

Thursday, November 13, 2008

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Dr. Chu, Chair, Ms. Yee, Vice Chairwoman, Mr. Leonard and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARINGS

Larry M. Stenshoel, 260717, 298896, 89000147280, 89000147300, 89000147320 (GH)
 10-1-96 to 7-7-98, \$0.00 Tax, \$80,737.77 Fraud Penalty, \$8,477.84 Failure to File Penalty
 7-1-97 to 3-11-98, \$0.00 Tax, \$61,392.26 Fraud Penalty
 4-1-92 to 12-31-94, \$101,618.42 Claim for Refund
 10-1-96 to 3-31-97, \$0.00 Tax, \$27,067.87 Fraud Penalty, \$8,271.70 Failure to File Penalty
 4-1-97 to 6-30-97, \$0.00 Tax, \$22,013.06 Fraud Penalty, \$8,805.23 Failure to File Penalty
 For Petitioner/Claimant:

Jesse McClellan, Representative
 Bernard Kenneally, Representative

For Sales and Use Tax Department:

Tim Treichel, Tax Counsel

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

Issues: Whether petitioner committed fraud.

Whether relief from the failure-to-file penalties is warranted.

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

Cheryl Gonzales, 424159 (EH)

4-1-02 to 6-30-02, \$2,956.00 Claim for Refund, \$150.00 Refund of Cost and Fees

For Claimant:

Abe Golomb, Representative

For Sales and Use Tax Department:

Christine Bisauta, Tax Counsel

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

Issues: Whether the claim for refund should be granted.

Whether claimant is entitled to a refund of fees and costs related to levies.

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

R.C.P. Block & Brick, Inc., 283573, 283514 (FH)

1-1-01 to 12-31-03, \$73,108.00 Tax, \$80,726.79 Claim for Refund

For Petitioner/Claimant:

Jesse McClellan, Representative

For Sales and Use Tax Department:

Cary Huxsoll, Tax Counsel

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

Issues: Whether petitioner was leasing pallets and correctly reporting tax on such leases.

Whether petitioner is entitled to relief based on its reliance on alleged erroneous advice in prior audits.

Whether the claim for refund should be granted.

Action: This matter was postponed to the December 2008 Board Meeting.

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LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matters: *Raymond David Boyda, 349462 (CH)*; and, *Syed A. Ali, 400214 (UT)*.

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

Andrew J. Laspino, 393823 (GH)
Patricia M. Laspino, 393822 (GH)
5-1-98 to 12-31-99, \$6,749.00 Tax, \$690.31 Late Payment Penalties
Action: Redetermine as recommended by the Appeals Division.

Raymond David Boyda, 349462 (CH)
1-1-02 to 9-7-04, \$49,651.38 Tax, \$8,451.72 Penalties
Action: The Board took no action.

Thinkers Café, Inc., 414219 (BH)
4-1-03 to 3-31-06, \$6,359.96 Tax
Action: Redetermine as recommended by the Appeals Division.

Syed A. Ali, 400214 (UT)
7-3-04, \$100,348.50 Tax, \$10,034.85 Failure-to-File Penalty
Action: The Board took no action.

Tuyet Thi Bach Ngo, 459748 (ET)
June 3, 2008, \$471.50 Approximate Value
Action: Determined that staff properly seized the tobacco products.

United JFK Management, Inc., 459749 (ET)
May 20, 2008, \$386.37 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Omer Sozen, 449683 (ET)
February 19, 2008, \$200.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Amar Singh and Balraj Singh, 449685 (ET)
April 2, 2008, \$314.70 Approximate Value
Action: Determined that staff properly seized the tobacco products.

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

Armine Agadjanian, 423970
Alfred Mahmoudly, 433127
1999, \$83,366.00 Innocent Spouse Relief
Action: Sustain the action of the Franchise Tax.

Brookes M. Bendetsen, 377406
2002, \$5,729.00 Assessment
Action: Sustain the action of the Franchise Tax.

Stephen W. Bourgeois, Jr., 377392
2004, \$1,269.00 Tax, \$317.25 Late Filing Penalty
Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Robert Vincent Crifasi, 378325
2003, \$3,383.00 Tax, \$845.75 Delinquent Filing Penalty, \$1,360.50 Failure to File Penalty,
\$125.00 Filing Enforcement Fee
Action: Sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

Lloyd Hurlbert, 395523
2005, \$1,734.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

Timothy Latham, 343104
1994, \$3,698.30 Innocent Spouse Relief Granted
Action: Sustain the action of the Franchise Tax Board.

Mark Alan Laythorpe, 389852
2004, \$1,188.00 Tax, \$297.00 Penalty
Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Andrea M. Murphy, 362700
2004, \$871.00 Assessment
Action: Sustain the action of the Franchise Tax Board.

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Stanley E. Newton and Eunice A. Newton, 424090

2003, \$176.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Christopher B. Ortiz, 402206

2005, \$620.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Jeffrey Rosenthal and Gayle Rosenthal, 354392

2000, \$180,774.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Patrick Ryan, 388424

2004, \$11,150.00 Assessment, \$2,787.50 Late Filing Penalty, \$2,787.50 Failure to File Penalty, \$120.00 Filing Enforcement Fee

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

Michael S. Spiro, 397830

2004, \$2,757.00 Assessment, \$689.25 Late Filing Penalty, \$689.25 Notice and 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.

Fred C. Haney and Jeannine A. Haney, 361322

1998, \$27,402.00 Claim for Refund

Action: Deny the petition for rehearing.

Thomas Jones, 383406

2004, \$8,451.00 Tax, \$2,112.75 Late Filing Penalty, \$2,112.75 Notice and Demand Penalty, \$2,500.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

Ronald C. Nelson and Marie J. Nelson, 329716

1985, \$1,048.54 Accrued Interest

Action: Deny the petition for rehearing.

Steven R. Olmos, 342009

2003, \$3,433.00 Tax, \$858.25 Late Filing Penalty, \$858.25 Notice and Demand Penalty, \$1,500.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

Margaret Rogers, 382827

2004, \$1,923.00 Tax, \$480.75 Late Filing Penalty, \$533.25 Notice and Demand Penalty, \$120.00 Filing Enforcement Fee, \$2,500.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

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Steven J. Goldman and Azita Etaati, 346376

2000, \$823,950.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Melvin I. Dalrymple and Carol J. Dalrymple, 345024

1999, \$75,999.00 Claim for Refund

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

Dave Adelman, 416817

2004, \$1.00 or more

Action: Reverse the action of the Franchise Tax Board.

Bonnie Nital-Jones, 394610

2006, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

James Palmore, 383752

2006, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Bernadette M. Williams, 377679

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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

The Board deferred consideration of the following matters: *L & W Supply Corporation, 461148 (EA)*; and, *Sally Beauty Supply, LLC, 461139 (OH)*.

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties, Denials of Claims for Refund and Denial of Relief of Penalties, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *GE Engine Service-Corporation Aviation, Inc., 402643 (AS)*; and, *Citicorp Trust Bank FSB & Affiliates, 281754 (OH)*; the Board made the following orders:

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Community Television of Southern California, 415954 (AS)

1-1-02 to 6-30-05, \$69,640.01

Action: Approve the redetermination as recommended by staff.

Ingersoll-Rand Company, 415957 (OH)

10-1-01 to 9-30-04, \$1,654,690.73

Action: Approve the redetermination as recommended by staff.

Bimbo Bakeries USA, Inc., 434592 (AA)

4-1-03 to 3-31-06, \$74,183.94

Action: Approve the redetermination as recommended by staff.

GE Engine Service-Corporation Aviation, Inc., 402643 (AS)

10-1-00 to 9-30-04, \$1,492,605.78

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

Flamingo Sand & Gravel, Inc., 390320 (AC)

10-1-02 to 9-30-05, \$63,714.19

Action: Approve the redetermination as recommended by staff.

L & W Supply Corporation, 461148 (EA)

4-1-08 to 4-30-08, \$57,125.12

Action: The Board took no action.

Miller-DM, Inc., 461138 (AS)

1-1-08 to 3-31-08, \$53,723.60

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

Sally Beauty Supply, LLC, 461139 (OH)

11-1-07 to 11-30-07, \$58,500.12

Action: The Board took no action.

Capital One Auto Finance, Inc., 430598 (OH)

7-1-07 to 12-31-07, \$150,453.00

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

Citicorp Trust Bank FSB & Affiliates, 281754 (OH)

4-1-00 to 6-30-04, \$622,005.19

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

Ford Credit Titling Trust, 444765 (OH)

4-1-98 to 12-31-02, \$129,064.95

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

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

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Cisco Systems Capital Corporation, 391020 (GH)*; *Amgen USA, Inc., 459743 (AR)*; *Citicorp Trust Bank FSB and Affiliates, 281754 (OH)*; and, *Citigroup, Inc., & Subsidiaries and Affiliates, 345022 (OH)*; with the Board made the following orders:

Orna Amzaleg, 461848 (AS)

7-1-01 to 12-31-02, \$146,127.62

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

Jefferson G. Prosser, 461136 (GH)

10-1-07 to 10-31-07, \$86,658.39

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

Western Truck Parts & Equipment Co. 461137 (OH)

4-1-07 to 6-30-07, \$271,768.06

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

VMP Mortgage Solutions, Inc., 399857 (OH)

1-1-04 to 12-31-06, \$91,181.58

Action: Approve the refund as recommended by staff.

Primary Color Systems Corp., 400780 (EA)

1-1-04 to 3-31-07, \$333,255.57

Action: Approve the refund as recommended by staff.

Elliott Turbomachinery Company, Inc., 300091 (OH)

4-1-02 to 12-31-03, \$52,738.13

Action: Approve the refund as recommended by staff.

Mentor Graphics Corp., 345181 (OH)

4-1-05 to 6-30-05, \$70,349.15

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA, LLC, 447078 (KH)

5-28-08 to 6-23-08, \$216,622.00

Action: Approve the refund as recommended by staff.

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Cisco Systems Capital Corporation, 391020 (GH)

4-1-00 to 12-31-03, \$452,114.85

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

Illumina, Inc., 447253 (FH)

7-1-07 to 9-30-07, \$61,430.12

Action: Approve the refund as recommended by staff.

Amgen USA, Inc., 459743 (AR)

1-1-02 to 12-31-03, \$130,541.83

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

Waterman Industries, Inc., 308348 (KH)

2-10-04 to 1-3-06, \$85,755.22

Action: Approve the refund as recommended by staff.

Pacific Bell, 383855 (OH)

7-1-99 to 6-30-02, \$5,393,167.08

Action: Approve the refund as recommended by staff.

Fyfe Company, LLC, 459736 (FH)

7-1-04 to 6-30-07, \$71,883.79

Action: Approve the refund as recommended by staff.

First Financial Credit Union, 450876 (AP)

1-1-08 to 3-31-08, \$55,703.82

Action: Approve the refund as recommended by staff.

San Diego Metropolitan Credit Union, 448806 (FH)

10-1-05 to 3-31-06, \$65,929.42

Action: Approve the refund as recommended by staff.

Mullen Bros., Inc., 449991 (AC)

7-1-07 to 3-31-08, \$61,215.53

Action: Approve the refund as recommended by staff.

Foreman Financial, Inc., 449990 (AC)

4-1-07 to 3-31-08, \$137,282.49

Action: Approve the refund as recommended by staff.

Capital One Auto Finance, Inc., 430598 (OH)

7-1-07 to 12-31-07, \$1,251,499.38

Action: Approve the refund as recommended by staff.

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Maquet, Inc., 447894 (OH)

1-1-08 to 3-31-08, \$253,593.34

Action: Approve the refund as recommended by staff.

Citicorp Trust Bank FSB and Affiliates, 281754 (OH)

4-1-00 to 6-30-04, \$2,104,192.91

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

Citigroup, Inc., & Subsidiaries and Affiliates, 345022 (OH)

4-1-00 to 12-31-05, \$8,742,366.48

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

Magic Mountain, LLC, 442479 (AR)

10-1-07 to 12-31-07, \$63,521.76

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, RELIEF OF PENALTIES AND DENIAL OF CLAIMS FOR REFUND, CONSENT

With respect to the Special Taxes Matters, Relief of Penalties and Denial of Claims for Refund, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Ms. Steel not participating in *Conocophillips Company, 215850 (MT)*; *Tosco Corporation, 264248 (MT)*; *Conocophillips Company, 264262 (MT)*; and, *Conocophillips Company, 306631 (MT)*; Ms. Mandel not participating in accordance with Government Code section 7.9 in *Connecticut General Life Insurance Co., 461539 (ET)*; the Board made the following orders:

Connecticut General Life Insurance Co., 461539 (ET)

4-1-08 to 6-30-08, \$403,773.70

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

Pacific Bell, 461094 (ET)

1-1-00 to 12-31-02, \$66,972.02

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

Conocophillips Company, 215850 (MT)

1-1-02 to 12-31-02, \$808,255.00

Action: Approve the denial of claim for refund as recommended by staff. Ms. Steel not participating.

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Tosco Corporation, 264248 (MT)

1-1-01 to 12-31-01, \$718,561.00

Action: Approve the denial of claim for refund as recommended by staff. Ms. Steel not participating.

Conocophillips Company, 264262 (MT)

1-1-03 to 12-31-03, \$647,732.00

Action: Approve the denial of claim for refund as recommended by staff. Ms. Steel not participating.

Conocophillips Company, 306631 (MT)

1-1-04 to 12-31-04, \$729,400.29

Action: Approve the denial of claim for refund as recommended by staff. Ms. Steel not participating.

SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105, the Board made the following order:

BP West Coast Products, LLC, 396212 (MT)

1-1-03 to 9-30-05, \$90,655.43

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

PROPERTY TAXES MATTERS, CONSENT

Ms. Mandel stated for the record that Mr. Chiang would not have participated in the matter of *Comcast Phone of California, 458196*.

With respect to the Property Taxes Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Dr. Chu not participating in *Comcast Phone of California, 458196*; Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Petitions for Reassessment of Unitary Value

Calnev Pipe Line Company, 458197

2008, \$84,300.00 Unitary Value

Action: Reduce the 2008 unitary value as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

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SLO Cellular, Inc., 457484

2008, \$9,520,000.00 Unitary Value

Action: Reduce the 2008 unitary value as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

MetroPCS California/Florida, Inc., 458204

2008, \$221,800,000.00 Unitary Value

Action: Reduce the 2008 unitary value as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Omnipoint Communications, Inc., 458673

2008, \$1,577,500,000.00 Unitary Value

Action: Increase the 2008 unitary value as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Royal Street Communications California, LLC, 458203

2008, \$197,800,000.00 Unitary Value

Action: Reduce the 2008 unitary value as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Comcast Phone of California, 458196

2008, \$5,900,000.00 Unitary Value

Action: Reduce the 2008 unitary value as recommended by staff. Dr. Chu not participating. Ms. Mandel not participating in accordance with Government Code section 7.9.

Petition for Penalty Abatement on Unitary Value

Harbor Cogeneration Company, 451084

2008, \$918,000.00 Penalty

Action: Approve the penalty abatement on 2008 unitary value as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Petition for Penalty Abatement on Private Railroad Car Tax

Farmers Commodities Transportation Company, LLC, 458686

2008, \$86,277.00 Penalty

Action: Approve the penalty abatement on 2008 private railroad car tax as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

LEGAL APPEALS MATTERS, ADJUDICATORY

Speakers: Ned Roscoe, Representing *Cigarettes Cheaper!*
John Roscoe, Vice President, *Cigarettes Cheaper!*

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Cigarettes Cheaper!, 80069 (JH)

10-1-96 to 9-30-99, \$544,021.75 Tax

Considered by the Board: March 18, 2008

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

Action: Mr. Leonard moved that the petition for rehearing be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board ordered that the petition for rehearing be denied.

Donald R. Loya, 358842 (AC)

1-1-01 to 3-31-02, \$14,000.00 Claimed for Refund

Considered by the Board: September 16, 2008

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

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

James Asher Finegold and Dana Lee Finegold, 351626 (UT)

9-25-04 or 10-26-04, \$40,162.50 Tax

Considered by the Board: June 24, 2008

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

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

Spa De Soleil, Inc., 349460 (AC)

4-1-00 to 12-31-02, \$26,242.69 Tax, \$3,147.00 Amnesty Interest Penalty

Considered by the Board: May 13, 2008

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

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

Princess House, Inc., 380967 (OH)

10-1-02 to 9-30-05, \$609,200.87 Tax, \$60,920.28 Negligence Penalty, \$5,581.34 Amnesty

Double Negligence Penalty, \$4,744.10 Amnesty Interest Penalty

Considered by the Board: May 29, 2008

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

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and duly carried, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Dr. Chu and Ms. Yee voting no, the Board ordered that the petition be granted and the tax be redetermined accordingly.

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Ibrahim Said Mekhail, 457966 (ET)

April 23, 2008, \$438.00 Approximate Value

Considered by the Board: October 1, 2008

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

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

K. Muller Property Number One, LLC, 382823

2004, \$50.00 Late Filing Penalty, \$84.00 Late Payment Penalty

K. Muller Property Number Two, LLC, 386681

2004, \$50.00 Late Filing Penalty, \$84.00 Late Payment Penalty

K. Muller Property Number Three, LLC, 386683

2004, \$50.00 Late Filing Penalty, \$84.00 Late Payment Penalty

K. Muller Property Number Four, LLC, 386687

2004, \$50.00 Late Filing Penalty, \$84.00 Late Payment Penalty

K. Muller Property Number Five, LLC, 386689

2004, \$50.00 Late Filing Penalty, \$56.00 Late Payment Penalty

K. Muller Property Number Six, LLC, 386691

2004, \$50.00 Late Filing Penalty, \$52.00 Late Payment Penalty

K. Muller Property Number Seven, LLC, 386692

2004, \$50.00 Late Filing Penalty, \$52.00 Late Payment Penalty

K. Muller Property Number Eight, LLC, 386694

2004, \$50.00 Late Filing Penalty

K. Muller Property Number Nine, LLC, 386695

2004, \$50.00 Late Filing Penalty

Considered by the Board: October 1, 2008

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

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

Gregory B. Duro, 354992

2000, \$78,391.00 Assessment

Considered by the Board: February 28, 2008

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

Action: Upon motion of Mr. Leonard, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board adopted a decision denying the petition for rehearing.

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Timothy Jenkins, 348922

2001, \$792.59 Tax

Considered by the Board: January 31, 2007

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board adopted a decision denying the petition for rehearing.

LEGAL APPEALS PROPERTY TAX MATTERS, ADJUDICATORY

San Diego Gas & Electric Company (0141), 458198

2008, \$4,451,500,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu and Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Dynegy Moss Landing, LLC (1103), 458198

2008, \$742,400,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu and Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

La Paloma Generating Company, LLC (1112), 457485

2008, \$477,900,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

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Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu and Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Mountainview Power Company, LLC (1119), 458202

2008, \$593,500,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu and Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Delta Energy Center, LLC (1128), 457473

2008, \$438,400,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu and Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Pastoria Energy Facility, LLC (1131), 457475

2008, \$455,500,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu and Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

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Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Calpine Construction Finance Company, LP (1132), 457477

2008, \$234,200,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu and Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Metcalf Energy Center, LLC (1133), 457478

2008, \$319,200,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Dr. Chu and Ms. Yee voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Ms. Steel stated that she would not participate in the matter of *Elk Hills Power, LLC (1126), 457487*.

Mr. Leonard stated that he would not participate in the matter of *Elk Hills Power, LLC (1126), 457487*, in accordance with Government Code section 15626.

Elk Hills Power, LLC (1126), 457487

2008, \$306,500,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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Contribution Disclosures pursuant to Government Code section 15626: A disqualifying contribution was disclosed to Mr. Leonard. No other disqualifying contributions were disclosed.
Action: The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Qwest Communications Corporation (2463), 458009

2008, \$172,700,000.00 Unitary Assessed Value

Considered by the Board: Presented for Separate Discussion

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

Action: Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Telekenex, Inc. (7957), 457471

2008, \$8,670,000.00 Unitary Assessed Value, \$867,000.00 Penalty

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Yee, seconded by Dr. Chu and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board ordered that the petition be denied as recommended by the Appeals Division.

Intelsat Global Service Corporation (7969), 458199

2008, \$21,400,000.00 Unitary Assessed Value, \$2,140,000.00 Penalty

Considered by the Board: Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Legent Communications Corporation (7978), 450873

2008, \$40,300.00 Unitary Assessed Value, \$4,030.00 Penalty

Considered by the Board: Presented for Separate Discussion

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Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Utility Telephone, Inc. (7994), 450047

2008, \$944,000.00 Unitary Assessed Value, \$94,000.00 Penalty

Considered by the Board: Presented for Separate Discussion

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

Action: Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

EAS Communication, Inc. (7859), 450872

2008, \$59,100.00 Unitary Assessed Value, \$5,910.00 Penalty

Considered by the Board: Presented for Separate Discussion

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

Action: Ms. Yee moved that the petition be denied as recommended by the Appeals Division. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

Integrated Telemanagement Services, Inc. (7638), 457486

2008, \$87,400.00 Unitary Assessed Value, \$8,740.00 Penalty

Considered by the Board: Presented for Separate Discussion

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

Action: Upon motion of Ms. Yee, seconded by Dr. Chu and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board ordered that the petition be denied.

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TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**OFFERS-IN-COMPROMISE RECOMMENDATIONS**

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Ronald E. Young* and *Gary Elsey* as recommended by staff.

CHIEF COUNSEL MATTERS**OTHER CHIEF COUNSEL MATTERS*****Yabsley v. Cingular Wireless*, Second Dist. Ct. of Appeal No. B198827**

Robert Lambert, Assistant Chief Counsel, Legal Affairs Division, Legal Department, made introductory remarks regarding the request for authorization to file an amicus brief in support of the Court of Appeal decision (now vacated), holding that retailers collecting sales tax reimbursement under Board regulations are protected against allegations of unfair business practice violations. (Exhibit 11.5.)

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board authorized staff to file the amicus brief.

Exhibits to these minutes are incorporated by reference.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

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

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California. (Exhibit 11.6.)

James A. Atwood, Business Taxes Administrator III, District Administrator,
Sacramento District Office
Richard Kingsbury, Business Taxes Specialist I, Fuel Taxes Division, Property
and Special Taxes Department, Headquarters
Suzanne Spencer MacInnis, Business Taxes Administrator III, District
Administrator for the Santa Rosa District Office

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Joyce Miller, Information Systems Technician, Technology Services Division,
Headquarters
Agnes-Allys V. Roshanaee, Business Taxes Compliance Supervisor II, Norwalk
District Office
Jeannie Sayre, Digital Composition Specialist III, Graphic Design Services Unit,
ePublishing Section, Headquarters
Hong Thu Tran, Supervising Tax Auditor, West Covina District
Doreen H. Watanabe, Associate Tax Auditor, Culver City District Office

Action: Adopt a resolution to Vince T. Minto, Glen County Assessor, extending its best wishes on his retirement and its appreciation for his service to the citizens of Glen County. (Exhibit 11.7.)

Action: Approve the Board Meeting Minutes of August 19-20, 2008; September 16-17, 2008; and, October 1, 2008.

Action: Approve the 2009 Timberland Production Zone Values. (Exhibit 11.8.)

Action: Approve the effects of Proposition 10 on cigarette and tobacco products consumption. (Exhibit 11.9.)

Action: Adopt the solar energy system exclusion form BOE-64-SES, *Initial Purchaser Claim for Solar Energy System New Construction Exclusion*. (Exhibit 11.10.)

Action: Approve publication of the Assessors' Handbook Section 531, Residential Building Costs. (Exhibit 11.11.)

Action: Approve publication of the Assessors' Handbook Section 534, Rural Building Costs. (Exhibit 11.12.)

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee

Action: Upon motion of Dr. Chu, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Legislative Committee report and the actions therein. (Exhibit 11.13.)

Committee votes were as follows:

Business Taxes, Sales and Use Taxes, 2009 Legislative Proposals

A recommendation of support to amend Revenue and Taxation Code sections 6452.1, 6453, 6487.3, and 18510 duly passed with Dr. Chu, Ms. Yee, and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no.

A recommendation of support to amend Revenue and Taxation Code section 6069 of the Sales and Use Tax Law duly passed with Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no.

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A recommendation of support to amend Revenue and Taxation Code section 7054 of the Sales and Use Tax Law duly passed with Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no.

A recommendation of support to amend Revenue and Taxation Code section 6248 of the Sales and Use Tax Law duly passed with Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no.

Business Taxes Committee

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Business Taxes Committee report and the actions therein. (Exhibit 11.14.)

Committee votes were as follows:

A recommendation of support to approve and authorize publication of the proposed amendments to Regulation 1591 as contained in alternative 2, unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes.

Property Tax Committee

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Property Tax Committee report and the actions therein. (Exhibit 11.15.)

Committee votes were as follows:

A recommendation of support to adopt the 2009 revision of Assessors' Handbook Section 581, *Equipment Index and Percent Good Factors*, with the petition form removed and only a citation as to its location on the Board's website noted in the handbook, was unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes.

The matter of approving Guidelines for Substantiating Additional Obsolescence for State-Assessed Telecommunication Properties was deferred.

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Ramon Hirsig, Executive Director, provided a report on the State Board of Equalization 3-Year Business Plan, fiscal year 2008-2011. (Exhibit 11.16.)

Ms. Yee thanked the executive team and staff for their hard work putting the plan together. She stated she was excited about the direction the Board is going and appreciates all Board employees for making it happen.

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Dr. Chu thanked Mr. Hirsig for undertaking this project. She stated it is a great document, so specific on the goals the Board is seeking to achieve and so clear and easy to consume.

Mr. Leonard stated this plan was long overdue and appreciated the great job Mr. Hirsig and the executive team put into it. Additionally Mr. Leonard suggested an additional column or reference to a data book be added to the report where progress can be tracked for each goal. It should state the measure of success and reference the basis of calculations.

Ramon Hirsig, Executive Director, provided an overview of the building remediation at 450 N Street. Mr. Hirsig then introduced Brian Daily, Certified Industrial Hygienist (CIH) and President of Hygiene Technologies, and Kenny Hsi, CIH, Hygiene Technologies, who provided a report and update on the reoccupancy standards following building remediation.

Deputy Directors Report

Elizabeth Houser, Deputy Director, Administration Department, provided a headquarters building update which included three topics, the status of on-going projects at headquarters, a report on the request of DGS expenditures at headquarters, and an update on the relocation of the 520 employees out of headquarters.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD NOVEMBER 12, 2008

Granite Rock Company, 420038
 Bruce W. Woolpert and Rose Ann Woolpert, 420171
 Bruce G. Woolpert and Mary E. Woolpert, 420181
 Stephen G. Woolpert and Elizabeth M. Woolpert, 420221
 Arthur Woolpert, 420187
 Marianne Woolpert, 420219
 Joseph Woolpert, 420222
 Melissa E. Woolpert, 420223

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Robert J. Oberbruner, 429326
 2001, \$10,092.00 Tax, \$2,523.00 Late Filing Penalty, \$1,054.59 Post-Amnesty Penalty
 For Appellant: No Appearance
 For Franchise Tax Board: Lee Gobuty, Tax Counsel
 Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
 Issues: Whether appellant has demonstrated error in the proposed assessment.

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

Whether this Board has jurisdiction to review the post-amnesty penalty.

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

PROPERTY TAXES HEARING

SureWest Telephone (294), 457483

2008, \$150,800,000.00 Unitary Value

For Petitioner:

No Appearance

For Property and Special Taxes Department: Daniel Paul, Tax Counsel

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

Issue: Whether the 2008 Board-adopted unitary value, based entirely on the Historical Cost Less Depreciation value indicator, adequately accounts for economic obsolescence.

Action: Upon motion of Ms. Yee, seconded by Dr. Chu and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board ordered that the petition be denied.

FINAL ACTION ON PROPERTY TAXES HEARING HELD NOVEMBER 12, 2008

Golden State Water Company (101), 457748

Final Action: Ms. Yee moved that the petition be denied. The motion was seconded by Dr. Chu but failed to carry, Dr. Chu and Ms. Yee voting yes, Mr. Leonard and Ms. Steel voting no, Ms. Mandel not participating in accordance with Government Code section 7.9.

The Board deferred consideration of the matter to the December Legal Appeals Property Tax Matters, Adjudicatory calendar.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD NOVEMBER 13, 2008

Larry M. Stenshoel, 260717, 298896, 89000147280, 89000147300, 89000147320 (GH)

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

Cheryl Gonzales, 424159 (EH)

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

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 12:13 p.m. and reconvened immediately in closed session with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel present.

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CLOSED SESSION

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

The Board recessed at 1:12 p.m. and reconvened immediately in open session with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel present.

Mr. Hirsig, Executive Director, announced that *Lisa Fien* has been appointed to CEA II, Human Resources Division, Administration Department; and, *Charlene Yount* has been appointed to CEA II, Administrative Support Division, Administration Department.

The Board adjourned at 1:14 p.m.

The foregoing minutes are adopted by the Board on January 22, 2008.

Note: The following matters were removed from the calendar prior to the meeting: *Shu Ren Kang, 384336, 387400 (KH)*; and, *Zenaida Laxamana, et al., 389908 (BH)*.