

Tuesday, March 9, 2004

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 11:00 a.m., with Ms. Migden, Chairwoman, Mr. Parrish, Vice Chairman, Mr. Leonard and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Chiang, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Bordiers Nursery, Inc., 196316

7-1-98 to 6-30-01, \$39,734.43 Tax

Action: Redetermine as recommended by the Appeals Division.

Ashot Manukian and Martin Pogosian, 118317

7-1-98 to 12-31-98, \$40,532.12 Tax, \$4,053.21 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

Architectural Products Fabricators, Inc., 53522

4-1-95 to 3-31-98, \$3,558.56 Tax

Action: Redetermine as recommended by the Appeals Division.

Ciga Premium, LLC, 187101

11-1-95 to 5-31-00, \$1,283,197.80 Tax

Action: Redetermine as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Roseann Garcia, 223810*; and, *Blaine Perrella, 202125*.

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

James O. and Debra A. Beasley, 218720

1999, \$259.90 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ben-Amun Company, Inc., 174684

1998 to 2000, \$3,740.79 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Daniel C. and Maureen T. Carson, 212913

1998, \$2,453.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Roseann Garcia, 223810

2001, \$437.00 Assessment

Action: The Board deferred consideration of this matter.

Brian Holland, 192641

1983, \$40,401.00 Tax, \$14,140.35 Penalty

1984, \$64,796.00 Tax, \$22,678.60 Penalty

1985, \$54,163.00 Tax

Action: Modify the action of the Franchise Tax Board.

Wensen Liu, 235611

1999, \$72.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Tu' Shuna Holmes (Marrujo), 236716

2000, \$1,112.40 Assessment

Action: Sustain the action of the Franchise Tax Board.

Derwood Miller, 157420

1993, \$759.00 Tax, \$379.50 Penalty

1995, \$5,832.00 Tax, \$2,916.00 Penalty

Action: Modify the action of the Franchise Tax Board.

Patrick Murray, 209064

2000, \$1,259.00 Tax, \$314.75 Penalty

Action: Sustain the action of the Franchise Tax Board.

Michelle Oborny, 235530

2000, \$874.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

O. Jeffrey Owen, 202127

1999, \$525.00 Tax, \$131.25 Late Filing Penalty

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

Blaine Perrella, 202125

1989, \$4,700.38 Claim for Refund

Action: The Board deferred consideration of this matter.

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Quick & Reilly, Inc., 202953

2-28-1990, \$32,546.00 Claim for Refund

2-28-1991, \$40,206.00 Claim for Refund

2-28-1992, \$81,323.00 Claim for Refund

2-28-1993, \$71,504.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kenneth Stockman, 219864

2000, \$855.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

David W. Sullivan, 220091

2001, \$832.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

David A. Allen, 183720

1999, \$1,056.00 Tax, \$264.00 Penalty

Action: Deny the petition for rehearing.

Robert C. Kopple, 139383

1994, \$95,189.00 Assessment

1995, \$13,760.00 Assessment

1996, \$6,913.00 Assessment

Action: Deny the petition for rehearing.

Anthony Malfatti, 171092

1999, \$1,822.00 Tax, \$455.50 Late Filing Penalty, \$463.50 Notice and Demand Penalty

Action: Deny the petition for rehearing.

Ruth Scherfenberg, 186944

1999, \$266.00 Tax, \$100.00 Penalty

Action: Deny the petition for rehearing.

Allen Jerome and Toby Shafran, 142929

1992, \$45,415.00 Claim for Refund, \$9,083.00 Penalty (Claim for Refund)

1995, \$4,905.00 Assessment

Action: Deny the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

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Raymond Cato, 217193

202, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Sue Chei, 218201

2002, \$347.50 Claim for Credit

Action: Modify the action of the Franchise Tax Board.

Marvin Ducksworth, 195767

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Arnulfo Guzman, 221075

2002, \$347.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Jian Hua Liao, 221057

2001, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Doris M. Maddas, 239343

2003, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Antoinette Martin, 239344

2003, \$340.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Trayvion T. McDonald, 239174

2003, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Steve McGee, 218242

2001, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Izrail Nemenov, 238799

2003, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Trieu Ngoc Nguyen, 239349

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

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Irena Oleneva, 240565

2003, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Darlene M. Pegram Estrada, 238816

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Frank Yates, 221568

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

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

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

CPFilms, Inc., 207932

10-1-99 to 6-30-00, \$68,701.81

Action: Approve the redetermination as recommended by staff.

F5 Networks, Inc., 208850

1-1-00 to 12-31-01, \$118,885.33

Action: Approve the denial of claim for refund 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 Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish not participating in *Hershey Chocolate & Confectionery Corporation, 240392*, the Board made the following orders:

Arnet Optic Illusions, 152296

1-1-98 to 9-30-98, \$280,454.83

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

Capital Institutional Service Company, Inc., 250584

7-1-99 to 6-30-02, \$316,188.37

Action: Approve the refund as recommended by staff.

Hershey Chocolate & Confectionery Corporation, 240392

4-1-03 to 6-30-03, \$88,683.95

Action: Approve the refund as recommended by staff. Mr. Parrish not participating.

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SPECIAL TAXES APPEALS HEARINGS

La Paz C. Yun, 157732

1-1-98 to 12-31-98, \$3,019.20 Fee, \$00.00 Late Payment Penalty

For Petitioner: Linda M. Battram, Attorney

For Property and Special Taxes Department: M. Judith Nelson, Tax Counsel

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

Issue: Whether petitioner is liable for the underground storage tank fee as the owner of the underground storage tanks.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Gary R. Gibbs, 143214

10-1-92 to 7-29-99, \$44,951.93 Fee, \$4,495.20 Failure to Pay Penalty

For Petitioner: Gary Gibbs, Taxpayer

Nancy Gibbs, Taxpayer

For Property and Special Taxes Department: M. Judith Nelson, Tax Counsel

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

Issues: Whether Gary Gibbs or The Ellsworth G. Gibbs and Lois E. Gibbs 1991 Family Trust, which owned the real property on which the subject tanks were located, is the appropriate feepayer.

Whether the applicable statute of limitations bars the Department's Notice of Determination.

Whether there is reasonable cause to relieve feepayer of the failure-to-pay penalty.

Whether there is reasonable cause to relieve feepayer of the finality penalty.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

SALES AND USE TAX APPEALS HEARINGS

Sirarpi Kechedzian, 113001

4-1-97 to 6-30-00, \$38,201.32 Tax, \$9,550.42 Fraud Penalty

For Petitioner:

Angel Y. Dayan, Enrolled Agent

Gevorg Kechedzian, Taxpayer

Nora Arabyan, Representative

Armine Vosgouanian, Interpreter

For Sales and Use Tax Department: John Abbott, Tax Counsel

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

Issues: Whether petitioner has met her burden of proving that the Board's determination of the measure of tax is erroneous.

Whether any adjustments to the audited taxable measure are warranted.

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Whether the evidence shows that certain disallowed claimed nontaxable sales were, in fact, nontaxable sales for resale or exempt sales in interstate commerce.

Whether all nontaxable transactions were taken into consideration during the analysis of petitioner's bank deposits.

Whether the fraud penalty was properly imposed.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Lee Anthony Brown and Janis I. Brown, 169040

9-17-97, \$4,185.00 Tax, \$418.50 Failure to File Penalty, \$418.50 Failure to Timely Pay Penalty
For Petitioner: Lee Brown, Taxpayer

For Sales and Use Tax Department: Robert D. Tucker, Tax Counsel

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

Issues: Whether taxpayers purchased the vessel in California.

Whether the vessel was purchased for use in California.

Whether relief from the penalties for failure to file a return and for failure to timely pay the determination is warranted.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Mark Colin Brown, 156578

4-1-98 to 6-30-00, \$796.09 Tax

For Petitioner: Richard Hebert, Accountant

Mark Brown, Taxpayer

For Sales and Use Tax Department: Randy Ferris, Tax Counsel

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

Issues: Whether the audit should include the first quarter of 1998, for which petitioner asserts he over reported almost \$2,000.00 in sales taxes.

Whether a bad-debt deduction should be allowed during the audit period for a retail sale on May 10, 2000, to Consolidated Copy Service who entered Chapter 7 bankruptcy proceedings after the audit period.

Whether the interest rate charged by the Board is unfair because the interest rate on underpayments exceeds the interest rate on overpayments.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Premier Motorsport, Inc., 191540

7-1-98 to 6-30-01, \$12,340.72 Tax, \$00.00 Negligence Penalty

For Petitioner: David Freed, Taxpayer

Ronald S. Litvak, CPA

Deanna Lohse, Accountant

For Sales and Use Tax Department: Robert D. Tucker, Tax Counsel

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

Issue: Whether the audited taxable measure includes valid nontaxable sales for resale.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Temecula Valley RV Services, Inc., 183008

7-1-98 to 6-30-01, \$14,807.63 Tax

For Petitioner: Patrick Leone, CPA

Gary Kinsman, President

For Sales and Use Tax Department: Jeffrey H. Graybill, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether petitioner is the retailer of the RV sales in question and thus owes sales tax to the Board.

Whether petitioner is liable for sales tax on one-half the selling price of a RV sold to an Indian and non-Indian spouse, delivered on the Indian reservation.

Whether petitioner is liable for the district tax on sales of RV's to purchasers who reside in counties that impose district taxes.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Temecula Valley RV, LLC, 184489

7-1-98 to 6-30-01, \$00.00 Tax

For Petitioner: Linus Amarikwa, Accountant

Jan Weilert, Taxpayer

For Sales and Use Tax Department: Jeffrey H. Graybill, Tax Counsel

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

Issues: Whether TVRVSI or this petitioner is liable as the retailer owing sales tax on certain sales of recreational vehicles between May 1999 and December 1999.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

The Foundation Center, 142831, 186480

4-1-93 to 3-31-94, \$14,294.82 Tax

4-1-94 to 12-31-01, \$160,439.38

For Petitioner: Patrick Leone, CPA

Loretta Ferrai, Controller

For Sales and Use Tax Department: Randy Ferris, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether petitioner is a retailer engaged in business in California.

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Whether petitioner received misinformation qualifying for relief under Revenue and Taxation Code section 6596.

Whether petitioner's sales qualify for the charitable organization exemption.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Yehudah Zoldan, 173615

7-1-97 to 3-31-01, \$13,690.75 Tax, \$1,369.07 Failure to File Penalty

For Petitioner:

Steve S. Liss, CPA

Yehudah Zoldan, Taxpayer

For Sales and Use Tax Department:

Jeffrey H. Graybill, Tax Counsel

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

Issues: Whether petitioner is liable for the use tax on its consumption of materials on construction contracts which petitioner had purchased ex-tax under a resale certificate issued by petitioner's predecessor.

Whether relief from the 10 percent penalty for failure to file returns is warranted.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish and Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

The Board recessed at 1:15 p.m. and reconvened at 2:00 p.m. with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

Akira Sonomura, 171771

4-1-93 to 3-31-96, \$42,252.34 Tax

For Petitioner:

Akira Sonomura, Taxpayer

Gary Shoffner, Attorney

For Sales and Use Tax Department:

Chris Schutz, Tax Counsel

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

Issue: Whether petitioner is subject to dual liability as a corporate officer for the tax liability of Quality Automotive Group, for the periods April 1, 1993 through March 31, 1996.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Celebrate Freedom Outreach, Inc., 194097

7-1-98 to 6-30-02, \$56,983.54 Tax

For Petitioner:

Robert Roll, President

For Sales and Use Tax Department:

Robert D. Tucker, Tax Counsel

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

Issue: Whether petitioner is entitled to relief of the total tax and interest based upon financial reasons. Petitioner made undisputed taxable sales, but contends that it is unable to pay the liability for tax and interest.

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Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Alfieri A. and Maria V. Gigliotti, 112112

1-1-97 to 12-31-99, \$21,592.74 Tax, \$2,159.28 Negligence Penalty

For Petitioner: William G. Hayter, Attorney
Alfieri Gigliotti, Taxpayer

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

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

Issues: Whether the audited understatement of taxable sales is excessive.
Whether the negligence penalty was properly applied.

Action: Upon motion of Mr. Leonard, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the measure of tax be reduced to 55 percent of the sales.

Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered to delete the negligence penalty.

Russell E. Belttary and Harold Edward Belttary, 191539, 184597

1-1-98 to 12-31-00, \$13,419.50 Tax

For Petitioner: Russell Belttary, Taxpayer

For Sales and Use Tax Department: John Abbott, Tax Counsel

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

Issue: Whether petitioner is entitled to claimed partial exemption from tax for sales of tangible personal property to leasing companies for lease to end users who are engaged in teleproduction and post production activities pursuant to Revenue and Taxation Code section 6378.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Mr. Leonard requested that when staff gives instructions and training to taxpayers, to advise taxpayers that if they plan to use the advice provided, they should get it in writing.

Bill Badi I. Gammoh and Bassam D. Moussa, 156131, 194155

Bill Badi I. Gammoh, 156130

12-7-98 to 9-30-01, \$32,032.12 Tax, \$3,203.25 Negligence Penalty

For Claimant: Dean Alkalla, CPA
Bruce Weiner, Attorney
Bill Badi, Claimant

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

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

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Issues: Whether the estimate of taxable sales upon which the jeopardy determination is based is excessive.

Whether applicant was negligent.

Whether the claim for refund should be granted.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the claim be submitted for decision.

Frank B. Winkfield, 170369

Action: The Board took no action.

L.S.M.G. Corporation, 142128

10-1-97 to 8-12-00, \$148,308.50 Tax, \$6,163.84 Failure to File Penalty, \$26,716.77 Negligence Penalty

For Petitioner: Lynton Adams, Taxpayer

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

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

Issues: Whether the evidence establishes that petitioner's reported gross receipts were understated.

Whether the evidence indicates the 10 percent penalty for negligence is warranted.

Whether the evidence indicates that relief from the 10 percent penalty for failure to file returns for the period April 1, 2000, through August 12, 2000, is warranted.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Wellness Lifestyles, Inc. (dba American Longevity), 194820

4-1-98 to 3-31-01, \$6,011.90 Tax

For Petitioner: Cyrus E. Seradj, Attorney

For Sales and Use Tax Department: Randy Ferris, Tax Counsel

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

Issue: Whether the Sales and Use Tax Department correctly determined that petitioner was required to collect the district use tax on the sales price of shipments into all districts which impose a district tax.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Gordana Samardzic, 195296

4-1-98 to 12-31-01, \$25,286.65 Tax, \$00.00 Penalty

For Petitioner: Chester Swart, Attorney

Gordana Samardzic, Taxpayer

Andrei Leontieff, Witness

For Sales and Use Tax Department:

Kevin Hanks, Hearing Representative

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

Issues: Whether petitioner's allegation that the audited understatement of taxable sales is excessive warrants reduction in the measure of tax.

Whether the three-day test of sales is representative of business operations during earlier periods of the audit.

Whether petitioner is entitled to make a settlement offer under the circumstances of this case.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Best American Services, Inc., 161058

1-1-99 to 12-31-99, \$12,082.49 Tax

For Petitioner: Hamid Shoushtari, Taxpayer

For Sales and Use Tax Department: Chris Schutz, Tax Counsel

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

Issue: Whether petitioner made taxable sales in California to a specific Mexican purchaser.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

ADMINISTRATIVE SESSION

APPROVAL OF 2004-05 FINANCE LETTER TO THE DIRECTOR OF FINANCE

Ramon J. Hirsig, Deputy Director, Sales and Use Tax Department, made introductory remarks regarding the approval of 2004-05 finance letter to the Director of Finance (Exhibit 3.1).

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel voting no, the Board ordered to approve option 3.

Exhibits to these minutes are incorporated by reference.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 4:03 p.m. and reconvened immediately in closed session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss personnel matters (Govt. Code § 11126 (a)).

Tuesday, March 9, 2004

The Board recessed at 4:20 p.m. and reconvened immediately in open session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

The Board adjourned at 4:21 p.m.

The foregoing minutes are adopted by the Board on May 25, 2004.

Note: The following cases were removed from the calendar prior to the meeting: *Fibernet, Inc.*, 87388; *Andy Atighi*, 206159; *Pantera Software, Inc.*, 48090; *Donald Joseph Sap and Crawford James Brown*, 134595; *American Standard Auctioneers, Liquidators, Appraisers, LLC*, 145706; and, *Consolidated Electrical Distributors, Inc.*, 16997, 197541.

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