

Tuesday, July 26, 2011

The Board met at its offices at 450 N Street, Sacramento, at 10:44 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.

PUBLIC COMMENT

Speakers: Vikram Vohra, Owner/Partner, Palm Bluffs Liquor, *Vinay Vohra and Vikram Vohra, 553888 (ET) (Exhibit 7.1)*
 William M. Connell, Military Veteran and owner of All American Surf Dog
 (Exhibit 7.2)

Exhibits to these minutes are incorporated by reference.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Max D. Price, 552608

2008, \$523.00 Tax, \$130.75 Late Filing Penalty, \$843.00 Notice and Demand (Demand) Penalty

For Appellant:

Max D. Price, Taxpayer

For Franchise Tax Board:

Ted Tourian, Tax Counsel

Suzanne Small, Tax Counsel

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

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

Whether appellant has shown reasonable cause for the abatement of the late filing penalty and/or the demand penalty.

Whether the Board should impose a frivolous appeal penalty.

Appellant's Exhibit: Brushaber v. Union Pacific R. Co., 240 U.S. 1 (1916) (Exhibit 7.3)

Respondent's Exhibit: Correspondence (Exhibit 7.4)

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.

SALES AND USE TAX APPEALS HEARINGS

Paul Glasson, 482541 (CH)

10-1-02 to 9-30-05, \$76,703.72 Tax, \$0.00 Negligence Penalty

For Petitioner:

Paul Glasson, Taxpayer

John Glasson, Representative

For Sales and Use Tax Department:

Andrew Kwee, Tax Counsel

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

Issues: Whether adjustments are warranted to the disallowed claimed nontaxable sales.

Whether adjustments are warranted to the audited unreported sales.

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

The Board recessed at 12:13 p.m. and reconvened at 1:35 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

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La Mordida, Inc., 470304 (GH)

1-1-04 to 12-31-06, \$11,913.35 Tax, \$5,355.00 Negligence Penalty

For Petitioner: Gary Kimzey, Representative

For Sales and Use Tax Department: Scott Lambert, 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. 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.

PUBLIC HEARINGS

Proposed Adoption of Regulation 1685.5, *Calculation of Estimated Use Tax – Use Tax Table*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks concerning the continuation of the June 21, 2011 public hearing regarding staff's request that the Board adopt proposed Sales and Use Tax Regulation 1685.5 to implement the new use tax table provisions of Revenue and Taxation Code section 6452.1 ([Exhibit 7.5](#)).

Speaker: Gina Rodriguez, Vice President of State Tax Policy, California Taxpayers Association

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board adopted proposed Regulation 1685.5, *Calculation of Estimated Use Tax – Use Tax Table*, as recommended by staff.

CHIEF COUNSEL MATTERS

RULEMAKING

Proposed Amendments to Regulation 1533.2, *Diesel Fuel Used in Farming Activities of Food Processing* and Regulation 1598, *Motor Vehicle and Aircraft Fuels*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for adoption of proposed amendments to Sales and Use Tax Regulations 1533.2 and 1598 to incorporate provisions of the fuel tax swap (Stats. 2010, ch. 11) as re-enacted by Assembly Bill No. 105 (Stats. 2011, ch. 6) on March 24, 2011 ([Exhibit 7.6](#)).

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 revised amendments as published in the 15-day file.

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OTHER CHIEF COUNSEL MATTERS**Outreach Partnerships**

Deborah Cooke, Tax Counsel, Settlement and Taxpayer Services Division, Legal Department, Anita Gore, Deputy Director, External Affairs Department, and Kari Hammond, Manager, Outreach Division, External Affairs Department, provided an update and discussion on the development of guidelines for outreach partnerships ([Exhibit 7.7](#)).

Action: Ms. Mandel moved to direct staff to draft guidelines for outreach events and partnerships. The motion was seconded by Ms. Yee but failed to carry, Ms. Yee and Ms. Mandel voting yes, Mr. Horton, Ms. Steel, Mr. Runner and voting no.

Mr. Horton directed staff to have the recommendations that have been brought forward be examined, meet with each Member for input; and return to the Board with a recommendation for discussion, along with a summary of other agencies guidelines, policies, best practices, and the law.

Statements of Economic interest (FPPC Form 700s) and Travel Claim Schedules

Deborah Cooke, Tax Counsel, Settlement and Taxpayer Services Division, Legal Department, and Anita Gore, Deputy Director, External Affairs Department, provided an update and discussion on establishing a practice of posting Statements of Economic Interest (FPPC Form 700s) and travel claim schedules for Board Members, their staff, and executive staff members on the Board's website. ([Exhibit 7.8](#)).

Action: Ms. Mandel moved to direct staff to post to its website Form 700 and travel expense claims for Members, their staff, and the BOE's senior decision makers, and policy making staff. The motion was seconded by Ms. Yee but failed to carry, Ms. Yee and Ms. Mandel voting yes, Mr. Horton, Ms. Steel, Mr. Runner and voting no.

Ms. Yee moved to direct staff to post to its website Form 700 and travel expense claims for Members, their Chief Deputies, and the BOE's Executive staff. The motion was seconded by Ms. Mandel but failed to carry, Ms. Yee and Ms. Mandel voting yes, Mr. Horton, Ms. Steel, Mr. Runner and voting no.

Mr. Horton moved to direct staff to post to BOE's website Form 700 and travel expense claims for Members, their Chief Deputies, and the BOE's Executive staff with the same level of security as the Members. The motion failed for lack of a second.

The Board directed staff to obtain information on costs for private security for Executive staff that would post Forms 700 and travel Claims on the BOE website pursuant to Board direction to do so and provide this information at the September Board meeting.

The Board recessed at 4:29 p.m. and reconvened at 4:37 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Tuesday, July 26, 2011

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARING HELD JULY 26, 2011**

Max D. Price, 552608

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 sustained the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
JULY 26, 2011**

Paul Glasson, 482541 (CH)

Final Action: Mr. Runner moved to recalculate the tax by removing the consignment sale of the vehicle that was driven into Oregon and the car that was purchased and registered in Massachusetts. 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 Mr. Horton, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.

La Mordida, Inc., 470304 (GH)

Final Action: Ms. Yee moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Mandel. Ms. Steel made a substitute motion that the negligence penalty be removed and that the petition otherwise be redetermined as recommended by the Appeals Division. The substitute motion was seconded by Mr. Runner but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

The Board recessed at 4:55 p.m.

The foregoing minutes are adopted by the Board on September 21, 2011.

Note: The following matter was removed from the calendar prior to the meeting: *Family Leisure Products, Inc., 491614 (OH)*.

Note: These minutes are not final until Board approved.

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The Board met at its offices at 450 N Street, Sacramento, at 9:30 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.

SALES AND USE TAX APPEALS HEARINGS

Dansig, Inc., 493691 (EA)

1-1-06 to 12-31-08, \$82,385.70 Tax, \$12,131.64 Negligence Penalty

For Taxpayer:

Donald Sigaty, Taxpayer

Steven E. Paganetti, Attorney

For Sales and Use Tax Department:

Cary Huxsoll, Tax Counsel

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

Issues: Whether adjustments are warranted to disallowed claimed sales for resale.

Whether taxpayer was negligent.

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

The Board recessed at 11:08 a.m. and reconvened at 11:17 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Jamshid Daryanabard, 467994 (GH)

10-1-04 to 9-30-06. \$43,632.83 Tax, \$10,908.24 Fraud Penalty

Jamshid Daryanabard and Tofan Daryanabard, 485017, 556731 (GH)

10-1-06 to 12-31-07, \$12,962.35 Tax, \$3,240.61 Fraud Penalty, \$1,296.24 Finality Penalty

For Petitioner/Claimant:

Jamshid Daryanabard, Taxpayer

Tofan Daryanabard Mariani, Taxpayer

Butch Kruse, Representative

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

Issues: Whether adjustments are warranted to the audited amounts of unreported sales.

Whether the understatements were the result of fraud.

Whether relief of the finality penalty is warranted.

David Levine, Counsel, Appeals Division, Legal Department, advised of the revised recommendation of the Appeals Division to relieve the finality penalty on the partnership if the tax due is paid within 30 days of the notice of the Board's decision.

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 matters be submitted for decision.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Victor S. Baglio, Jr., 473489.*

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

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Competition Wheel Lift, LP, 489584 (AA)

7-1-05 to 6-30-08, \$4,042.50 Tax, \$404.25 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Ayesh H. Ayesh, 390867 (KH)

10-1-02 to 3-18-06, \$31,359.21 Tax, \$3,200.10 10% Negligence Penalty, \$200.32 Amnesty Double Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Sanitech Corporation, 477146 (OH)

4-1-03 to 9-30-07, \$9,272.97 Tax, \$927.35 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

Jeffrey Robert Richardson, 489366 (GH)

4-1-04 to 3-31-07, \$140,932.95 Tax

Action: Redetermine as recommended by the Appeals Division.

Blake's at Boundary Oak, LLC, 488858 (CH)

1-1-03 to 12-31-07, \$239,223.05 Tax, \$23,922.32 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

William Michael Johnson, 391642 (KH)

10-1-04 to 5-31-05, \$19,056.32 Tax, \$2,027.00 Late Payment and Late Filing Penalties

Action: Redetermine as recommended by the Appeals Division.

Super Star Plus Corporation, 567274 (ET)

December 9, 2010, \$1,722.06 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Kumar, Inc., 567730 (ET)

December 29, 2010, \$ 386.50 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Mohsen Saeed Mohamed, 562664 (ET)

December 2, 2010, \$2,578.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Hyun Soo Kim and Ran Ja Kim, 569043 (ET)

February 17, 2011, \$137.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Mikhail Arouk, 569415 (ET)

February 3, 2011, \$888.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Jal Enterprises, Inc., 569416 (ET)

March 7, 2011, \$771.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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B2H2 Oil, Inc., 569042 (ET)

February 17, 2011, \$8,240.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Victor S. Baglio, Jr., 473489 (UT)

9-22-07, \$4,540.23 Tax

Action: The Board took no action.

Thu Anh Le, 479512 (GH)

4-1-05 to 3-31-08, \$87,063.84 Tax, \$8,706.44 Negligence Penalty

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

Five Friends, 472975 (JH)

10-1-04 to 9-30-07, \$64,595.29 Tax

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

Smoke Rings, Inc., 391126 (AR)

6-29-04 to 9-30-06, \$44,423.03 Tax, \$0.00 Penalty

Rami Michell Darghalli and Faiz Mohamed Munassar, 404172 (AR)

10-1-02 to 12-31-03, \$55,992.50 TAX, \$0.00 Penalty

Rami Michell Darghalli, 402639 (AR)

10-1-02 to 6-28-04, \$116,502.17 Tax, \$0.00 Penalty

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

Jill Jan, 406775 (FH)

1-1-00 to 12-31-00, \$21,213.00 Tax, \$2,231.30 Late Payment of Returns Penalty, \$51.67 Failure to File Prepayment Forms Penalty

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

John D. Wright, 445514 (UT)

November 1, 2004, \$34,875.00 Tax

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

Robert Chang Soung, 462258 (GH)

7-1-06 to 4-16-07, \$4,029.00 Tax

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Reyad Sarraj and Nouzat Kanbar, 495511; Stephen A. Schwarzman, 521940; and, Terrie Williams and Richard E. Williams, 550352.*

With respect to the Corporate Franchise and Personal Income Tax 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:

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Edward G. Atsinger, III and Mona J. Atsinger, 341456

1999, \$424,831 Claim for Refund

Action: Dismiss for lack of jurisdiction.

George Shepherd, 534288

2006, \$4,858.00 Tax, \$1,214.50 Late Filing Penalty

Rick Burningham, 531270

2007, \$3,025.00 Tax, \$756.25 Late Filing Penalty, \$1,341.25 Demand Penalty

Carol Grant, 533832

2007, \$1,710.00 Tax, \$427.50 Late Filing Penalty, \$427.50 Demand Penalty

Eldo Klingenberg, 534409

2007, \$5,328 Tax, \$1,332 Late Filing Penalty, \$1,332 Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose frivolous appeal penalties in the amounts of: \$750.00 for *George Shepherd, 534288*; \$5,000.00 for *Rick Burningham, 531270*; \$5,000.00 for *Carol Grant, 533832*; and, \$5,000.00 for *Eldo Klingenberg, 534409*.

Lakisha Traylor, 546379

2009, \$416.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jeffrey Haines and Patti Haines, 342398

1999, \$87,953.00 Claim for Refund

2000, \$89,555.00 Claim for Refund

Action: Dismiss for lack of jurisdiction.

Bernard Salick and Gloria Salick, 345972

1999, \$202,940 Claim for Refund

Lior Elazary, 347628

1999, \$52,264.00 Claim for Refund

2000, \$16,867.00 Claim for Refund

David M. Rosenblatt and Shari B. Gersten, 342057

2001, \$15,653 Claim for Refund

Marc Afsharieh, 346821

1999, \$65,277.00 Claim for Refund

2000, \$21,009.00 Claim for Refund

Action: Dismiss for lack of jurisdiction.

Robert Alderman, 509396

2003, \$5,842.00 Tax, \$1,168.40 Accuracy Related Penalty, \$1,460.50 Late Filing Penalty

Action: Sustain the modified action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Antonio Chavez, 508000

2008, \$550.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Carl Collicott, 510839

2005, \$478.00 Tax, \$119.50 Late Filing Penalty, \$119.50 Notice and Demand Penalty, \$119.50 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Adam Cox and Nicole Meier, 506778

2004, \$2,042.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

Phillip J. Croxton, 515921

2005, \$565.00 Tax

Action: Sustain the action of the Franchise Tax Board as modified by its concession to reduce the additional tax amount to \$469.47 plus interest.

James R. David and Joan R. David, 547235

2007, \$2,008.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

Mutiu O. Fagbayi, 494330

2005, \$446.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

Bijan Ghaderi, 536582

2005, \$242.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Barbara Gutierrez, 551003

2007, \$748.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Kevin T. Haroff, 504686

2004, \$1,303.00 Tax

Action: Modify the action of the Franchise Tax Board to reflect appellant's \$1,700.27 payment with an effective date of July 2, 2008, such that appellant is refunded or credited the resulting overpayment.

Spencer Hosie, 461412

2005, \$ 69,338.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board, as modified, to partially grant appellant's claim for refund in the amount of \$1,545.00.

Steven Huebner, 510920

2006, \$1,604.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

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Robert Licon, 505869

2006, \$946.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board as modified by its concession on appeal to reduce the additional tax from \$946.00 to \$886.00.

Rafy H. Mamian and Shooshik Mamian, 516298

2000, \$73,308.00 Tax, \$54,981.00 Fraud Penalty

2001, \$51,266.00 Tax, \$38,449.50 Fraud Penalty

2002, \$49,452.00 Tax, \$37,089.00 Fraud Penalty

Raymond Mamian and Sossey Mamian, 516306

2000, \$9,989.00 Tax, \$7,491.75 Fraud Penalty

2001, \$6,626.00 Tax, \$4,969.50 Fraud Penalty

2002, \$6,784.00 Tax, \$5,088.00 Fraud Penalty

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

Richard A. Mann and Lu Ann Mann, 509245

2006, \$ 3,932.00 Proposed Assessment, \$786.40 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Miller Family Limited Partnership, 522834

2001, \$650.00 Claim for Refund

2002, \$650.00 Claim for Refund

2003, \$650.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Nicole Muirbrook and Christian Wagner, 510835

2007, \$18,076.00 Tax, \$2,768.10 Late Payment Penalty

Action: Sustain the action of the Franchise Tax Board.

Amado Oliva, 551238

2006, \$2,175.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

Robert Penrod, 511410

2007, \$2,264.00 Tax, \$ 357.50 Late Filing Fee, \$357.50 Failure to File on Demand Penalty,

\$119.00 Filing Enforcement Cost Recovery Fee

Action: Sustain the action of the Franchise Tax Board.

Gerald Pingrey, 552474

2007, \$1,079.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

Cynthia (Jo Saltzman) Pinkus, 495700

1989, \$14,289.00 Tax, \$16,525.42 Amnesty Interest Penalty

Action: Sustain the action of the Franchise Tax Board.

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Richard M. Pirozzoli and Monica D. Pirozzoli, 485922

1995, \$3,169.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Reyad Sarraj and Nouzat Kanbar, 495511

2003, \$18,009.00 Tax, \$3,601.80 Accuracy Related Penalty

Action: The Board took no action.

Stephen A. Schwarzman, 521940

2007, \$43,713.32 Claim for Refund

Action: The Board took no action.

SDFB Family Limited Partnership, 519040

1999, \$1,597.68 Claim for Refund

2000, \$1,802.61 Claim for Refund

2001, \$1,636.55 Claim for Refund

2002, \$1,522.82 Claim for Refund

2003, \$1,413.33 Claim for Refund

2004, \$1,360.92 Claim for Refund

2005, \$1,352.74 Claim for Refund

2006, \$934.80 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Stephanie M. Simpson, 546760

2006, \$521.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

Sonic Automotive, Inc., 505065

2004, \$95,698.00 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

Marque Strong, 470104

2004, \$3,456.00 Tax

Action: Sustain the action of the Franchise Tax Board.

George Sudol, 508874

2008, \$174.79 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Marvin I. Suntonvipart, 505045

2005, \$3,155.00 Tax, \$277.50 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board as modified by its concessions to abate the late filing penalty and reduced the assessment by a California OSTC credit of \$968.00.

Lisa Grace Terk, 516138

2006, \$182.79 Proposed Assessment

Action: Sustain the action of the Franchise Tax Board.

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Robert B. Wallace and Zhen Li, 534510

2008, \$5,288.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Terrie Williams and Richard E. Williams, 550352

2006, \$2,139.00 Tax

Action: The Board took no action.

Alexander Kazerani, 342393

1999, \$43,797.00 Claim for Refund

Action: Deny the petition for rehearing.

Nhut T. Ngo, 525217

2002, \$1,962.37 Claim for Refund

Action: Deny the petition for rehearing.

Roy E. Tuckman, 472789

2006, \$971.00 Proposed Assessment

Action: Deny the petition for rehearing.

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

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

Cargill, Incorporated, 466872 (OH)

10-1-02 to 12-31-05, \$709,178.00

Action: Approve the redetermination as recommended by staff.

Majed Adnan Mansour, 476470 (FH)

7-1-03 to 12-31-03, \$416,574.00

Action: Approve the redetermination as recommended by staff.

Trademark Construction Co., Inc., 416866 (FH)

10-1-02 to 9-30-05, \$494,201.35

Action: Approve the redetermination as recommended by staff.

Union Pacific Railroad Company, 482298 (OH)

1-1-03 to 12-31-06, \$1,181,963.00

Action: Approve the redetermination as recommended by staff.

Siebel Systems, Inc., 326247 (BH)

1-1-00 to 12-31-02, \$969,086.58

Action: Approve the redetermination as recommended by staff.

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UTC Fire & Security Americas Corp., 464477 (OH)

7-1-03 to 6-30-06, \$128,397.31

Action: Approve the redetermination as recommended by staff.

Kaiser Foundation Health Plan, Inc., 350181 (CH)

1-1-03 to 12-31-05, \$450,856.00

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

Dal Chem, Inc., 551943 (EH)

10-1-06 to 6-30-10, \$276,001.00

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

B. Braun Medical, Inc., 524182 (OH)

7-1-05 to 12-31-09, \$178,971.00

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

Newport Acceptance Corp., 434073 (EA)

1-1-05 to 9-30-09, \$126,841.90

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

G & M Oil Co., LLC, 530731 (EA)

7-1-10 to 9-30-10, \$167,354.40

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

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

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of 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:

California Gas Station, LLC, 569013 (KH)

4-23-04 to 3-31-07, \$304,992.22

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

A & D Electronics, LLC, 568694 (EH)

1-1-09 to 12-31-09, \$134,218.18

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

Kaiser Foundation Health Plan, Inc., 399730 (AP)

1-1-04 to 12-31-06, \$1,180,624.16

Action: Approve the refund as recommended by staff.

Pipe Fabricating & Supply Company, 511929 (EA)

10-1-07 to 12-31-08, \$117,570.89

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, July 27, 2011

Peterson Power Systems, Inc., 527071 (CH)

1-1-09 to 9-30-09, \$212,607.06

Action: Approve the refund as recommended by staff.

Tulare Joint Union High Sch. Dist., 558012 (KH)

4-1-07 to 9-30-09, \$102,783.46

Action: Approve the refund as recommended by staff.

Golden Star Technology, Inc., 504761 (AA)

4-1-06 to 6-30-08, \$106,199.39

Action: Approve the refund as recommended by staff.

Far Western Graphics, Inc., 513548 (GH)

7-1-06 to 12-31-09, \$456,658.49

Action: Approve the refund as recommended by staff.

Fry's Electronics, Inc., 567733 (GH)

7-1-09 to 3-31-10, \$434,987.35

Action: Approve the refund as recommended by staff.

Mars Incorporated, 567458 (AA)

10-1-98 to 6-30-06, \$409,341.07

Action: Approve the refund as recommended by staff.

Sodexo Laundry Services, Inc., 536231 (OH)

1-1-05 to 12-31-08, \$776,131.47

Action: Approve the refund as recommended by staff.

Ford Motor Company, 569873 (OH)

2-23-10 to 11-23-10, \$251,756.00

Action: Approve the refund as recommended by staff.

Macy's West Stores, Inc., 536223 (OH)

1-1-07 to 12-31-09, \$1,836,668.99

Action: Approve the refund as recommended by staff.

Dailey and Wells Communications, Inc., 558008 (OH)

7-1-09 to 3-31-10, \$106,315.00

Action: Approve the refund as recommended by staff.

Kaiser Foundation Hospitals, 399732 (AP)

1-1-04 to 12-31-06, \$7,083,723.97

Action: Approve the refund as recommended by staff.

Jeffrey A. Weisz, MD, 399731 (AP)

1-1-04 to 12-31-06, \$3,541,865.66

Action: Approve the refund as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, July 27, 2011

Coast Central Credit Union, 531333 (JH)

7-1-06 to 6-30-10, \$151,698,.44

Action: Approve the refund as recommended by staff.

Arcadia Financial LTD, 557521 (OH)

7-1-10 to 12-31-10, \$358,459.00

Action: Approve the refund as recommended by staff.

Newport Acceptance Corp., 434073 (EA)

1-1-05 to 9-30-09, \$486,438.43

Action: Approve the refund as recommended by staff.

E1 Financial Credit Union, 552367 (AA)

7-1-07 to 12-31-09, \$121,402.56

Action: Approve the refund as recommended by staff.

Applied Biosystems, Inc., 536769 (CH)

7-1-04 to 6-30-08, \$188,469.28

Action: Approve the refund as recommended by staff.

Give Something Back, Inc., 571277 (CH)

1-1-10 to 12-31-10, \$312,943.61

Action: Approve the refund as recommended by staff.

Kern Schools Federal Credit Union, 557512 (AR)

1-1-10 to 6-30-10, \$129,758.00

Action: Approve the refund as recommended by staff.

Sai Monrovia B, Inc., 509258 (AP)

7-1-07 to 12-31-09, \$184,620.87

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, REDETERMINATIONS AND RELIEF OF PENALTIES, CONSENT

With respect to the Special Taxes Matters, Redeterminations and Relief of Penalties, 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, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Idemitsu Apollo Corporation, 567644; United Services Auto Assoc., 562690; USAA Life Insurance Company, 562691; and, USAA Casualty Insurance Company, 562692*; the Board made the following orders:

Akbal Singh, 522934 (ET)

3-1-05 to 12-31-08, \$467,593.65

Action: Approve the Redeterminations as recommended by staff.

Note: These minutes are not final until Board approved.

Wednesday, July 27, 2011

Idemitsu Apollo Corporation, 567640 (MT)

6-1-10 to 6-30-10, \$221,376.50

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

Idemitsu Apollo Corporation, 567644 (MT)

6-1-10 to 6-30-10, \$292,161.10

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

United Services Auto Assoc., 562690 (ET)

10-1-10 to 12-31-10, \$277,704.20

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

USAA Life Insurance Company, 562691 (ET)

10-1-10 to 12-31-10, \$115,953.70

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

USAA Casualty Insurance Company, 562692 (ET)

10-1-10 to 12-31-10, \$274,811.60

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 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 order:

KA Management, Inc., 564306 (MT)

7-1-10 to 7-1-10, \$308,082.73

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

LEGAL APPEALS MATTERS, ADJUDICATORY

(Motion Expunged.)

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Juan Michael Torres, 537931

2007, \$8,201.00 Tax, \$2,050.25 Late Filing Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

Note: These minutes are not final until Board approved.

Wednesday, July 27, 2011

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 and imposed a \$750.00 frivolous appeal penalty.

Nathan Anderson, 533432

2006, \$749.00 Tax, \$187.25 Late Filing Penalty, \$187.25 Demand Penalty

Considered by the Board: April 27, 2011

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 as modified by its concessions on appeal to delete the demand penalty and abate interest from January 8, 2009, to March 16, 2010, and imposed a \$5,000.00 frivolous appeal penalty.

SALES AND USE TAX MATTERS, DENIAL OF CLAIM FOR REFUND, ADJUDICATORY

Sprint Telephony PCS, L.P., 423624 (OH)

10-1-02 to 12-31-06, \$84,643.04

Considered by the Board: May 25, 2010

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

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the denial of claim for refund as recommended by staff.

Ms. Yee directed staff to determine whether all portions of claims for refunds can be considered by the Board at the same time in the future.

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

Prime Building Materials, Inc., 567625 (AC)

1-1-03 to 12-31-06, \$2,362,523.78

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 Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the credit and cancellation as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

OFFERS-IN-COMPROMISE RECOMMENDATIONS

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, Ms. Mandel not participating in *Cool Fuel, Inc.*, the Board approved the Offers in Compromise of *Chris T.*

Note: These minutes are not final until Board approved.

Wednesday, July 27, 2011

Attkisson and Loretta P. Attkisson; Carolyn Jets Unlimited, Inc.; Cool Fuel, Inc.; Afshin Dadforouz; Nora E. Jackman and Scott Jackman; Robbin Rose (Pickern) Benson; Erik David Rambach and Erik's Auto Sales, Inc.; Ricky Alan Russell and Cindy Leann Russell; Sandra P. Salas and Cabinetry Solutions, Inc.; and, Rasheed Olufemi Yusuf; as recommended by staff.

LOCAL TAX REALLOCATION MATTERS

City of Los Angeles, 469251

7-1-91 to 12-31-07, \$670,612.00 Estimated Amount

Considered by the Board: Hearing Notice Sent – No Response

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 denied as recommended by the Appeals Division.

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative 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:

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 7.9](#)).

Timothy G. Durisin, Associate Tax Auditor, Culver City District Office
Jan Enlow, Administrative Assistant II, Sales and Use Tax Department,
Headquarters

Barbara J. Jones, Tax Technician II, San Francisco District Office

Franci L. Rowe, Administrative Assistant II, Executive Office, Headquarters

Cheryl E. Simpson, Office Technician (Typing), Fresno Office, Sacramento
District

Freida Anne Thorne, Tax Technician III, Special Taxes and Fees Division,
Property and Special Taxes Department, Headquarters

Roger Wilbur, Business Taxes Representative, Centralized Collection Section,
Headquarters

Action: Approve the Board Meeting Minutes of April 26-27, 2011 and May 24-25, 2011.

Action: Approve the proposed revisions to Audit Manual Chapter 13, *Statistical Sampling*, as recommended by staff ([Exhibit 7.10](#)).

Exhibits to these minutes are incorporated by reference.

Wednesday, July 27, 2011

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS**Legislative Committee for June 24, 2011**

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 approved the Legislative Committee report and the actions therein ([Exhibit 7.11](#)).

Legislative Committee for July 26, 2011

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 Legislative Committee report and the actions therein ([Exhibit 7.12](#)).

Business Taxes Committee for July 26, 2011

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 approved the Business Taxes Committee report and the actions therein ([Exhibit 7.13](#)).

Committee votes were as follows:

Upon motion of Mr. Horton, seconded by Ms. Mandel, and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the committee approved and authorized for publication amendments to Regulation 1616, *Federal Areas, regarding Sales to Governments of Officially Recognized Indian Tribes*, Alternative 1, as recommended by staff.

Upon motion of Ms. Mandel, seconded by Mr. Horton and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Mr. Runner and Ms. Steel voting no, the committee referred the matter of Regulation 1684, *Collection of Use Tax by Retailers*, to the interested parties process.

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

Kristine Cazadd, Interim Executive Director, provided a report on time extensions to Amador, Del Norte, Inyo, Mendocino, Nevada, Plumas and San Benito Counties to complete and submit 2011/12 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 ([Exhibit 7.14](#)).

Kristine Cazadd, Interim Executive Director, provided a report on Redistricting ([Exhibit 7.15](#)).

David Gau, Deputy Director, Property and Special Taxes Department, provided an update on the CROS project to replace BOE's two current tax legacy technology systems ([Exhibit 7.16](#)).

Note: These minutes are not final until Board approved.

Wednesday, July 27, 2011

LEGAL APPEALS MATTERS, ADJUDICATORY

With respect to the Legal Appeals Matters, Adjudicatory Agenda, 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 ordered its previous motion rescinded and expunged.

Graphics Concept, Inc., 444651 (AP)

10-1-03 to 7-31-07, \$71,145.20 Tax, \$7,114.57 Negligence Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

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 ordered that the petition be redetermined as recommended by the Appeals Division.

Thomas Eugene Brosi, 451594 (KH)

4-1-00 to 9-30-03, \$66,578.26 Tax, \$6,657.93 Failure to File Penalty, \$4,471.35 Amnesty Double Failure to File Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

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 ordered that the petition be redetermined as recommended by the Appeals Division and directed staff to inform the taxpayer of the Offer in Compromise Program.

Caldron's Jewelers, Inc., 418580 (KH)**Richard Caldron, 422927 (KH)**

7-1-01 to 9-30-05, \$18,332.50 Tax, \$4,196.17 Negligence Penalty, \$4,196.14 Finality Penalty

Considered by the Board: February 23, 2011

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

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 ordered no further adjustment be made in the administrative protest and the petition be redetermined as recommended by the Appeals Division.

Vinay Vohra and Vikram Vohra, 553888 (ET)

August 19, 2010, \$180.00 Approximate Value

Considered by the Board: February 23, 2011

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

Action: Mr. Runner moved that the petition 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. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board determined that staff properly seized the tobacco products.

Note: These minutes are not final until Board approved.

Wednesday, July 27, 2011

ADMINISTRATIVE SESSION**OTHER ADMINISTRATIVE MATTERS****Sales and Use Tax Deputy Director's Report**

Jeff McGuire, Deputy Director, Sales and Use Tax Department, provided a report on the Sales and Use Tax Department's prior Penalty and Interest Reprieve Program that was authorized by Section 7093.8 (AB 2065) in 2002-2003 ([Exhibit 7.17](#)).

Mr. Runner directed staff to provide a comparison of what other states have done for implementation of similar policies.

Jeffrey McGuire, Deputy Director, Sales and Use Tax Department, provided an Informal Issue Paper on the discussion of proposed changes to the Qualified Purchaser Program (ABx4 18) ([Exhibit 7.18](#)).

Speaker: Gina Rodriguez, Vice President of State Tax Policy, California Taxpayers Association

Action: Upon 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 approved the Alternative 1 of the Informal Issue Paper on proposed changes to the Qualified Purchaser Program, as recommended by staff.

Property and Special Taxes Deputy Director's Report

David Gau, Deputy Director, Property and Special Taxes Department, provided staff's recommendations and introductory remarks for the tax rate to be applied in 2011-12 to the value of private railroad cars; the 2011 Private Railroad Car Roll; and, the 2011 State-Assessed Property Roll.

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the 2011-12 private railroad car tax rate of \$1.107 as recommended by staff ([Exhibit 7.19](#)).

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the 2011 Private Railroad Car Roll as recommended by staff ([Exhibit 7.20](#)).

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the 2011 State-Assessed Property Roll as recommended by staff ([Exhibit 7.21](#)).

Note: These minutes are not final until Board approved.

Wednesday, July 27, 2011

Administration Deputy Director's Report

Liz Houser, Deputy Director, Administration Department, made introductory remarks regarding staff's request for approval of the contract over \$1 million with the Department of Toxic Substance Control (DTSC), which is an annual renewal of an interagency agreement where DTSC reimburses the BOE to administer the Hazardous Substances Tax Program ([Exhibit 7.22](#)).

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 contract over \$1 million with DTSC as recommended by staff.

Liz Houser, Deputy Director, Administration Department, provided a report regarding the Governor's 2011/12 Budget and Governor's Executive Orders, which included information about budget trailer bills and their impact on the Board of Equalization.

Technology Deputy Director's Report

Anna Brammen, Chief Information Officer and Deputy Director, Technology Services Department, presented the Board of Equalization's *Digital Office Vision, Roadmap Update*, and introduced Manveer Bola, Project Director of the Digital BOE Program, Technology Services Department, provided information on current and future projects that will help the agency become digital ([Exhibit 7.23](#)).

External Affairs Deputy Director's Report

Anita Gore, Deputy Director, External Affairs Department, provided a report regarding a potential statewide survey/poll on the topic of use tax ([Exhibit 7.24](#)).

The Board directed staff to move forward in surveying partners, analyze the data obtained to the best of staff's abilities, determine the marketing efforts staff should make and report back to the Board.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
JULY 27, 2011**

Dansig, Inc., 493691 (EA)

Final Action: Upon motion of Mr. Runner, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Board ordered that the petition be submitted for decision, granting the Appeals Division 30 days to write to petitioner with questions, petitioner 30 days to make its submission including answers to the questions posed by the Appeals Division, the Department 30 days to respond, and the Appeals Division 30 days to provide its recommendation to the Board.

Wednesday, July 27, 2011

Jamshid Daryanabard, 467994 (GH)

Jamshid Daryanabard and Tofan Daryanabard, 485017, 556731 (GH)

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 fraud penalty for the partnership be reduced to negligence, and that the claim and petition otherwise be redetermined in accordance with the revised recommendation of the Appeals Division.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 2:08 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 2:31 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Mr. Horton, on behalf of the Board, made complimentary remarks regarding Beverly Toms, Hearing Reporter, Board Proceedings Division, who has worked for the BOE since 1997 and will be retiring soon. Mr. Horton thanked Ms. Toms for her years of dedicated service to the State Board of Equalization and to the State of California.

The Board adjourned at 2:32 p.m.

The foregoing minutes are adopted by the Board on September 21, 2011.

Note: The following matter was removed from the calendar prior to the meeting: *S.J. Toons, Inc., 493139.*