

Thursday, July 1, 2004

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

SUPERIOR ACCOMPLISHMENT AWARD PRESENTATIONS

Ramon Hirsig, Executive Director, and Members of the Board presented the 2003-04 Sustained Superior Accomplishment Awards to employees in recognition of their outstanding achievements.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Beyond.Com Corporation, 181603, 181605, 202809.*

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

Akira Sonomura, 171771

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

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

Lee Anthony Brown and Janis I. Brown, 169040

9-17-97, \$4,185.00 Tax, \$00.00 Failure to File and Failure to Timely Pay Penalties

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

Beyond.Com Corporation, 181603, 181605, 202809

10-1-98 to 12-31-99, -\$10,864.03 Tax Credit

1-1-00 to 1-23-02, \$00.00 Tax, \$00.00 Negligence Penalty

10-1-98 to 1-23-02, \$140,921.00 Claim for Refund

Action: The Board deferred consideration of this matter.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Leonard, 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:

Burriss & Glaus, Inc., 237016

2002, \$800.00 Tax, \$200.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Thursday, July 1, 2004

Peter E. Hansen, 218238

1996, \$2,209.06 Claim for Refund

1997, \$547.93 Claim for Refund

1998, \$1,842.08 Assessment

Action: Sustain the action of the Franchise Tax Board.

Terry W. and Shirley I. Jensen, 218186

1996, \$545.41 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Fakhradin and Laura Mirian, 198390

1999, \$2,300.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Francia Schwartz, 223855

1995, \$6,236.38 Claim for Refund

1996, \$3,644.54 Claim for Refund

1997, \$11,304.16 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ronald E. Smith, 241487

1996, \$1,665.37 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

David C. Walker, 241996

1998, \$3,722.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Bill B. and Sandra L. Robinson, 203265

1999, \$840.00 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. Leonard, 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:

Abraham Humble, 245058

2003, \$320 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Thursday, July 1, 2004

Jamie Hunt, 240103

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board and impose a \$500.00 frivolous appeal penalty.

Regina Jones, 244269

2003, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Nina Leivi, 244449

2003, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Andres Luna, 245597

2003, \$347.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Greg Maddox, 245595

2003, \$235.00 Claim for Credit

Action: Modify the action of the Franchise Tax Board.

J.G. Oppenheimer, 241054

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Earle L. Penn, 244182

2003, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

David J. Perez, 239352

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Mary Reardon, 245585

2003, \$340.00 Claim for Credit

Action: Modify 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. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105 in *Sotheby's, Inc., 184529*, Ms. Mandel not participating in *Anheuser-Busch, Inc., 219444*, the Board made the following orders:

Thursday, July 1, 2004

Communications Supply Corporation, 183963

1-1-98 to 12-31-00, \$184,172.08

Action: Approve the redetermination as recommended by staff.

Richmar Foods, Inc., 242262

7-1-00 to 3-31-03, \$5,274,320.28

Action: Approve the redetermination as recommended by staff.

Anheuser-Busch, Inc., 219444

10-1-96 to 12-31-00, \$98,417.17

Action: Approve the redetermination as recommended by staff. Ms. Mandel not participating.

Corporate Express Document & Printing Management, Inc., 171102

1-1-99 to 6-30-00, \$73,140.06

Action: Approve the redetermination as recommended by staff.

Sotheby's, Inc., 184529

1-1-97 to 3-31-00, \$3,519,639.63

Action: Approve the redetermination as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 87105.

Nextiraone, LLC, 236468

7-1-97 to 3-31-01, \$1,689,593.55

Action: Approve the redetermination as recommended by staff.

Fleming Companies, Inc., 242260

7-1-99 to 3-31-03, \$762,856.58

Action: Approve the redetermination as recommended by staff.

BST Promark, Inc., 220987

1-1-98 to 12-31-02, \$121,164.00

Action: Approve the redetermination as recommended by staff.

James Edward Klein, 234558

2-7-02 to 11-15-02, \$246,130.81

Action: Approve the redetermination as recommended by staff.

Angelus Sanitary Can Machine Company, 242283

7-1-02 to 9-30-02, \$71,236.79

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

Thursday, July 1, 2004

**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. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105 in *AT&T Communications of California, 252405*; Ms. Mandel not participating in accordance with Government Code section 87105 in *Wells Fargo Leasing Corporation, 222082*; *AT&T Communications of California, 252405*; and, *Wells Fargo Bank (Auto Lease), 143438*; the Board made the following orders:

Cimm's Inc., 259554

10-1-00 to 9-30-03, \$80,598.83

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

Leiner Health Products, Inc., 257618

10-1-97 to 9-30-00, \$239,815.85

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

Montgomery Ward, LLC, 261760

10-1-00 12-30-00, \$654,754.95

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

Madison/Graham Color Graphics, Inc., 191093

1-1-99 to 3-31-00, \$73,626.90

Action: Approve the refund as recommended by staff.

Toyota Motor Sales, U.S.A., Inc., 182706

7-1-00 to 12-31-01, \$129,209.89

Action: Approve the refund as recommended by staff.

Imagic, 255360

10-1-95 to 12-31-98, \$66,262.54

Action: Approve the refund as recommended by staff.

Electro Rent Corporation, 242278

4-1-03 to 6-30-03, \$269,304.22

Action: Approve the refund as recommended by staff.

Con-Rak Erectors, Inc., 258366

1-1-00 to 12-31-02, \$57,982.46

Action: Approve the refund as recommended by staff.

Thursday, July 1, 2004

Wells Fargo Leasing Corporation, 222082

1-1-03 to 3-31-03, \$821,575.77

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Fresno Distributing Company, 258814

9-26-03 to 12-25-03, \$58,316.10

Action: Approve the refund as recommended by staff.

Specialized Builder's Hardware, 256032

7-1-00 to 9-30-03, \$165,504.99

Action: Approve the refund as recommended by staff.

Cypress Semiconductor Corporation, 253566

7-1-00 to 6-30-03, \$304,698.06

Action: Approve the refund as recommended by staff.

AT&T Communications of California, 252405

1-1-03 to 3-31-03, \$105,993.36

Action: Approve the refund as recommended by staff. Mr. Chiang and Ms. Mandel not participating in accordance with Government Code section 87105.

Johnson Controls Battery Group, Inc., 217742

1-1-00 to 3-31-03, \$63,048.89

Action: Approve the refund as recommended by staff.

California Rural Service Area #1, Inc., 258813

7-1-03 to 9-30-03, \$70,201.63

Action: Approve the refund as recommended by staff.

Johnson & Murphy Advertising, LLC, 129062

10-1-98 to 3-31-02, \$660,380.03

Action: Approve the refund as recommended by staff.

UWMC Hospital Corporation, 144015

7-1-98 to 3-31-02, \$103,650.54

Action: Approve the refund as recommended by staff.

Wells Fargo Bank (Auto Lease), 143438

7-1-98 to 12-31-02, \$1,393,512.00

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Taylor Made Golf Company, Inc., 258541

1-1-99 to 6-30-02, \$67,129.33

Action: Approve the refund as recommended by staff.

Thursday, July 1, 2004

Solid Networks, Inc., 258175

7-1-00 to 12-31-03, \$59,173.93

Action: Approve the refund as recommended by staff.

US Bank NA, 258478

7-1-98 to 12-31-02, \$436,681.15

Action: Approve the refund as recommended by staff.

Xponent Photonics, Inc., 234091

1-1-00 to 9-30-02, \$87,177.13

Action: Approve the refund as recommended by staff.

Worldwide Environmental Product, Inc., 262532

1-1-04 to 3-31-04, \$131,267.49

Action: Approve the refund as recommended by staff.

Aviall Services, Inc., 258161

10-1-01 to 12-31-02, \$77,449.25

Action: Approve the refund as recommended by staff.

Fusion Medical Technologies, Inc., 255811

1-1-00 to 6-30-02, \$64,997.11

Action: Approve the refund as recommended by staff.

USE Credit Union, 230364

1-1-02 to 9-30-03, \$109,140.14

Action: Approve the refund as recommended by staff.

Westlake Services, Inc., 253331

4-1-03 to 6-30-03, \$87,225.33

Action: Approve the refund as recommended by staff.

United Auto Credit Corporation, 233669

4-1-00 to 12-31-02, \$348,156.13

Action: Approve the refund as recommended by staff.

Rancho Santa Fe Thrift & Loan, 217069

10-1-99 to 10-31-02, \$216,599.93

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, REFUNDS, CONSENT

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

Thursday, July 1, 2004

W.A. Dwelle, Inc., 221660

7-1-02 to 12-31-02, \$192,482.18

Action: Approve the refund as recommended by staff.

Shell Oil Company, 249225

1-1-02 to 12-31-02, \$71,421.97

Action: Approve the refund as recommended by staff.

Safety-Kleen (Buttonwillow), Inc., 174391

1-1-01 to 12-31-01, \$110,140.61

Action: Approve the refund as recommended by staff.

Beneto, Inc., 262279, 219138

9-1-00 to 8-31-03, \$192,839.96

Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTERS, ADJUDICATORY

Tah Lih Investment, Inc., 194099

10-1-98 to 9-30-01, \$53,442.19 Tax, \$00.00 Negligence Penalty

Considered by the Board: January 27, 2004

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

Action: 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 grant the petition for rehearing.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Peter W. and Natasha Skillsky, 193977

1992, \$1,341.89 Claim for Refund

Considered by the Board: April 13, 2004

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

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a decision sustaining the action with concession by the Franchise Tax Board.

SALES AND USE TAX MATTERS, REDETERMINATIONS, ADJUDICATORY

Nations Healthcare of California, Inc., 155919

7-1-97 to 10-31-00, \$1,219,259.56

Considered by the Board: May 25, 2004

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

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the redetermination as recommended by staff.

Thursday, July 1, 2004

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

Mr. Parrish stated that he would not participate in the *Sales and Use Tax Matters, Credits, Cancellations and Refunds, Adjudicatory*, in accordance with Government Code section 87105, and left the Boardroom.

Daran Eliseo Festa, 259379

1-1-03 to 6-30-03, \$60,751.69 Tax

Presented for Separate Discussion

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

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the credit and cancellation as recommended by staff.

Channell Commercial Corporation, 203759

10-1-99 to 9-30-02, \$153,313.38 Tax

Presented for Separate Discussion

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

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

Sony Corporation of America, 249347

7-1-98 to 3-31-02, \$625,299.10 Tax

Presented for Separate Discussion

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

Action: The Board deferred consideration of this matter.

The Golden 1 Credit Union, 255303

1-1-02 to 12-31-02, \$332,550.00 Tax

Presented for Separate Discussion

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

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

The Golden 1 Credit Union, 252134

4-1-03 to 6-30-03, \$86,336.76 Tax

Presented for Separate Discussion

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

Thursday, July 1, 2004

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

SCI Technology, Inc., 150656

7-1-98 to 12-31-01, \$478,912.91 Tax

Presented for Separate Discussion

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

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

R T C Industries, Inc., 249227

4-1-03 to 6-30-03, \$158,374.31 Tax

Presented for Separate Discussion

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

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

Wells Fargo Financial Acceptance Cal., 253081

1-1-00 to 12-31-02, \$701,537.90 Tax

Presented for Separate Discussion

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

Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

SBC Datacomm, Inc., 244596

10-1-02 to 12-31-02, \$761,657.37 Tax

Presented for Separate Discussion

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

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

Cetecom, Inc., 220279

1-1-00 to 12-31-01, \$275,813.43 Tax

Presented for Separate Discussion

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

Thursday, July 1, 2004

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

WFS Financial, Inc., 245529

7-1-03 to 9-30-03, \$1,582,897.34 Tax

Presented for Separate Discussion

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

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

Americredit Financial Service, Inc., 249236

4-1-03 to 6-30-03, \$1,907,563.80 Tax

Presented for Separate Discussion

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

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish absent and not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

Mr. Parrish returned to the Boardroom.

SPECIAL TAXES MATTERS, REDETERMINATIONS, ADJUDICATORY**Bahram Shiralian, 99027**

7-1-95 to 5-30-96, \$433,121.31 Tax

Presented for Separate Discussion

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

Action: Upon 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 approved the redetermination as recommended by staff.

SPECIAL TAXES MATTERS, REFUNDS, ADJUDICATORY**Safety-Kleen (Westmorland) Inc., 173800**

6-1-01 to 12-31-01, \$194,166.53 Fee

Presented for Separate Discussion

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

Action: Upon 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 approved the refund as recommended by staff.

Thursday, July 1, 2004

The Board adjourned at 10:30 p.m.

The foregoing minutes are adopted by the Board on August 24, 2004.