

Wednesday, November 14, 2012

The Board met at its offices at 450 N Street, Sacramento, at 10:00 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

Anser Hassan, 536983

2003, \$26,680.00 Tax, \$6,670.00 Late Filing Penalty

For Appellant:	Anser Hassan, Taxpayer
For Franchise Tax Board:	Sonia Deshmukh, Tax Counsel
	Shane Hofeling, Tax Counsel

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

Issues: Whether appellant has demonstrated error in respondent's determination of a capital gain arising from the sale of personal residence.

Whether appellant has shown that he is entitled to an increase in deductions related to the personal residence.

Whether appellant is entitled to use head of the household filing status for 2003.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 11.1](#))

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

Exhibits to these minutes are incorporated by reference.

Joann Richmond, Chief, Board Proceedings Division, stated for the record that the appellant in the matter of *Gregory P. Hovious, 563150*; withdrew his appeal, therefore the matter is dismissed.

SALES AND USE TAX APPEALS HEARINGS

James Michael Duggan, 441787 (UT)

3-9-04, \$2,175.00 Tax, \$0.00 Finality Penalty

For Taxpayer:	James Michael Duggan, Taxpayer
	James M. Bracken, Representative
For Sales and Use Tax Department:	Kevin Smith, Tax Counsel

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

Issue: Whether taxpayer's purchase and use of the vehicle is subject to California use tax.

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.

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DK Supplies, Inc., 509933 (EA)

4-1-06 to 3-31-09, \$168,676.46 Tax, \$16,867.64 Negligence Penalty

For Petitioner: No Appearance

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

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

Issue: Whether adjustments are warranted to the disallowed claimed nontaxable sales for resale.

Action: The Board denied the petitioner's request for postponement and deferred consideration of the matter to the following day.

Global Air Com, Inc., 488913 (GH)

4-1-05 to 7-31-06, \$129,454.50 Tax, \$0.00 Negligence Penalty

Global Air Connection, LLC, 488785 (GH)

2-1-06 to 3-31-08, \$131,231.07 Tax, \$0.00 Negligence Penalty

For Petitioners: Tran La, Witness

Kim Phan, Witness

Trevor Zink, Attorney

For Sales and Use Tax Department: Scott Claremon, Tax Counsel

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

Issues: Whether adjustments are warranted to unreported sales.

Whether relief of interest is warranted.

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.

The Board recessed at 12:32 p.m. and reconvened at 1:54 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

East Bay Supply, Inc., 436174 (CH)

7-1-01 to 6-30-04, \$174,572.41 Tax

For Petitioner: Jesse W. McClellan, Representative

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

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

Issue: Whether petitioner has shown that additional adjustments to the audited amount of understated taxable sales 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 3:27 p.m. and reconvened at 3:34 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

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SPECIAL PRESENTATION**Presentation of Board Resolution to Regina V. Evans-Jarrett**

On behalf of the Board, Mr. Horton presented to Regina V. Evans-Jarrett, Chief of Staff, Fourth District, a resolution, extending its sincere and grateful appreciation for her dedicated service to the State Board of Equalization and the State of California (Exhibit 11.2). Members made complementary remarks regarding their experiences working with Mrs. Evans-Jarrett. Mrs. Evans-Jarrett thanked the Members, and made complementary remarks regarding the Executive Director, and thanked the Deputy Directors for their helpfulness in the Executive Director's absence, and thanked staff for their support.

SALES AND USE TAX APPEALS HEARINGS**Sheakh Sahib, 457738 (BH)**

7-1-04 to 6-30-07, \$50,368.40 Tax, \$0.00 Negligence Penalty

For Petitioner: M. Ali D. George, Representative

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

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

Issues: Whether petitioner has established that further reductions to the audited understatement of taxable gasoline sales are warranted.

Whether petitioner has established that relief from any portion of the interest 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.

Ann L. Diley, 416784 (OH)

1-1-96 to 3-1-98, \$37,353.26 Claim for Refund

For Claimant: Jesse W. McClellan, Representative

For Sales and Use Tax Department: Scott Claremon, Tax Counsel

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

Issues: Whether the Board's levy was invalid.

Whether the claim for refund should be granted because claimant is entitled to relief from liability as an innocent spouse.

Whether the levied funds represent claimant's sole and separate property, which cannot be taken to satisfy Mr. Diley's unpaid tax debts.

Whether the levied funds were protected under the Homestead Act.

Whether the liability upon which the Notice of Levy is based is invalid because it was incorrectly determined against Mr. Diley as a sole proprietor when, in fact, the liability was that of Betty Elyse Properties, Inc., and whether adjustments are warranted to the underlying liability.

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

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S & C Motors, 468140 (BH)

7-1-01 to 12-31-02, \$214,572.66 Tax

For Petitioner:

Mark A. Wasser, Attorney

Alan Feld, Witness

For Sales and Use Tax Department:

Monica Silva, Tax Counsel

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

Issues: Whether petitioner was the retailer for the sales at issue.

Whether an adjustment is warranted to the amount of disallowed exempt sales in interstate commerce.

Whether relief is warranted under Revenue and Taxation Code section 6596 because petitioner's failure to remit the tax was due to its reasonable reliance on written advice from the Board.

Whether relief of interest is warranted under section 6593.5.

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.

Benjamin Rojas, 546335 (CH)

7-1-06 to 6-30-09, \$23,455.47 Tax, \$2,345.54 Negligence Penalty

For Petitioner:

Benjamin Rojas, Taxpayer

For Sales and Use Tax Department:

Marc Alviso, Hearing Representative

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

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

Whether petitioner was negligent.

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.

PUBLIC HEARING

Proposed Adoption of Amendments to Property Tax Rules 101, *Board-Prescribed Exemption Forms*, 171, *Board-Prescribed Forms for Property Statements*, 252, *Content of Assessment Roll*, and 1045, *Administration of the Annual Racehorse Tax*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, was available to answer questions regarding the proposed adoption of amendments to Property Tax Rules 101, 171, 252, and 1045, which clarify the provisions regarding the use of Board-prescribed property tax forms, and the requirements for local assessment rolls ([Exhibit 11.3](#)).

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

Action: 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 adopted the proposed amendments to Property Tax Rules 101, 171, 252, and 1045 as recommended by staff.

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LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Elizabeth Shutters, Inc., 538185 (EH)*.

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:

Wendell Daran Ferguson, 549115 (CH)

1-1-06 to 6-30-06, \$1,667.50 Tax, \$335.85 Finality Penalties, \$87.32 Late Prepayment Penalty

Action: Redetermine as recommended by the Appeals Division.

Hubert Daniel, 520133 (KH)

10-1-03 to 9-30-05, \$0.00 Tax, \$2,128.70 Late Payment Penalties

Action: Redetermine as recommended by the Appeals Division.

James Rexford Hudson, Jr. and Roberta Lee Hudson, 423020, 586244 (CH)

4-1-08 to 6-30-03, \$191,984.69 Tax, \$47,996.17 Fraud Penalty, \$18,565.01 Finality Penalty

Action: No further adjustments be made in the administrative protest and deny the claim for refund as recommended by the Appeals Division.

Daryle Franklin Lupretta, 547396, 586222 (GH)

7-1-06 to 8-31-09, \$16,504.74 Tax, \$1,650.50 Negligence Penalty

Action: Deny the claim for refund and redetermine as recommended by the Appeals Division.

John Thomas Crowley and Anne-Laure Crowley, 468395, 556738 (JH)

12-1-06 to 12-31-09, \$5,254.23 Tax

Action: Deny the claim for refund and redetermine as recommended by the Appeals Division.

Jessica Meza and John R. Meza, 533998 (CH)

1-1-07 to 3-31-08, \$101,392.05 Tax, \$10,139.23 Negligence Penalty, \$10,139.21 Finality Penalty

Action: No adjustments be made in the administrative protest as recommended by the Appeals Division.

Rajpal Singh Bhullar and Sherpunjab Singh Bhullar, 533531 (KH)

1-1-07 to 3-31-09, \$63,840.15 Tax, \$0.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Harpreet Kaur, 536914 (CH)

10-1-06 to 9-30-09, \$17,185.84 Tax, \$1,539.25 Negligence Penalty, \$179.27 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

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Khalil Tahiry, 473076 (CH)

7-1-04 to 6-30-07, \$14,551.00 Tax, \$0.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Appleton Tincheung Yum, 464485 (BH)

7-1-04 to 6-30-07, \$71,717.21 Tax, \$7,171.77 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Ferede Beyene Negash and Lielti Desta Mesfi, 444110, 479018, 512038, 512039, 512040, 608101 (GH)

1-1-05 to 12-31-07, \$14,185.86 Tax, \$1,418.62 Negligence Penalty

2-1-05 to 2-28-05, \$884.97 Claim for Refund

7-1-08 to 9-30-08, \$63.00 Tax

1-1-09 to 3-31-09, \$281.00 Tax

10-1-08 to 12-31-08, \$166.00 Tax

4-1-01 to 4-30-03, \$5,016.00 Claim for Refund

Action: Deny the claims for refund and redetermine as recommended by the Appeals Division.

Cal-Door Enterprises of Northern California, 525159 (CH)

1-1-06 to 3-30-09, \$276,028.78 Tax, \$27,602.92 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Swertfeger's Equipment, Inc., 420299, 431085 (EH)

1-1-02 to 6-30-05, \$57,162.22 Tax

1-1-05 to 3-31-05, \$15,919.00 Claim for Refund

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Elizabeth Shuttters, Inc., 538185 (EH)

10-1-05 to 9-30-08, \$1.00 or more Claim for Refund

Action: The Board took no action.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Cam Painting, Inc.*, 531722; *James A. Haverkamp*, 550350; and, *J.N.D. Thomas Company, Inc.*, 563994.

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

Jose A. Magdaleno, 573105

2008, \$994.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Joseph E. Sloan, 576927

2006, \$6,412.00 Tax, \$1,603.00 Late Filing Penalty, \$1,282.40 Accuracy-Related Penalty

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

Gregory Stover, 572570

2008, \$964.00 Tax, \$241.00 Late Filing Penalty, \$243.75 Demand Penalty

Steven Olmos, 572574

2008, \$25,483.00 Tax, \$6,370.75 Late Filing Penalty, \$6,370.75 Demand Penalty

Alexander H. Watts, 587892

2009, \$931.00 Tax, \$232.75 Late Filing Penalty, \$232.75 Demand Penalty

Benjamin F. Killen, 597598

2008, \$1,776.00 Tax, \$444.00 Late Filing Penalty, \$444.00 Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose frivolous appeal penalties in the following amounts: Case No. 572570 \$2,500.00; Case No. 572574 \$5,000.00; Case No. 587892 \$750.00; and, Case No. 597598 \$5,000.00.

Daryl Asato, 574540

2008, \$1,240.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Pandora Bethea, 593572

2009, \$944.00 Tax, \$236.00 Failure to Furnish Information Penalty

Action: Sustain the action of the Franchise Tax Board.

Patricia Bragg, 567669

2005, \$293,020.00 Tax, \$57,188.00 Accuracy Related Penalty

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

William C. Bryan, 556203

2008, \$789.50 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Cam Painting, Inc., 531722

2004, \$89,570.50 Assessment

Action: The Board took no action.

Al Dalupan, 562387

2005, \$1,570.00 Assessment

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

DG Resource, LLC, 575594

2010, \$800.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Scott Grossman, 566834

2007, \$6,817.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

James A. Haverkamp, 550350

2006, \$95.17 Interest

Action: The Board took no action.

Mark Alan Hoffman and Clementina M. Hoffman, 559879

2008, \$600.23 Tax, \$2,646.48 Late Payment Penalty

Action: Sustain the action of the Franchise Tax Board.

Hunter Living Trust B, 547008

2002, \$895,271.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

J.N.D. Thomas Company, Inc., 563994

2006, \$47,038.01 Assessment

Action: The Board took no action.

Lee & Jackson Financial Services, Inc., 577560

2008, \$5,731.46 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ruby Lemos, 576844

2007, \$420.00 Claim for Refund

2008, \$816.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Muddhouse Coffee, LLC, 586680

2008, \$20,084.01 Assessment

Action: Sustain the action of the Franchise Tax Board.

Nancy A. Nugent, 592016

2008, \$5,506.40 Late Payment Penalty, \$562.40 Estimated Tax Penalty

Action: Sustain the action of the Franchise Tax Board.

William P. Shannahan, 561554

2001, \$9,393.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

SUP, Inc., 571262

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

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

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Tech Agricultural, Inc., 565933
2007, \$94,735.00 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

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

With respect to the Sales and Use Tax Matters, Redeterminations, Denials of Claims for Refund, 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:

Peet's Coffee & Tea, Inc., 586628 (CH)
4-1-06 to 6-30-09, \$315,109.66
Action: Approve the redetermination as recommended by staff.

R.W. Smith & Co., 576394 (FH)
7-1-05 to 6-30-08, \$125,276.97
Action: Approve the redetermination as recommended by staff.

Kars To Go, Inc., 546570 (FH)
4-1-05 to 3-31-08, \$144,712.61
Action: Approve the redetermination as recommended by staff.

Ingersoll-Rand Company, 589948 (OH)
1-1-05 to 12-31-09, \$368,463.58
Action: Approve the denial of claim for refund as recommended by staff.

Nokia, Inc., 558563 (OH)
1-1-08 to 9-30-09, \$291,105.21
Action: Approve the denial of claim for refund as recommended by staff.

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

The Board deferred consideration of the following matters: *HSBC Automotive Finance, Inc., 462820 (FH)*; and, *HSBC Automotive Finance, Inc., 425873 (FH)*.

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

G-Two Graphic Service, Inc., 300436 (AC)
1-1-02 to 12-31-07, \$974,700.11
Action: Approve the refund as recommended by staff.

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Super Photo Laboratory, Inc., 450706 (AS)

1-1-05 to 7-31-09, \$117,806.82

Action: Approve the refund as recommended by staff.

Hanson Structural Precast, 606056 (OH)

7-1-09 to 6-30-11, \$193,964.09

Action: Approve the refund as recommended by staff.

Insync Media, 400775 (AS)

1-1-06 to 11-28-07, \$315,343.52

Action: Approve the refund as recommended by staff.

Jaco Oil Company, 596440 (AR)

10-1-08 to 9-30-11, \$208,200.48

Action: Approve the refund as recommended by staff.

Thomas Jay Jamieson, 596439 (AR)

10-1-08 to 9-30-11, \$191,315.61

Action: Approve the refund as recommended by staff.

Marchbanks Truck Service, Inc., 613610 (AR)

7-1-10 to 3-31-12, \$131,141.00

Action: Approve the refund as recommended by staff.

Inland Empire Utilities Agency, 614042 (EH)

4-1-08 to 6-30-11, \$203,709.29

Action: Approve the refund as recommended by staff.

Sanmina-Sci Corporation, 613282 (GH)

10-1-07 to 3-31-10, \$489,670.52

Action: Approve the refund as recommended by staff.

The Boeing Company, 597763 (OH)

10-1-05 to 9-30-10, \$2,238,223.77

Action: Approve the refund as recommended by staff.

Ingersoll-Rand Company, 589948 (OH)

1-1-05 to 12-31-09, \$775,881.42

Action: Approve the refund as recommended by staff.

Gep Leasing, Inc., 626365 (OH)

7-1-06 to 6-30-09, \$111,485.63

Action: Approve the refund as recommended by staff.

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Nokia, Inc., 558563 (OH)

1-1-08 to 9-30-09, \$561,995.29

Action: Approve the refund as recommended by staff.

Mc-Donnell Douglas Corporation, 613523 (OH)

1-1-06 to 12-31-09, \$452,063.67

Action: Approve the refund as recommended by staff.

Northrop Grumman Systems Corporation, 476959 (OH)

1-1-02 to 12-31-07, \$1,399,409.23

Action: Approve the refund as recommended by staff.

Fastrip Oil Company, LP, 596435 (AR)

10-1-08 to 9-30-11, \$103,378.09

Action: Approve the refund as recommended by staff.

HSBC Automotive Finance, Inc., 462820 (FH)

1-1-08 to 6-30-10, \$11,740,278.58

Action: The Board took no action.

HSBC Automotive Finance, Inc., 425873 (FH)

1-1-05 to 12-31-07, \$1,526,991.48

Action: The Board took no action.

Michaels Stores Procurement Company, Inc., 572809 (OH)

10-1-06 to 9-30-10, \$1,003,476.19

Action: Approve the refund as recommended by staff.

WMC-A, Inc., 535427 (EA)

4-1-07 to 6-30-11, \$131,643.89

Action: Approve the refund as recommended by staff.

Chapman Medical Center, Inc., 535429 (EA)

4-1-07 to 3-31-10, \$142,199.74

Action: Approve the refund as recommended by staff.

Citigroup, Inc. & Subsidiaries & Affiliates, 526524 (OH)

7-1-08 to 12-31-10, \$8,046,534.87

Action: Approve the refund as recommended by staff.

Daniels Sharpsmart, Inc., 561182 (OH)

12-1-04 to 12-31-06, \$119,587.41

Action: Approve the refund as recommended by staff.

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American Stores Company, LLC, 422010 (OH)

6-2-06 to 6-30-09, \$1,388,411.58

Action: Approve the refund as recommended by staff.

Compound Focus, Inc., 613557 (BH)

10-1-08 to 9-30-11, \$121,757.55

Action: Approve the refund as recommended by staff.

The MT Group, Inc., 573025 (AC)

1-18-10 to 3-31-11, \$192,868.98

Action: Approve the refund as recommended by staff.

K B A North America, Inc., 620863 (OH)

4-1-11 to 6-30-11, \$275,454.00

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, RELIEF OF PENALTIES, CONSENT

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

Flyers Energy, LLC, 627022 (MT)

12-1-10 to 12-31-10, \$302,140.40

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

California Capital Insurance Co., 627272 (ET)

10-1-11 to 12-31-11, \$141,317.29

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

SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon 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 order:

TA Operating, LLC, 589763 (MT)

1-1-11 to 2-28-11, \$274,218.46

Action: Approve the refund as recommended by staff.

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PROPERTY TAXES MATTERS, CONSENT

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

Petitions for Reassessment of Unitary Value

Golden State Water Company (101), 621371

2012, \$590,600,000.00 Unitary Value

Action: Reduce the 2012 unitary value to \$582,900,000.00 as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

GenOn Energy West, LP – Mandalay (1114), 621405

2012, \$53,100,000.00 Unitary Value

Action: Reduce the 2012 unitary value to \$45,300,000.00 as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

GenOn Energy West, LP – Etiwanda (1116), 621411

2012, \$40,400,000.00 Unitary Value

Action: Reduce the 2012 unitary value to \$36,400,000.00 as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

Pay-Less Cellular, Inc. (2683), 621456

2012, \$2,480,000 Unitary Value, \$248,000.00 Penalty

Action: Reduce the 2012 unitary value to \$62,100.00 and reduce the penalty amount to \$6,210.00 as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

XO Communications, Services, LLC (7560), 612561

2012, \$114,100,000 Unitary Value

Action: Reduce the 2012 unitary value to \$100,200,000.00 as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

Petitions for Penalty Abatement on Unitary Value

Cal-Ore Communications, Inc. (8079), 612598

2012, \$55,600.00 Penalty

Action: Approve the penalty abatement on 2012 unitary value as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

California Broadband Cooperative, Inc. (8139), 620618

2012, \$35,900.00 Penalty

Action: Approve the penalty abatement on 2012 unitary value as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

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CENIC Broadband Initiatives, LLC (8141), 613830

2012, \$55,500.00 Penalty

Action: Approve the penalty abatement on 2012 unitary value as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

Digital West Networks, Inc. (8148), 621343

2012, \$131,000.00 Penalty

Action: Approve the penalty abatement on 2012 unitary value as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

LEGAL APPEALS PROPERTY TAXES MATTERS, CONSENT

The Board deferred consideration of the following matters: *Southern California Edison Company (148), 614402; High Desert Power Trust 2000-A (1127), 620705; Delta Energy Center, LLC (1128), 620699; Pastoria Energy Facility (1131), 620700; Calpine Construction Finance Company, LP (1132), 620702; Metcalf Energy Center, LLC (1133), 620703; and, Otay Mesa Generating Company, LLC (1134), 620704.*

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

Petitions for Reassessment of Unitary Value

Central Valley Gas Storage, LLC (104), 621332

2012, \$123,400,000.00 Unitary Value

Action: Reduce the 2012 unitary value to \$95,800,000.00 as recommended by the Appeals Division. Ms. Mandel not participating in accordance with Government Code section 7.9.

Gill Ranch Storage, LLC (121), 621414

2012, \$167,200,000.00 Unitary Value

Action: Reduce the 2012 unitary value to \$148,000,000.00 as recommended by the Appeals Division. Ms. Mandel not participating in accordance with Government Code section 7.9.

Southern California Edison Company (148), 614402

2012, \$18,119,500,000.00 Unitary Value

Action: The Board took no action.

High Desert Power Trust 2000-A (1127), 620705

2012, \$278,600,000.00 Unitary Value

Action: The Board took no action.

Wednesday, November 14, 2012

Delta Energy Center, LLC (1128), 620699
2012, \$381,500,000.00 Unitary Value
Action: The Board took no action.

Pastoria Energy Facility (1131), 620700
2012, \$372,300,000.00 Unitary Value
Action: The Board took no action.

Calpine Construction Finance Company, LP (1132), 620702
2012, \$173,800,000.00 Unitary Value
Action: The Board took no action.

Metcalf Energy Center, LLC (1133), 620703
2012, \$282,200,000.00 Unitary Value
Action: The Board took no action.

Otay Mesa Generating Company, LLC (1134), 620704
2012, \$367,900,000.00 Unitary Value
Action: The Board took no action.

La Paloma Generating Company, LLC (1112), 621350
2012, \$401,900,000.00 Unitary Value
Action: Reduce the 2012 unitary value to \$377,600,000.00 as recommended by the Appeals Division. Ms. Mandel not participating in accordance with Government Code section 7.9.

LEGAL APPEALS MATTERS, ADJUDICATORY

Fence America, Inc., 479354 (KH)
1-1-04 to 12-31-06, \$361,344.77 Tax
Considered by the Board: May 30, 2012
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
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 redetermined as recommended by the Appeals Division.

Louis John Bonacich, Jr., 493991, 568375, (KH)
1-1-04 to 12-31-06, \$6,485.58 Tax, \$648.61 Negligence Penalty
Considered by the Board: May 30, 2012
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
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 redetermined as recommended by the Appeals Division.

Wednesday, November 14, 2012

Loh Sun International, Inc., Kent La, Nancy La and John La, 480987, 480989, 506428 (ET)

1-1-01 to 6-30-03, \$2,049,540.00 Tax, \$512,385.00 Fraud Penalty

7-1-03 to 7-31-03, \$60,117.00 Tax, \$15,029.25 Fraud Penalty

7-1-03 to 7-31-03, \$133,110.00 Tax, \$33,277.50 Fraud Penalty

Considered by the Board: April 26, 2012

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

Action: Upon motion of Ms. Steel, seconded by Mr. Runner and duly carried, Mr. Horton, Ms. Steel and Mr. Runner voting yes, Ms. Yee and Ms. Mandel voting no, the Board ordered that the petition for rehearing be granted.

William Blaine Riggle, 417558, 417559 (FH)

7-1-01 to 8-31-04, \$551,272.00 Tax, \$55,127.20 Late Payment Penalty, \$3,480.10 EFT Penalty, \$6,774.60 EFT Prepayment Penalty

4-1-04 to 7-31-04, \$25,040.46 Tax, \$3,391.20 Late Payment Penalty

Considered by the Board: February 1, 2012

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

Action: Mr. Runner moved that the petition for rehearing 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.

Upon 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 rescinded its prior vote.

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

RMDI Corporation, 594848

2008, \$65,484 Claim for Refund

Considered by the Board: October 23, 2012

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

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 adopted a decision sustaining the action of the Franchise Tax Board.

Tim Barth and Teri Barth, 562294

2008, \$951.75 Assessment

Considered by the Board: August 21, 2012

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

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

Wednesday, November 14, 2012

Ali Amidy and Guiti Nahavandi, 524954

2004, \$111,346.00 Tax, \$19,911.40 Accuracy-Related Penalty

Considered by the Board: March 20, 2012

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

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 modified the action of the Franchise Tax Board.

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 *Lisa Renee Bach; James Anthony DiPinto; Douglas C. Erickson; Michael C. Fikaris; Primitivo Guzman; Maria Elena Guzman; Gary Michael Lawson, Sr.; Frank T. Marino; Michael Alan Morales; and, Terry L. Scheurer;* as recommended by staff.

LOCAL TAX REALLOCATION MATTERS

Cities of Agoura Hills, Alameda, Albany, Bakersfield, Belmont, Berkeley, Beverly Hills, Brisbane, Calabasas, Campbell, Carlsbad, Chula Vista, Clovis, Compton, Cupertino, Daly City, Davis, Delano, Del Mar, East Palo Alto, El Cajon, El Monte, Emeryville, Escondido, Fillmore, Foster City, Fremont, Fresno, Gardena, Gilroy, Half Moon Bay, Hawthorne, Hayward, Kerman, Kingsburg, Los Angeles, Menlo Park, Milpitas, Moreno Valley, Morgan Hill, Palmdale, Palo Alto, Pasadena, Rancho Cordova, Rancho Palos Verdes, Redwood City, Reedley, Ridgecrest, Rolling Hills Estates, Roseville, Sacramento, San Bruno, San Diego, Sanger, San Jose, San Leandro, San Mateo, Santa Clara, Santa Fe Springs, Saratoga, Selma, Shafter, South San Francisco, Torrance, Union City, Westlake Village, West Sacramento, Woodland, Town of Los Gatos, Counties of Los Angeles and Sacramento, and City and County of San Francisco, 469672

6-1-06 to 12-31-11, \$1,955,220.00 Tax

Considered by the Board: Memorandum Opinion

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel voting no, Mr. Runner not participating, the Board adopted the Memorandum Opinion Alternative 1 as presented by staff.

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ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 7:50 p.m. and reconvened immediately in closed session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss 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 8:29 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Mr. Horton announced the appointment of Randy Silva to the position of Chief, Investigations and Special Operations Division, Legal Department.

The Board recessed at 8:31 p.m.

The foregoing minutes are adopted by the Board on June 11, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Angela Leiva and Abundio Hernandez, 514979 (CH); Noorneel, Inc., 538911 (CH); Amar Abdo Alamy, 513144 (KH); Sweetwater Restaurants, LLC, 491317 (KH); Rent-A-Center West, Inc., 484209 (OH); and, Hukilau, LLC, 533841 (BH).*

Thursday, November 15, 2012

The Board met at its offices at 450 N Street, Sacramento, 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.

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS

Technology Deputy Director's Report

Brenda Fleming, Chief Information Officer and Deputy Director, introduced Carlos Ramos, Secretary of the California Technology Agency, who provide a presentation on the overall state information technology strategy, role and responsibilities of the State's Chief Information Officer, and implications of the Governor's Reorganization Plan (GRP) ([Exhibit 11.4](#)).

Exhibits to these minutes are incorporated by reference.

The Board recessed at 10:18 a.m. and reconvened at 10:56 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARING

Walid Khaled Awwad, 512991 (GH)

1-1-01 to 3-31-08, \$0.00 Tax, \$44,568.65 Fraud Penalty, \$20,162.96 Tax Collected But Not Remitted Penalty, \$7,232.02 Amnesty Double Fraud Penalty

For Petitioner: Abe Golomb, Representative

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

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

Issues: Whether the Department has established fraud by clear and convincing evidence.
Whether the 40 percent penalty for tax reimbursement collected and not timely remitted as sales tax was properly imposed.

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.

SPECIAL TAXES APPEALS HEARINGS

Akop Jack Chichyan, Vicken Djeredjian and Mnatsakan Mike Grigoryan, 388129 (ET)

10-1-00 to 2-28-02, \$3,001,500.00 Tax, \$750,375.00 Fraud Penalty, \$300,150.00 Failure to File Penalty

For Petitioners: Vicken Djeredjian, Taxpayer

Abe Golomb, Representative

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

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

Issues: Whether further adjustments are warranted to the measure of tax.
Whether the failure-to-file penalty should be relieved.

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Whether the 25-percent penalty for fraud or intent to evade is supported by clear and convincing evidence.

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.

Retailers License Denial Appeal Hearing

Cig Row, Inc., 588150 (ET)

8-2-11 Date of Citation

For Petitioner:

Caitlin Anne Colman, Representative

Patrick Finnegan, Representative

Caitlin Colman, Representative

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

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

Issue: Whether the Special Taxes and Fees Division of the Property and Special Taxes Department properly denied petitioner's application for a Cigarette and Tobacco Products Retailer's license.

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.

CHIEF COUNSEL MATTERS

RULEMAKING

Section 100 Changes to Alcoholic Beverage Tax Regulations 2558 through 2559.5

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, was available to answer questions regarding the request for authorization to complete Rule 100 changes repealing the regulations in conformity with a published opinion from the Court of Appeal ([Exhibit 11.5](#)).

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 approved the section 100 changes as recommended by staff.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

The Board deferred consideration of the following matters: *Adoption of Affidavit of Cotenant Residency, form BOE-58-H*; and, *Adoption of revisions to Change in Ownership Statement, Death of Real Property Owner, form BOE-502-D*.

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

Thursday, November 15, 2012

Action: Adopt the Board Resolution for Regina Evans-Jarrett (see [Exhibit 11.2](#)).

Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come ([Exhibit 11.6](#)).

Eyoline S. Antonio, Tax Technician III, Culver City District Office
Richard Cohen (Revised), Business Taxes Compliance Supervisor II, West Covina District Office
Claudia Gilbreath, Tax Technician III, Sales and Use Tax Department, Headquarters
Pamela J. Hartman, Associate Tax Auditor, Houston District Office
Steven Mark Kamp, Tax Counsel III (Specialist), Legal Department, Headquarters
Carole N. Kellogg, Business Taxes Specialist I, Sales and Use Tax Department, Headquarters
Connie P. Lopez, Tax Technician III, West Covina District Office
Nancy MacIntosh, Executive Secretary I, Sales and Use Tax Department, Headquarters
Aloy E. Nwasu, Associate Tax Auditor, New York District Office
Maria Christina Siegfried, Tax Technician III, Norwalk District Office
Tammie Tessier-Jennings, Northern California Area Administrator, Investigations Division
Maywood Wong, District Principal Compliance Supervisor, Irvine District Office

Action: Approve the Board Meeting Minutes of May 30-31, 2012.

Action: Approve Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factor* ([Exhibit 11.7](#)).

Action: Approve the 2013 Timberland Production Zone Values as recommended by staff ([Exhibit 11.8](#)).

Action: Approve the backfill determination of \$15 million for fiscal year 2011-12 for the effects of Proposition 10 on cigarette and tobacco products consumption as recommended by staff ([Exhibit 11.9](#)).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Cynthia Bridges, Executive Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

Thursday, November 15, 2012

Property and Special Taxes Deputy Director's Report

David Gau, Deputy Director, Property and Special Taxes Department, provided a report regarding the Fire Prevention Fee Program ([Exhibit 11.10](#)).

Ms. Steel requested staff's assistance in resolving fees that were assessed on formerly inhabitable structures that no longer exist.

Ms. Yee requested that staff document problems encountered with implementing the fee with respect to BOE resources, and investigate/evaluate alternatives to seasonal employees and overtime.

Mr. Runner requested staff to provide an update on collection costs for fire prevention fee noncompliance thus far and recalculate estimates for future collection costs.

Mr. Horton directed staff to make a public quarterly report to the Legislature on these items that includes the challenges BOE faces, as well as the benefits.

The Board recessed at 12:38 p.m. and reconvened at 12:46 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

LEGAL APPEALS MATTER, ADJUDICATORY

William Blaine Riggle, 417558, 417559 (FH) (continued from November 14, 2012)
7-1-01 to 8-31-04, \$551,272.00 Tax, \$55,127.20 Late Payment Penalty, \$3,480.10 EFT Penalty, \$6,774.60 EFT Prepayment Penalty

4-1-04 to 7-31-04, \$25,040.46 Tax, \$3,391.20 Late Payment Penalty

Considered by the Board: February 1, 2012

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

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

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD NOVEMBER 14, 2012

Anser Hassan, 536983

Final Action: Ms. Steel moved to allow \$42,000 in home improvements and a property tax credit of \$6,962.04. The motion was seconded by Mr. Runner. Ms. Steel withdrew the motion.

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 a property tax credit of \$6,962.04 be allowed and otherwise sustained the action of the Franchise Tax Board.

Thursday, November 15, 2012

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
NOVEMBER 14, 2012**

DK Supplies, Inc., 509933 (EA)

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

James Michael Duggan, 441787 (UT)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Steel, Ms. Yee and Ms. Mandel voting yes, Mr. Runner voting no, the Board ordered that no further adjustments be made in the administrative protest as recommended by the Appeals Division.

Global Air Com, Inc., 488913 (GH)

Global Air Connection, LLC, 488785 (GH)

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.

East Bay Supply, Inc., 436174 (CH)

Final Action: Upon 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 acknowledged the 28 percent markup for the period July 2001 through December 2001, and ordered that the audited taxable markup of 28 percent for the balance of the period be reduced to 22 percent.

Sheakh Sahib, 457738 (BH)

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.

Ann L. Diley, 416784 (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 the claim denied as recommended by the Appeals Division.

S & C Motors, 468140 (BH)

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

Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered the interest relieved for the period July 2007 through September 2008, and that the petition otherwise be redetermined as recommended by the Appeals Division.

Thursday, November 15, 2012

Benjamin Rojas, 546335 (CH)

Final Action: Ms. Steel moved to delete the negligence penalty, and that the petition otherwise be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Yee. Ms. Steel withdrew the motion.

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 the measure of tax further reduced to allow 15 percent of petitioner's sales as sales for resale, and the negligence penalty deleted, and that the petition otherwise be redetermined as recommended by the Appeals Division.

FINAL ACTION ON SALES AND USE TAX APPEAL HEARING HELD NOVEMBER 15, 2012

Walid Khaled Awwad, 512991 (GH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Steel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division, noting for the record that the 40 percent penalty for sales tax reimbursement collected and not remitted is an evasion penalty.

FINAL ACTION ON SPECIAL TAXES APPEALS HEARINGS HELD NOVEMBER 15, 2012

Akop Jack Chichyan, Vicken Djeredjian and Mnatsakan Mike Grigoryan, 388129 (ET)

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 redetermined as recommended by the Appeals Division.

Retailers License Denial Appeal Hearing

Cig Row, Inc., 588150 (ET)

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 determined that staff properly denied the application for a Cigarette and Tobacco Products Retailer's License, as recommended by the Appeals Division.

ADMINISTRATIVE SESSION

ADOPTION OF BOARD COMMITTEE REPORT AND APPROVAL OF COMMITTEE ACTIONS

Property Tax Committee

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 approved the Property Tax Committee report and the actions therein ([Exhibit 11.11](#)).

The Board recessed at 1:20 p.m. and reconvened at 1:35 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Thursday, November 15, 2012

ANNUAL BOARD MEETING WITH COUNTY ASSESSORS

Mr. Horton opened the annual meeting of the Board and county assessors required under section 15607 of the Government Code to discuss administrative issues related to assessment and taxation laws and to promote uniformity in tax procedural matters throughout the State of California. Mr. Horton provided a brief history, and welcomed the county assessors to the meeting on behalf of the Board. Mr. Horton introduced Honorable James B. Rooney, President Elect, California Assessors' Association (CAA) and Amador County Assessor; Honorable Larry W. Ward, Vice President Elect, (CAA) and Riverside County Assessor/Recorder/Clerk; and, BOE's newly appointed Executive Director Cynthia Bridges.

Greetings and Introductory Remarks by each Board Member

Mr. Runner expressed his thanks and appreciation for the challenging role the county assessors are in and that he seeks to be of help where possible.

Ms. Steel congratulated Mr. Rooney and Mr. Ward on their new roles as President and Vice President of the CAA, respectively. Ms. Steel commented briefly on the fire prevention fee and the split roll issue, then thanked all the county assessors for their hard work and acknowledged those in her district.

Ms. Yee welcomed the county assessors and thanked them for their deep degree of professionalism. Ms. Yee extended particular thanks to Honorable John Tuteur, Napa County Assessor/Recorder/Clerk, for proactively disseminating correct information about the fire prevention fee as issues have been raised. Ms. Yee extended well wishes to retired Marin County Assessor Joan Thayer and San Luis Obispo County Assessor Tom Bordonaro for their speedy recoveries.

Ms. Mandel welcomed the county assessors on behalf of State Controller John Chiang and herself, and stated that she looks forward to meeting those county assessors that she has not met.

Opening Remarks by California Assessors' Association

Honorable James B. Rooney, President Elect, California Assessors' Association, and Amador County Assessor, made complementary remarks regarding BOE staff and discussed: county workload associated with supplemental bills and refunds; increase in Proposition 8 properties in the coming year; the fire prevention fee, including prompt resolution to a problem that arose; classification of pilot agreements and uniform application of the Welfare Exemption Law; and, the Assessment Practices Survey Program. Mr. Rooney suggested that county assessors be informed in advance when their information will be used in future programs, to help them prepare for inquiries and any issues that may arise.

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Honorable Larry W. Ward, Vice President Elect, (CAA) and Riverside County Assessor/Recorder/Clerk, discussed temporarily reduced property values based on Proposition 8 and educating property owners as those values rebound. With regard to the coming year, Mr. Ward noted that while the issue of embedded software will have implications for all counties, these are some examples of issues that affect only some: solar and wind energy producing properties; and, assessment of possessory interests on tribal lands. Mr. Ward discussed the issue of funding county assessors and hopes that the BOE will support the counties on this issue so they can revisit some of the successful programs that were available to county assessors in the past.

Mr. Horton stated that he would be supportive of a joint conference to enable county assessors to collaborate earlier with the BOE and to participate in the deliberation of legislation to ensure adequate funding for the county assessors.

Embedded Software Update

Mr. Runner introduced Mike Harris, Principal Property Appraiser, County Assessed Properties Division, Property and Special Taxes Department, who provided an update on staff's efforts regarding embedded software since the discussion at last year's meeting between the Board and counties, and outlined efforts going forward ([Exhibit 11.12](#)).

Speaker: Therese Twomey, Fiscal Policy Director, California Taxpayers' Association

Panel Discussion on Funding for Property Tax Administration

Mr. Runner made opening remarks regarding funding for property tax administration and introduced the panelists listed below ([Exhibit 11.13](#)).

Panelists: Honorable Lawrence E. Stone, Santa Clara County Assessor
Honorable Joseph E. Holland, Santa Barbara County Assessor/Recorder/Clerk,
and Registrar of Voters ([Exhibit 11.14](#))
Honorable David E. Cogdill, Sr., Stanislaus County Assessor

Ms. Yee discussed a proposal for new legislation for property tax administration assistance from the State ([Exhibit 11.15](#)).

The Board adjourned at 3:09 p.m.

The foregoing minutes are adopted by the Board on June 11, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *Executive Director's Report: Maximizing Efficiency and Effectiveness; Administration Deputy Director's Report: Budget Update; and, Customer Services and Administrative Efficiency Committee.*