

CALIFORNIA STATE BOARD OF EQUALIZATION
APPEALS DIVISION SUMMARY FOR BOARD HEARING

In the Matter of the Petition for Redetermination)
and Claim for Refund Under the Sales and Use)
Tax Law of:)
RAW SKATE PARKS, INC.) Account Number: SR GH 99-999153
dba, Creative Solutions) Case ID's 459785 and 507070
Petitioner/Claimant) San Jose, Santa Clara County

Type of Business: Refurbished modular office furniture

Audit period: 10/01/04 – 09/30/07

| <u>Item</u> | <u>Disputed Amount</u> |
|--|------------------------|
| Disallowed claimed nontaxable labor | \$903,860 |
| Claimed refund | \$ 75,819 ¹ |
| Tax as determined and protested: | \$74,409.75 |
| Proposed tax redetermination | \$74,409.75 |
| Interest through 6/30/08 (tax paid in full on 6/13/08) | <u>15,662.39</u> |
| Total tax and interest | \$90,072.14 |
| Payments | <u>74,409.75</u> |
| Balance Due | <u>\$15,662.39</u> |

UNRESOLVED ISSUE

Issue: Whether adjustments are warranted because petitioner was a victim of embezzlement.

We find there is no basis upon which to recommend any adjustment.

Petitioner is a retailer and installer of used and refurbished modular office furniture. The Sales and Use Tax Department (Department) found a number of taxable sales that had been claimed as nontaxable labor. Upon further review, the Department found that petitioner had properly charged and collected sales tax reimbursement with respect to the sales at issue. However, the Department and petitioner discovered that petitioner's bookkeeper had revised the computerized accounting records to

¹ The Department disallowed claimed nontaxable labor of \$903,860 but also determined that petitioner's reported taxable sales exceeded recorded amounts by \$16,800. Petitioner had filed a timely claim for refund of tax it had paid on the \$16,800, and the Department offset that overpayment against the understatement. The tax on the net understatement of \$887,060 is \$74,409.75, which petitioner has paid in full. Petitioner asserts that the entire amount of disallowed claimed nontaxable labor should be deleted. Petitioner has filed a timely claim for refund of the \$74,409.75 paid pursuant to the audit. Thus, if petitioner prevailed in this matter, the refund to petitioner would be \$75,819.00.

