

## 1 CALIFORNIA STATE BOARD OF EQUALIZATION

## 2 APPEALS DIVISION BOARD HEARING SUMMARY

3 In the Matter of the Administrative Protest )  
4 Under the Sales and Use Tax Law of: )

5 JAMSHID PARIVASH )

Account Number SR GH 53-004709

Case ID 494295

6 Taxpayer )

Los Altos, Santa Clara County

7  
8 Type of Liability: Suspended corporation liability

9 Liability period: 07/21/04 – 01/31/05

10 Item Disputed Amount

11 Suspended corporation liability \$16,849

12 Tax as determined and protested \$15,084.28

13 Interest through 03/31/12 9,262.57

14 Late payment penalties 1,252.02

15 Failure-to-file penalty 512.80

16 Total tax, interest, and penalty \$26,111.67

17 Payments - 50.7618 Balance Due \$26,060.9119 Monthly interest beginning 04/01/12 \$ 87.7020 **UNRESOLVED ISSUE**21 **Issue:** Whether taxpayer is personally liable as a responsible person for the unpaid liabilities  
22 incurred by JPS Homes II, Inc. during the period when the corporation was suspended. We find  
23 taxpayer is personally liable.24 JPS Homes II, Inc. (JPS) made retail sales of doors and windows and held seller's permit SR  
25 GH 100-324675, which was effective from November 19, 2003, through January 31, 2005. The  
26 Secretary of State suspended the corporate status of JPS on July 21, 2004.27 The Sales and Use Tax Department (Department) found that JPS had collected sales tax  
28 reimbursement with respect to its taxable sales and that taxpayer was personally liable, within the  
meaning of California Code of Regulations, title 18, section 1702.6, for the unpaid tax-related  
liabilities of JPS that were incurred during the suspension period. Taxpayer contends that he is not  
personally liable for JPS's unpaid tax liabilities because JPS ceased to exist in January 2004. Taxpayer

1 asserts that, in January 2004, he closed JPS and transferred its assets and liabilities to New England  
2 Glass & Door, Inc. (SR GH 26-796484), which he had purchased some time after he opened JPS. On  
3 that basis, taxpayer claims that New England Glass & Door assumed JPS's sales and use tax liabilities,  
4 although he admits that he does not have any supporting documentation. He states that his  
5 bookkeeper, who has since passed away, handled all of his paperwork. Taxpayer also asserts that JPS  
6 did not collect tax reimbursement during the period at issue because it had ceased to exist. He states  
7 that he filed and signed sales and use tax returns for JPS for the third and fourth quarters of 2004  
8 because the Department directed him to do so. He further asserts the sales information provided on  
9 those returns, filed for JPS, was already included in the returns filed for New England Glass and Door.

10 It is undisputed that JPS was a closely held corporation and that its corporate status was  
11 suspended by the Secretary of State on July 21, 2004. In responding to a Responsible Person  
12 Questionnaire from the Department, taxpayer stated that JPS collected sales tax reimbursement with  
13 respect to its retail sales. Taxpayer also filed sales and use tax returns for the third and fourth quarters  
14 of 2004 reflecting amounts of sales tax due. We reject taxpayer's assertion that he filed those returns  
15 because he was instructed to do so by the Department, even though JPS had ceased to exist and did not  
16 have taxable sales or collect tax reimbursement during those quarters. If JPS had closed, we believe  
17 that taxpayer would have so informed the Department rather than filing returns reporting sales that JPS  
18 did not make. We also reject taxpayer's claim that the tax reported for JPS for those two quarters was  
19 also reported on and paid with returns filed for New England Glass & Door. The evidence clearly  
20 shows that the taxable sales reported by New England Glass & Door for the third and fourth quarters of  
21 2004 could not have included the sales reported by JPS for those two quarters since New England  
22 Glass & Door reported significantly less sales than those reported by JPS. We find taxpayer had  
23 control over operations and management of JPS (he was sole owner and president), including the duty  
24 to ensure its sales and use tax compliance. Since the corporation's powers, rights, and privileges were  
25 suspended during the period at issue and it made retail sales on which it collected sales tax  
26 reimbursement, we find taxpayer is liable for the unpaid liabilities of JPS.

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**OTHER MATTERS**

During the conference, we explained to taxpayer that the late-payment and failure-to-file penalties could be relieved under certain circumstances. We also explained the procedure for requesting relief and provided a form taxpayer could use, but he has not done so. Accordingly, we have no basis on which to consider recommending relief of these penalties.

Summary prepared by Deborah A. Cumins, Business Taxes Specialist III