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

Ohio National Life Insurance Company, 588698 (STF)

1-1-07 to 12-31-09, \$377,337.65

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

Stan Boyett & Son, Inc., 675550 (STF)

1-1-12 to 1-31-12, \$107,052.00

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

Metropolitan Life Insurance Company, 706138 (STF)

1-1-11 to 12-31-11, \$3,531,082.00

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

The Wine Group, LLC, 738655 (STF)

5-1-13 to 5-31-13, \$163,458.40

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

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 *Israr Ahmed; Sarwat Ahmed; Rosa Margarita Ayala; Asif Aziz; Anthony V. Bell; Off Broadway Bistro, LLC; David A. Bucks; Rick Lee Davis; Joseph Steven Ferrari; Fred Gardner; Roberta Gardner; Giulietta Italian Foods, Inc.; Lorene Bautista Gloria; Eng Kath; Chung Ui Kim; Ok Hui Kim; Jeremy Todd Lackey; Melissa Lackey; Alphedio Chavez Marcelino; Van Khoa Nguyen; Sandra Luz Padilla; Milan Petrovich; Rhonda L. Petrovich; Jacqueline Quezada; Emil Saffouri; Nahla Saffouri; Stefanie Carolina Vasquez; Minh Nguyenngoc Vo; Jan Eric Weilert; Arno Wiese; Phyllis Darlene Wiese; and, Jenny Yip; as recommended by staff.*

Mr. Horton commended staff for their great work on the Offer-in-Compromise Program.

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CHIEF COUNSEL MATTERS**OTHER CHIEF COUNSEL MATTERS****Delegation of Non-discretionary Administrative Rate-setting Adjustments to Executive Director**

Randy Ferris, Chief Counsel, Legal Department, requested delegation of authority to the Executive Director of certain statutorily mandated, non-discretionary rate-setting adjustments ([Exhibit 10.5](#)). Written public comment from Drew Fenton, Boulder Creek, California, was distributed to the Members and entered into the record ([Exhibit 10.6](#)).

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 deferred consideration of the timber yield tax rate to its November meeting in Sacramento, and otherwise approved staff's recommendation to delegate authority to the Executive Director for the following tax and fee rate-setting duties mandated by law: Private Railroad Car Tax Rate; Occupational Lead Poisoning Prevention Fee; Hazardous Substances Programs (Activity Fee, Disposal Fee, Environmental Fee, Facility Fee, Generator Fee and Permit-by-Rule or Conditional Authorization Fee); Membership Fees Nominal Amount Exemption; Coins and Bullion Bulk Sale Threshold Exemption; and, Emergency Telephone Users Surcharge.

The Board directed staff for the November meeting in Sacramento to 1) bring clarity to the distinction between items that are more regulatory in nature and under the purview of the Board of Equalization; and, 2) provide a discussion about the public hearing requirement in the statues as it relates to both components of the timber yield tax rate and how that will be reflected in terms of the public proceedings.

PUBLIC COMMENT

Speaker: Marcus Frishman, Representative in the matter of *Applied Companies, 526527*

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon 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 order:

Action: Approve the Board Meeting Minutes of May 22, 2013; June 11, 2013; July 17-18, 2013; August 13, 2013; and, September 10, 2013.

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OTHER ADMINISTRATIVE MATTERS**Executive Director's Report**

Cynthia Bridges, Executive Director, presented the 2014 Board Workload Plan, which consists of the 2014 Board meeting calendar, annual property tax calendars, and significant dates considered in setting Board meeting dates ([Exhibit 10.7](#)).

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 approved the approved the 2014 Board Workload Plan as presented.

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.

Sales and Use Tax Deputy Director's Report

Jeff McGuire, Deputy Director, Sales and Use Tax Department, provided a status update on the no cash policy currently being administered in the Oakland, Ventura, San Francisco, Irvine, Culver City, Van Nuys, Norwalk, Riverside and San Diego districts ([Exhibit 10.8](#)).

The Board requested staff to come back with a more flexible Board-wide policy for the no cash pilot program.

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.

The Board directed staff to consult with the Governor's Office regarding Executive Order.

David Gau, Deputy Director, Property and Special Taxes Department, reported that the Office of Emergency Services has determined the Emergency Telephone Users Surcharge rate for 2014 of 0.75 percent, and that the Board is to publish the fixed rate ([Exhibit 10.9](#)).

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 11:52 a.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)).

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The Board recessed at 11:59 a.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

The Board recessed at 12:00 p.m. and reconvened at 1:30 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS

Chief Counsel's Report

Richard Moon, Tax Counsel, Tax and Fee Programs Division, Legal Department, provided a report on recent federal regulatory action promulgated by the Bureau of Indian Affairs, regarding residential, business, and wind and solar resource leases on Indian land, and the regulatory action's impact on related state taxation issues (25 C.F.R. § 162.017) ([Exhibit 10.10](#)).

Speaker: Honorable Larry W. Ward, Riverside County Assessor/Recorder/Clerk

PUBLIC COMMENT

Speaker: William M. Connell, Military Veteran and owner of All American Surf Dog
([Exhibit 10.11](#))

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Pacific Coast Building Products, Inc., 514183

Erin Sullivan, 573889

Patricia D. Anderson (Deceased), 573893

Carol Anderson Ward, 573897

John E. Anderson, 573901

David Lucchetti and Christine Lucchetti, 573905

Keith Harris and Mary Harris, 573908

James Anderson and Jacquelyn Anderson, 573911

1999, \$411,759.00 Claimed R&D Credit Amount

2000, \$401,572.00 Claimed R&D Credit Amount

2001, \$625,301.00 Claimed R&D Credit Amount, \$202,491.00 Refund Claimed

2002, \$493,988.00 Claimed R&D Credit Amount, \$160,062.00 Refund Claimed

2003, \$382,705.00 Claimed R&D Credit Amount, \$124,103.00 Refund Claimed

2004, \$395,374.00 Claimed R&D Credit Amount, \$128,149.00 Refund Claimed

For Appellants:

William Fraser, Witness

Gerry Gunning, Witness

Bill Padavona, Witness

Reed Schreiter, Representative

Kendall Fox, Representative

Jon Sperring, Representative

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For Franchise Tax Board:

Jason Riley, Tax Counsel
Ann Hodges, Tax Counsel
Bill Hilson, Tax Counsel

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

Issues: Whether appellants have presented evidence sufficient to establish that appellant Pacific Coast Builders, Inc. (PCB) conducted activities that constituted “qualified research” as defined in Internal Revenue Code (IRC) section 41.

If appellants have established that PCB engaged in “qualified research” as defined in IRC section 41(d), have appellants established that PCB met its burden of proving “qualified research expenses” for the tax years at issue.

Whether appellants have substantiated PCB’s fixed-base percentage, as required by IRC section 41 (c)(3)(A).

Appellant’s Exhibit: Miscellaneous Documents ([Exhibit 10.12](#))

The Board recessed at 3:45 p.m. and reconvened at 4:04 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

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.

Craig Norton, 693097
2010, \$1,648 Assessment
For Appellant:

Craig Norton, Taxpayer
Eric Yadao, Tax Counsel
Diane Ewing, Tax Counsel

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

Issue: Whether appellant is entitled to the head of household filing status for the 2010 tax year.

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 submitted the appeal for decision.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD OCTOBER 29, 2013

Ezra Ziv and Ruth Ziv, 567507

Final Action: Ms. Yee moved to allow 1.2 million as conceded by the Franchise Tax Board and relieve the accuracy related penalty. Ms. Yee withdrew her motion.

Mr. Runner moved to calculate the value at \$200 per square foot, plus the land value, add the repair work that was done as a result of the earthquake, and relieve the accuracy-related penalty. The motion was seconded by Ms. Steel. Mr. Runner withdrew his motion.

Upon 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 modified the action of the Franchise Tax Board by adjusting the basis to \$1.35 million and relieved the accuracy-related penalty.

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Pacific Coast Building Products, Inc., 514183

Erin Sullivan, 573889

Patricia D. Anderson (Deceased), 573893

Carol Anderson Ward, 573897

John E. Anderson, 573901

David Lucchetti and Christine Lucchetti, 573905

Keith Harris and Mary Harris, 573908

James Anderson and Jacquelyn Anderson, 573911

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.

The Board deferred further consideration of the matter to the following morning.

Craig Norton, 693097

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 sustained the action of the Franchise Tax Board. The Board directed staff to inform the taxpayer of payment options and the Offer in Compromise Program.

The Board recessed at 7:06 p.m.

The foregoing minutes are adopted by the Board on January 16, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *Thomas E. Rubin, 461570; Gerard Van Weyenbergh and Janice Sugita, 602190; Ilona Foyer, 569037; and, Applied Companies, 526527.*

Wednesday, October 30, 2013

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:38 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.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD OCTOBER 29, 2013 (CONTINUED)

Pacific Coast Building Products, Inc., 514183

Erin Sullivan, 573889

Patricia D. Anderson (Deceased), 573893

Carol Anderson Ward, 573897

John E. Anderson, 573901

David Lucchetti and Christine Lucchetti, 573905

Keith Harris and Mary Harris, 573908

James Anderson and Jacquelyn Anderson, 573911

Final Action: Ms. Steel moved to allow 80 percent of all of the claimed expenses. The motion was seconded by Mr. Runner. Ms. Yee made a substitute motion (1) to disallow the projects that occurred outside of the appeal years, and the expenses claimed for those projects, (2) to remove the expenses claimed either before and/or after project start and end dates for various projects, of approximately \$4 million, and (3) to allow 90 percent of the remaining claimed expenses. The substitute motion was seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes.

Mr. Horton directed staff to investigate and review the standard of evidence applicable to the issues in this case and to review the applicable case law, etc.

SALES AND USE TAX APPEALS HEARING

Local Tax Reallocation Hearing

City of Fontana, Lathrop, and San Bernardino, 435564

1-1-06 to Current, \$17,128,424.00 Tax

For Petitioners:

Robin Sturdivant, Representative

Salvador V. Navarrete, Attorney

For Notified Jurisdiction City of Ontario:

Alan Wapner, Representative

Robert Cendejas, Attorney

For Taxpayer:

James Abrams, Representative

Eric Gerstein, Representative

Robert Kievert, Representative

For Sales and Use Tax Department:

Cary C. Huxsoll, Tax Counsel

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

Issue: Whether the local tax was incorrectly allocated as sales tax to the office located in Ontario.

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.

Wednesday, October 30, 2013

The Board recessed at 12:34 p.m. and reconvened at 1:53 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES, DENIALS OF CLAIMS FOR REFUND, AND, GRANT-ONE DAY INTEREST RELIEF, CONSENT (CONTINUED)

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties, Denials of Claims for Refund, and, Grant-One Day Interest Relief, Consent Agenda, 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 its motion on the previous day be rescinded and expunged.

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties, Denials of Claims for Refund, and, Grant-One Day Interest Relief, 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, Ms. Mandel not participating in *Enterprise Rent-A-Car Company of Sacramento, 743951 (KH)*; the Board made the following orders:

Telcordia Technologies, Inc., 571125 (OH)

1-1-05 to 6-30-08, \$102,245.87

Action: Approve the redetermination as recommended by staff.

Mir Massoud Shahabi, 400771 (GH)

7-1-02 to 12-31-03, \$315,996.22

Action: Approve the redetermination as recommended by staff.

Diedra Britto, 553934 (KH)

4-1-06 to 9-30-07, \$108,410.56

Action: Approve the redetermination as recommended by staff.

United Airlines, Inc., 416872 (OH)

4-1-03 to 6-30-06, \$4,115,520.66

Action: Approve the redetermination as recommended by staff.

National Oilwell Varco LP, 625899 (OH)

7-1-06 to 6-30-09, \$284,526.50

Action: Approve the redetermination as recommended by staff.

Ashland, Inc., 594880 (OH)

7-1-05 to 6-30-08, \$1,429,605.51

Action: Approve the redetermination as recommended by staff.

Los Angeles Rag House, Inc., 623739 (AC)

10-1-07 to 9-30-10, \$117,958.41

Action: Approve the redetermination as recommended by staff.

Wednesday, October 30, 2013

MCI Communications Services, Inc., 606649 (OH)

1-1-06 to 12-31-08, \$1,355,621.41

Action: Approve the redetermination as recommended by staff.

World of Jeans & Tops, 742623 (EA)

5-1-13 to 6-15-13, \$118,568.22

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

Richemont North America, Inc., 743954 (OH)

1-1-13 to 3-31-13, \$102,004.40

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

Illumina, Inc., 742698 (FH)

1-1-13 to 3-31-13, \$181,608.40

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

Enterprise Rent-A-Car Company of Sacramento, 743951 (KH)

5-1-13 to 6-15-13, \$106,320.00

Action: Approve the relief of penalty as recommended by staff. Ms. Mandel not participating.

Au Energy, LLC, 743949 (CH)

1-1-13 to 3-31-13, \$127,011.10

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

Rohr, Inc., 569314 (OH)

1-1-08 to 9-30-10, \$126,980.00

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

Union Pacific Railroad Company, 665560 (OH)

1-1-07 to 12-31-10, \$241,962.00

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

Demaria Electric Motor, 743927 (AA)

1-1-13 to 3-31-13, \$171.17 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

Western Mobilehome Parkowners Association, 743940 (KH)

1-1-13 to 3-31-13, \$12.35 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

R & D Enterprises, Inc., 743946 (AS)

10-1-12 to 10-31-12, \$749.52 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

Wednesday, October 30, 2013

Sysco Food Services of L.A., Inc., 743930 (AP)

10-1-12 to 12-31-12, \$3,162.45 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

Collins Pine Company, 743935 (OH)

1-1-13 to 3-31-13, \$47.49 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

Comrax, LLC, 743945 (AR)

1-1-13 to 3-31-13, \$58.25 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

Bloom Energy Corporation, 743922 (GH)

2-1-13 to 2-28-13, \$4,002.00 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

Tricolore, Inc., 743947 (EA)

5-1-13 to 6-15-13, \$100.24 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

Waldorf Conceptions, LLC, 743932 (CH)

1-1-13 to 3-31-13, \$18.75 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

Tea Innovations, Inc., 743938 (KH)

5-1-13 to 6-15-13, \$115.84 Interest Adjustment

Action: Approve the one day interest relief as recommended by staff.

SALES AND USE TAX APPEALS HEARINGS

Gordon W. Kelley, 475764, 515722 (AC)

7-1-00 to 6-30-03, \$284,290.27 Tax, \$48,148.33 Negligence Penalty

Terry D. Eaves, 475767, 515719 (AC)

7-1-00 to 6-30-03, \$300,907.26 Tax, \$48,148.33 Negligence Penalty

For Taxpayers/Claimants: Gordon Kelley, Taxpayer

Terry D. Eaves, Taxpayer

For Sales and Use Tax Department: Pamela Mash, Tax Counsel

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

Issues: Whether taxpayer is personally liable as a responsible person for the unpaid liabilities of Southland Fireplaces, Inc., pursuant to Revenue and Taxation Code section 6829.
Whether Southland 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 petitions and claims be submitted for decision.

Wednesday, October 30, 2013

this taxpayer, his agent or participants. Mr. Runner returned \$10 of a \$250 contribution prior to this hearing and noted that his records disclosed no other contributions from this taxpayer, his agent or participants. Mr. Chiang's records disclosed a \$250 contribution in October 2012 and another \$250 contribution in October 2013, and no other contributions from this taxpayer, his agent or participants. No other contributions were disclosed.

Issues: Whether the understatements were the result of fraud or intent to evade the tax.
Whether relief of the amnesty penalties is warranted.

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel absent and not participating, the Board ordered that the petition be submitted for decision.

The Board recessed at 4:18 p.m. and reconvened at 4:29 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Song Cha Sanchez, 535612, 570144 (AS)

7-1-05 to 7-31-08, \$2,892.93 Tax, \$ 00.00 Penalty, \$2,893.00 Claim for Refund, \$925.00

Collection Cost Recovery Fee

For Taxpayer/Claimant: Song Cha Sanchez, Taxpayer

For Sales and Use Tax Department: Erin Dendorfer, Tax Counsel

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

Issues: Whether taxpayer is liable as a successor for the unpaid tax liabilities of Soy Bean Chinese Restaurant, Inc.

Whether relief of the collection cost recovery fee 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 and claim be submitted for decision.

First Petrol, Corp., 522898 (CH)

10-1-05 to 9-30-08, \$31,424.51 Tax, \$00.00 Negligence Penalty

For Petitioner: Mori Shariat, Representative

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

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

Issue: Whether additional adjustments to the measure for disallowed claimed exempt sales of food products are warranted.

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.

The Board recessed at 6:07 p.m. and reconvened at 6:14 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Wednesday, October 30, 2013

Online Solar, Inc., 528698 (OH)

10-1-06 to 9-30-09, \$47,624.26 Tax, \$4,762.41 Negligence Penalty

For Taxpayer: Jonathan A. Brod, Attorney

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 unreported taxable sales.

Whether taxpayer 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 6:46 p.m.

The foregoing minutes are adopted by the Board on January 16, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *Maria B. Looney and Michael C. MacKellar, 519645 (UT); Funny Jump, Inc., 436172 (AC); DOOMID, Inc., 416893, 552763 (DF); and, Frank Torres, 556703 (EA).*

Thursday, October 31, 2013

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.

FINAL ACTION ON SALES AND USE TAX APPEALS: LOCAL TAX REALLOCATION HEARING HELD OCTOBER 30, 2013

City of Fontana, Lathrop, and San Bernardino, 435564

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 denied. The Board's decision was not held in abeyance pending adoption of a summary decision for publication.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD OCTOBER 30, 2013

Gordon W. Kelley, 475764, 515722 (AC)

Terry D. Eaves, 475767, 515719 (AC)

Final Action: Mr. Runner moved that the petition and claim be granted. The motion was seconded by Ms. Steel but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton and Ms. Yee voting no, Ms. Mandel abstaining.

The Board deferred further consideration of the matter to later in the day.

Y & S Enterprises, Inc., 492513 (EA)

Final Action: Upon motion of Ms. Steel, 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, 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.

Ali Jamil Chahine, 488734, (AA)

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. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

Ms. Mandel stated that she would not participate in the matters of *Randeep Singh Dhillon*, 485664 (DF); *Beale Monterey Enterprises, Inc.*, 485668 (DF); and, *Sam Sambee Enterprises, Inc.*, 485729 (DF); in accordance with Government Code section 15626, and left the Boardroom.

Thursday, October 31, 2013

Randeep Singh Dhillon, 485664 (DF)

Beale Monterey Enterprises, Inc., 485668 (DF)

Sam Sambee Enterprises, Inc., 485729 (DF)

Final Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel absent and not participating in accordance with Government Code section 15626, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Ms. Mandel returned to the Boardroom.

Song Cha Sanchez, 535612, 570144 (AS)

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 collection cost recovery fee be waived, and that the petition otherwise be redetermined as recommended by the Appeals Division.

The Board referred the treatment of successor liability and dual determinations to the Customer Service and Administrative Efficiency Committee for review.

First Petrol, Corp., 522898 (CH)

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 recognized deletion of the negligence penalty and 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.

Online Solar, Inc., 528698 (OH)

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.

SALES AND USE TAX APPEALS HEARINGS

Fun is First, Inc., 334140, 559880 (EA)

1-1-98 to 12-31-02, \$53,635.00 Claim for Refund

1-1-06 to 12-31-09, \$32,254.72 Tax

For Petitioner/Claimant:

Angie Miller, Representative

Karen Warrick, Representative

Priscilla Burpee, Representative

For Sales and Use Tax Department:

Cary Huxsoll, Tax Counsel

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

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

Thursday, October 31, 2013

Action: (Motion Expunged.)

Upon motion of Mr. Runner, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that its previous motion be expunged.

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 12:02 p.m. and reconvened at 1:48 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

General Industrial Tool & Supply, 281207 (AC)

1-1-00 to 12-31-02, \$21,192.72 Tax

For Petitioner:

Kathleen Durbin, Representative

Karen Boyle, Representative

Janet Pass, Attorney

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 nontaxable contract fees.

Whether relief of the disallowed claimed nontaxable transportation charges of \$163,360 is warranted on the basis that petitioner's failure to report them as taxable was the result of its reliance on erroneous advice from the Department in a prior audit.

Whether relief of interest is warranted.

Whether relief of the amnesty interest penalty is warranted.

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.

SPECIAL TAXES APPEALS HEARING

Monarch Consulting, Inc., 525103 (STF)

1-1-06 to 12-31-08, \$37,382.00 Tax, \$00.00 Negligence Penalty

For Petitioner:

Stuart Grant, Taxpayer

Daniel Cox, Representative

For Property and Special Taxes Department:

Carolee Johnstone, Tax Counsel

For Department of Toxic Substances Control:

Jennifer Connor, Attorney

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

Issue: Whether petitioner is subject to the annual environmental fee.

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.

Thursday, October 31, 2013

The Board recessed at 3:10 p.m. and reconvened at 3:17 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD
OCTOBER 30, 2013 (CONTINUED)**

Gordon W. Kelley, 475764, 515722 (AC)

Terry D. Eaves, 475767, 515719 (AC)

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 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.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
OCTOBER 31, 2013**

Fun is First, Inc., 334140, 559880 (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 and claim be granted and the tax redetermined accordingly, and to clarify the rules applicable to destination management companies through a formal process.

General Industrial Tool & Supply, 281207 (AC)

Final 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, 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.

**FINAL ACTION ON SPECIAL TAXES APPEALS HEARING HELD
OCTOBER 31, 2013**

Monarch Consulting, Inc., 525103 (STF)

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 negligence penalty be removed as conceded by the Department, and that the petition otherwise be redetermined as recommended by the Appeals Division.

Thursday, October 31, 2013

The Board adjourned at 3:39 p.m. in the memory of John G. Gibbs and Abe Golomb. John G. Gibbs, a Business Taxes Representative in the BOE's Norwalk District Office, passed away suddenly at his home in Pico Rivera, California, on Thursday, September 26, 2013 at age 47. He held a Bachelor's Degree from the University of Southern California and served the Board for more than 13 years. John leaves behind his wife Sarina, his two daughters Christina and Elizabeth, a sister Jollen, parents Ellen and John and many aunts, uncles, cousins, nieces and nephews. Abe Golomb, loving husband and father, well-known and respected sales and use tax consultant with his own sales tax consulting firm, Sales Tax Reduction Specialists, and former BOE employee, passed away on September 29, 2013, after suffering a major brain aneurysm. He was born in Munich, Germany, the only son of a Polish-Russian soldier and a liberated survivor of Auschwitz Concentration Camp. Abe was brought to the U.S. in the early 1950's, and grew up in Southern California and graduated from Cal State Los Angeles with a dual degree in Accounting and Psychology. Abe leaves behind his wife, Sue Golomb, son and daughter-in-law, Gary and Jessica Golomb, daughter and son-in-law Jennifer and Jon Martinez, step-daughters Shelley Johnson, Leslie Weber, Felicia Fessler, step-son Matt Zabin, along with their spouses, 13 biological and step-grandchildren, 5 step-great-grandchildren, and a host of close friends and relatives. The Members offered condolences to the families and friends of John G. Gibbs and Abe Golomb.

The foregoing minutes are adopted by the Board on January 16, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *Great Circle Family Foods, LLC, 433600 (AS)*; *Choon S. Park, 600481 (EH)*; *Magnum Breeze II, Inc., 538790 (EH)*; *Brian Yong Jun Kim and Diane H. Kim, 536295 (EA)*; *Frances Phuong Tsu, 535710 (EA)*; *ESG Management, Inc., 481182, 510896, 574007 (STF)*; *Coastal Staffing, Inc., 523057 (STF)*; *Progressive Employer Solutions, Inc., 566371 (STF)*; *Staff Construction, Inc., 519219 (STF)*; *Staff Resources, Inc., 490566, 568810 (STF)*; *Your People Professionals, Inc., 523056 (STF)*; *Teamwork Human Resources, Inc., 551119, 561488 (STF)*; and, *Singlepoint Outsourcing, Inc., 522966 (STF)*.