

**CALIFORNIA STATE BOARD OF EQUALIZATION**  
**APPEALS DIVISION BOARD HEARING SUMMARY**

In the Matter of the Petition for Redetermination )  
Under the Sales and Use Tax Law of: )  
NIZAR TAHER BREICHE, ) Account Number SR EH 100-950392<sup>1</sup>  
dba Smoker’s Choice ) Case ID 575605  
Petitioner ) Hesperia, San Bernardino County

Type of Business: Smoke shop

Audit period: 08/01/07 – 06/30/08

<u>Item</u>	<u>Disputed Amount</u>
Unreported taxable sales	\$78,174
Tax, as determined and protested	\$10,343.70
Post-D&R adjustment	<u>- 4,285.20</u>
Proposed tax redetermination	\$6,058.50
Interest through 08/31/14	<u>2,687.57</u>
Total tax, and interest	<u>\$8,746.07</u>
Monthly interest beginning 09/01/14	<u>\$ 30.29</u>

**UNRESOLVED ISSUE**

**Issue:** Whether further adjustments to the amount of unreported taxable sales are warranted.

We conclude that no further adjustments are warranted.

Petitioner operated a smoke shop from August 2007 through June 2008, when the business incorporated. For audit, petitioner provided no books and records, stating that they were stolen along with his cash register. Because the business operations remained the same for the successor corporation, the Sales and Use Tax Department (Department) applied the error ratio of 72.45 percent for the period July 1, 2008, through December 31, 2009, established in the audit of the successor, to petitioner’s reported taxable sales, computing unreported taxable sales of \$133,467. In a post-D&R

<sup>1</sup> A separate Board Hearing Summary has been prepared for a related appeal: American Planet, Inc., SR EH 100-088635, Case ID 575606.

