

Thursday, January 16, 2014

The Board met at its offices at 450 N Street, Sacramento, at 10:08 a.m., with Mr. Horton, Chairman, Ms. Steel, Vice Chairwoman, Ms. Yee and Mr. Runner present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

SPECIAL PRESENTATION

Resolution to Jin Oh Kim

Ms. Steel, on behalf of the Board, presented a resolution to Jin Oh Kim, president of New Mode Sportswear, in celebration of Korean American Day and in recognition of Mr. Kim's leadership and inspiration to the Korean American community through his good work as the president of the Korean American Federation of Orange County, former President of the Korean American Chamber of Commerce of Orange County, Advisor to the Orange County Korean American Festival Foundation, and Director of the Korean American Leadership Foundation ([Exhibit 1.1](#)).

Exhibits to these minutes are incorporated by reference.

The Board recessed at 10:13 a.m. and reconvened at 12:42 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 12:42 p.m. and reconvened immediately in closed session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Gov. Code § 11126(e)), settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 1:36 p.m. and reconvened in open session at 2:15 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Mr. Horton announced the appointment of Wayne Mashihara to the position of Chief, Field Operations.

SALES AND USE TAX APPEALS HEARING

Gurenderjeet Singh Sandhu, 515741 (KH)

07/01/05 to 12/31/08, \$96,011.54 Tax, \$9,601.15 Negligence Penalty

For Petitioner:

Gurenderjeet Sandhu, Taxpayer

George Fakhouri, Representative

For Sales and Use Tax Department:

Scott Lambert, Hearing Representative

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

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Issues: Whether additional adjustments are warranted to the amount of unreported taxable sales of fuel.

Whether adjustments are warranted to the unreported taxable sales of mini-mart merchandise.

Whether petitioner was negligent.

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *William G. Morschauser, 225366, 255762, 341121, 530753 (AP)*.

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Danein L. Lawrence and Larry Louis Lawrence, 553252 (KH)

01/01/07 to 06/30/09, \$6,550.11 Tax, \$655.06 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Distributor Warehouse, 512831, 574889 (EH)

01/01/06 to 06/30/08, \$107,574.36 Tax

Action: Redetermine as recommended by the Appeals Division.

Ontario Systems Distribution, Inc., 512828, 574890 (EH)

07/01/05 to 12/31/05, \$25,072.32 Tax

Action: Redetermine as recommended by the Appeals Division.

William G. Morschauser, 225366, 255762, 341121, 530753 (AP)

01/01/97 to 12/31/99, \$30,766.00 Claim for Refund

10/01/00 to 12/31/03, \$19,851.99 Tax, \$5,025.01 Fraud Penalty

10/01/00 to 12/31/03, \$71,794.79 Tax, \$7,228.88 Fraud Penalty

01/01/04 to 06/30/09, \$103,158.28 Tax, \$27,975.58 Fraud Penalty

Action: The Board took no action.

Store2Door, Inc., 352179 (AC)

01/01/03 to 12/31/05, \$75,578.48 Tax, \$7,708.39 Negligence Penalty

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

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 Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

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Rick Burningham, 688096

2010, \$1,345.00 Tax, \$336.25 Late Filing Penalty, \$336.25 Notice and Demand Penalty, \$88.00 Enforcement Fee.

Action: Sustain the action of the Franchise Tax Board and impose a \$5,000.00 frivolous appeal penalty.

Thomas Bodnar, 605188

2008, \$3,211.85 Innocent Spouse Relief

Action: Sustain the action of the Franchise Tax Board.

C & K Market, Inc., 595880

2009, \$5,039.21 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kevin Carlson, 635406

2008, \$1,041.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Jean Cassio, 644412

2008, \$883.00 Assessment

Action: Sustain the action of the Franchise Tax Board

Patricia Clinton, 631008

2008, \$1,735.00 Assessment

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

Eric W. Conner, 644425

2005, \$5,815.0 Tax, \$1,453.75 Late Filing Penalty, \$1,163.00 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Zac Cook and Melissa Cook, 595773

2008, \$800.14 Innocent Spouse Relief

Action: Sustain the action of the Franchise Tax Board.

Raymond Cruz, Sr. and Frances Cruz, 612450

2008, \$264.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gloria DeAnda, 640306

2008, \$336.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Hector L. Diaz and Gale L. McDougall, 596029

2007, \$15.65 Assessment

2008, \$110.37 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Paul S. Entin, 575896

2008, \$11,803.96 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Edward Frierson and Andrae Frierson, 627539

2008, \$2,157.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

John M. Giles and Rosalyn D. Giles, 609560

2006, \$538.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Joseph A. Harvan, 595048

2009, \$891.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Masami Hirata, 606576

2006, \$1,577.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Rebeca G. Huereque, 605982

2008, \$2,163.00 Tax, \$540.75 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Troy Jolliff, 638354

2003, \$4,689.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ruben F. Lapus and Aurora P. Lapus, 636953

2008, \$2,041.00 Tax

2009, \$3,198.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Noah Montgomery, 613868

2011, \$210.11 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Frank E. Pinder, III, 636632

2008, \$561.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Michael Rogalski and Anna K. Rogalski, 636186

2008, \$539.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Christine Ryan, 682947

2008, \$578.00 Assessment

Action: Sustain the action of the Franchise Tax Board as modified by its concessions on appeal.

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Tracey Scaper, 603326

2007, \$1,870.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Milton P. Smith, III, 589184

2007, \$2,295.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ray Todd and Mary Todd, 574310

2003, \$535.00 Assessment, \$133.75 Late Filing Penalty

2004, \$195.00 Tax, \$100.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Tommy H. Woo and Irene M. Woo, 610958

2006, \$891.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Elias Gallegos, III, 575218, 575222

2006, \$233.00 Tax, \$58.25 Late Filing Penalty, \$1,250.00 Frivolous Appeal Penalty

2008, \$521.00 Tax, \$130.25 Late Filing Penalty, \$1,250.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

James S. Gandrup, 605520

2006, \$12,402.00 Assessment, \$3,100.50 Late Filing Penalty

2007, \$11,208.00 Assessment, \$2,802.00 Late Filing Penalty

\$750.00 Frivolous Appeal Penalty

Carol Grant, 600451

2009, \$1,691.00 Tax, \$422.75 Late Filing Penalty, \$422.75 Demand Penalty, \$100.00 Filing

Enforcement Fee, \$5,000.00 Frivolous Appeal Penalty

Eldo M. Klingenberg, Jr., 600453

2009, \$2,675.00 Tax, \$668.75 Late Filing Penalty, \$668.75 Demand Penalty, \$100.00 Filing

Enforcement Fee, \$5,000.00 Frivolous Appeal Penalty

Dan Pickell, 600488

2009, \$2,152.00 Tax, \$513.50 Late Filing Penalty, \$513.50 Demand Penalty, \$100.00 Filing

Enforcement Fee, \$5,000.00 Frivolous Appeal Penalty

Marianne Pretscher-Johnson, 605527

2006, \$5,295.00 Tax, \$1,323.75 Late Filing Fee, \$1,323.75 Demand Penalty, \$5,000.00 Frivolous

Appeal Penalty

Action: Deny the petitions for rehearing.

Daxius Donald Gregory, 625150

2008, \$257.00 Tax, \$100.00 Late Filing Penalty, \$750.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

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Benjamin F. Killen, 606504

2009, \$2,207.00 Tax, \$551.75 Late Filing Fee, \$551.75 Demand Penalty, \$100.00 Filing Enforcement Fee, \$5,000.00 Frivolous Appeal Penalty

James V. Robertson, 608631

2009, \$11,802.00 Tax, \$2,950.50 Late Filing Fee, 2,950.50 Demand Penalty, \$100.00 Filing Enforcement Fee, \$5,000.00 Frivolous Appeal Penalty

Champion Wiseman, 608439

2009, \$1,455.00 Tax, \$363.75 Late Filing Penalty, \$367.25 Demand Penalty, \$100.00 Filing Enforcement Fee, \$2,500.00 Frivolous Appeal Penalty

Action: Deny the petitions for rehearing.

Jason Kowalski, 588431

2007, \$9,007.00 Assessment

Action: Deny the petition for rehearing.

Charles A. McConnell, 608455

2008, \$2,734.00 Tax

Action: Deny the petition for rehearing.

SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES, DENIALS OF CLAIMS FOR REFUND, AND, GRANT-ONE DAY INTEREST RELIEF, CONSENT

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties, Denials of Claims for Refund, and, Grant-One Day Interest Relief, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Nissan Motor Acceptance Corp., 571352 (OH)*; the Board made the following orders:

3Trace, 728077 (EA)

01/01/09 to 12/31/11, \$154,965.75

Action: Approve the redetermination as recommended by staff.

Integra Lifesciences Corporation, 573658 (OH)

04/01/05 to 06/30/07, \$133,915.84

Action: Approve the redetermination as recommended by staff.

ADT Security Services, Inc., 598193 (OH)

01/01/04 to 12/31/06, \$609,347.07

Action: Approve the redetermination as recommended by staff.

Spanson, LLC, 743394 (GH)

03/29/10 to 03/25/12, \$343,747.15

Action: Approve the redetermination as recommended by staff.

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INO Therapeutics, LLC, 577578 (OH)

10/01/05 to 06/30/10, \$337,497.81

Action: Approve the redetermination as recommended by staff.

Integra Lifesciences Corporation, 572717 (OH)

07/01/07 to 09/30/08, \$102,911.26

Action: Approve the redetermination as recommended by staff.

Larry William Delorefice, 519803 (CH)

07/01/00 to 12/31/07, \$193,800.99

Action: Approve the redetermination as recommended by staff.

Primera Technology, Inc., 491473 (OH)

01/01/01 to 12/31/08, \$189,477.80

Action: Approve the redetermination as recommended by staff.

Office Club, Inc., 768803 (OH)

04/01/13 to 06/30/13, \$232,897.80

Action: Approve the relief of penalty as recommended by staff.

Nissan Motor Acceptance Corp., 571352 (OH)

04/01/10 to 06/30/11, \$981,329.51

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

Norman Wright Mechanical Equip. Co., 739273 (BH)

04/01/09 to 12/31/11, \$319,732.29

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

San Diego County Credit Union, 466552 (FH)

04/01/07 to 12/31/09, \$424,041.29

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

Motion Industries, Inc., 539351 (FH)

04/01/07 to 09/30/09, \$174,711.13

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

Westlake Services, Inc., 546342 (AS)

04/01/07 to 12/31/09, \$426,385.89

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

Kemira Chemicals, Inc., 621307 (OH)

01/01/07 to 12/31/09, \$59,882.79

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

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Mainstreet Enterprises, 606749 (EA)

10/01/08 to 09/30/11, \$513,627.48

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

Carmax Business Services, LLC, 636353 (OH)

07/01/09 to 06/30/12, \$284,169.81

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

Tustin Buick GMC, Inc., 771823 (EA)

04/01/13 to 06/30/13, \$851.72

Action: Approve the one day interest relief as recommended by staff.

Collins Family Jewelers, Inc., 771824 (FH)

07/01/13 to 07/31/13, \$77.37

Action: Approve the one day interest relief as recommended by staff.

Clear Creek Systems, Inc., 771821 (DF)

04/01/13 to 06/30/13, \$117.74

Action: Approve the one day interest relief as recommended by staff.

Recreation Republic, 771822 (FH)

08/01/13 to 08/31/13, \$300.91

Action: Approve the one day interest relief as recommended by staff.

STA Sales, Inc., 771819 (AC)

04/01/13 to 06/30/13, \$468.71

Action: Approve the one day interest relief as recommended by staff.

JX Nippon Oil & Energy Corp., 771820 (OH)

04/01/13 to 06/30/13, \$4,301.10

Action: Approve the one day interest relief as recommended by staff.

Ms. Steel requested a report to help educate taxpayers regarding the cut-off time for making online payments.

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. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Nissan Motor Acceptance, Corp., 571352 (OH)*; *American Honda Finance, Corp., 436952 (AS)*; and, *Qualcomm Labs, Inc., 734428 (FH)*; the Board made the following orders:

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Avalon Shutters, Inc., 759959 (EH)

10/01/06 to 09/30/09, \$214,689.83

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

Pierce Manufacturing, Inc., 772630 (OH)

10/01/12 to 12/31/12, \$127,827.00

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

Clifford C. Post, 609636 (FH)

07/01/07 to 10/17/08, \$207,557.25

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

Heriberto Reyna, 768831 (DF)

07/01/00 to 06/30/03, \$118,861.45

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

The Healing Center, Inc., 621163 (AC)

04/01/08 to 02/09/11, \$240,678.92

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

Nissan Motor Acceptance, Corp., 571352 (OH)

04/01/10 to 06/30/11, \$2,318,670.49

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

Blue Cross of California, 715851 (AR)

07/01/07 to 06/30/10, \$287,796.95

Action: Approve the refund as recommended by staff.

Trojan Petroleum, Inc., 721745 (GH)

10/01/09 to 12/31/09, \$108,685.00

Action: Approve the refund as recommended by staff.

American Honda Finance, Corp., 436952 (AS)

01/01/05 to 12/31/07, \$4,679,961.08

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

Genesys Telecommunications Labs, 579096 (BH)

07/01/09 to 06/30/10, \$128,446.17

Action: Approve the refund as recommended by staff.

Hexcel Corporation, 594427 (CH)

07/01/08 to 09/30/10, \$280,827.96

Action: Approve the refund as recommended by staff.

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San Diego County Credit Union, 466552 (FH)
04/01/07 to 12/31/09, \$766,389.04
Action: Approve the refund as recommended by staff.

Bruker Nano, Inc., 733469 (GH)
07/01/12 to 12/31/12, \$251,294.90
Action: Approve the refund as recommended by staff.

CD Video Manufacturing, Inc., 758088 (EA)
07/01/12 to 09/30/12, \$200,446.00
Action: Approve the refund as recommended by staff.

Good Samaritan Hospital, LP 594114 (GH)
07/01/08 to 06/30/11, \$366,049.51
Action: Approve the refund as recommended by staff.

Valero Refining, Co. –CA, 727872 (OH)
07/01/00 to 06/30/07, \$133,545.79
Action: Approve the refund as recommended by staff.

Saint-Gobain Containers, Inc., 740175 (OH)
01/01/10 to 12/31/12, \$326,746.38
Action: Approve the refund as recommended by staff.

Central Valley Meat Co. Inc., 603822 (DF)
10/01/11 to 12/31/11, \$150,742.00
Action: Approve the refund as recommended by staff.

Sodexo Remote Sites Partnership, 723213 (AR)
10/01/12 to 12/31/12, \$137,760.00
Action: Approve the refund as recommended by staff.

Westlake Services, Inc., 546342 (AS)
04/01/07 to 12/31/09, \$3,152,372.55
Action: Approve the refund as recommended by staff.

Kemira Chemicals, Inc., 621307 (OH)
01/01/07 to 12/31/09, \$456,802.29
Action: Approve the refund as recommended by staff.

Fres-co Systems USA, Inc., 728955 (OH)
10/01/12 to 12/31/12, \$166,571.00
Action: Approve the refund as recommended by staff.

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Ino Therapeutics, LLC, 577540 (OH)

07/01/10 to 12/31/11, \$808,308.48

Action: Approve the refund as recommended by staff.

Winco Foods, LLC, 608876 (OH)

01/01/09 to 12/31/11, \$185,930.60

Action: Approve the refund as recommended by staff.

Medcal Sales, LLC, 718991 (EH)

01/01/08 to 06/30/09, \$139,612.31

Action: Approve the refund as recommended by staff.

NFL Enterprises, LLC, 531663 (OH)

01/01/07 to 09/30/11, \$362,874.89

Action: Approve the refund as recommended by staff.

Siemens Demag Deval Turbo, Inc., 766781 (OH)

07/01/08 to 06/30/11, \$662,186.93

Action: Approve the refund as recommended by staff.

Syndero, Inc., 767513 (AS)

01/01/08 to 12/31/10, \$229,631.86

Action: Approve the refund as recommended by staff.

Carmax Business Services, LLC 636353 (OH)

07/01/09 to 06/30/12, \$1,534,212.76

Action: Approve the refund as recommended by staff.

Qualcomm Labs, Inc., 734428 (FH)

01/01/13 to 03/31/13, \$110,116.00

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

**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,
CONSENT**

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following order:

Accolade Wines North America, Inc., 766493 (STF)

01/01/13 to 05/31/13, \$1,169,001.71

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

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PROPERTY TAXES MATTER, CONSENT

With respect to the Property Taxes Matters, Consent Agenda, upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following order:

Petition for Reassessment and Penalty Abatement on Unitary Escape Assessment

NTT America, Inc., (7732), 734425

2008-2011, \$11,100,000.00 Escape Assessment, \$1,710,000.00 Penalty, \$3,699,000.00 In-Lieu Interest

Action: Reduce the 2008-2011 Board-adopted escape assessment, including penalties and interest, from \$16,509,000.00 to \$10,844,000.00 as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

LEGAL APPEALS MATTERS, ADJUDICATORY

Karen D. Hulse, 458251 (EH)

07/01/06 to 12/31/07, \$50,236.00 Tax, \$5,023.60 Late Payment Penalty

Considered by the Board: Presented for Separate Discussion

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

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division. The Board directed staff to inform the taxpayer of the Offer in Compromise program.

Nnadi Linus Udengwu, 515515 (AP)

4/1/05 to 6/30/08, \$168,055.95 Tax, \$16,805.64 Negligence Penalty

Considered by the Board: August 13, 2013

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

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition for rehearing be denied.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**OFFER-IN-COMPROMISE RECOMMENDATIONS**

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Offer in Compromise Recommendations of *Deepak Chopra; Gasa Investments Corporation; Gerardo Cipres; Celia Cipres; Victor L. Lucero and Gail Lucero; James Jason Conlin; Esprit US Retail Limited; Marshall Jordan; Ruth Jordan; Sam Ayesh; Kemal Dogan; and, Stephen Wayne Sundes*; as recommended by staff.

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LOCAL TAX REALLOCATION MATTERS

Cities of Fontana, Lathrop and San Bernardino, 435564

Speaker: Robert Cendejas, Attorney, representing City of Ontario

01/01/06 to Current, \$17,128,424.00 Tax

Considered by the Board: Summary Decision (Rev. & Tax. Code, § 40).

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the written summary decision as amended.

CHIEF COUNSEL MATTERS**RULEMAKING****Proposed Adoption of Revised Amendments to Sales and Use Tax Regulation 1705, *Relief from Liability***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department made introductory remarks regarding the request for adoption of proposed amendments to Regulation 1705 with the change authorized on December 17, 2013 ([Exhibit 1.2](#)).

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the revised amendments to Sales and Use Tax Regulation 1705, *Relief from Liability*.**ADMINISTRATIVE SESSION****ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come ([Exhibit 1.3](#)).

Patricia A. Beacham, Tax Technician III, Special Operations Branch,
Investigation and Special Operations Division, Legal Department
Walter Cochara, Business Taxes Specialist II, Computer Audit Specialist Section
J. Kevin Hartnett, Business Taxes Administrator I, Ventura Office

Action: Approve the Board Meeting Minutes of October 22, and October 29-31, 2013.

Action: Adopt proposed revisions to Audit Manual, Chapter 1, *General Information*, as recommended by staff ([Exhibit 1.4](#)).

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Action: Adopt proposed revision to Audit Manual, Chapter 4, *General Audit Procedures*, as recommended by staff ([Exhibit 1.5](#)).

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee

Action: The Board deferred the matter to a later date.

Property Tax Committee

Action: The Board deferred the matter to a later date.

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Eric Steen, CROS Project Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

Property and Special Taxes Deputy Director's Report

David Gau, Deputy Director, Property and Special Taxes Department, made introductory remarks regarding the effects of Proposition 10 on cigarette and tobacco products consumption ([Exhibit 1.6](#)).

Speaker: Jennifer Clark, Director of Administrative Services, First 5 California

Action: Upon motion of Ms. Mandel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approve the backfill determination of \$13.6 million for fiscal year 2012/13 for the effects of Proposition 10 on cigarette and tobacco products consumption as recommended by staff.

Administration Deputy Director's Report

Liz Houser, Deputy Director, Administration Department, provided information regarding the Governor's 2014/15 Budget.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD JANUARY 16, 2014

Gurenderjeet Singh Sandhu, 515741 (KH)

Final Action: Upon motion of Ms. Steel, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the estimated pilferage losses for mini-mart merchandise be computed at 2 percent, an adjustment of 1 percent be made for self-consumed gas and mini-mart merchandise, that the negligence penalty be deleted, and that the petition otherwise be redetermined as recommended by the Appeals Division.

Thursday, January 16, 2014

Mr. Horton complimented Joann Richmond, Chief, Board Proceedings Division, and the conflict resolution teams for their excellent work in helping taxpayers resolve their cases prior to the hearing level.

The Board adjourned at 3:30 p.m.

The foregoing minutes are adopted by the Board on March 25, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *Stephen Shain and Cathy Shain, 628402; Kenneth Dean, 621012; Rocks, LLC, 459156 (GH); R & G Schatz Farms, Inc., 547724, 588579, 592624 (KH); Sandy Seybert, 598180 (STF); Sandy Seybert, 598183 (STF); and, Benalex Windows & Doors Corp., 446664 (AA).*