

**Tuesday, March 25, 2014**

The Board met in the Auditorium Room, at the California Public Utilities Commission's headquarters building at 505 Van Ness Avenue, Auditorium, San Francisco, at 10:10 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.

### **PUBLIC COMMENT**

Speaker: William M. Connell, Military Veteran and owner of All American Surf Dog

The Board recessed at 10:15 a.m. and reconvened at 11:43 a.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

### **SPECIAL PRESENTATION**

Ms. Yee made introductory remarks regarding First District accomplishments, and introduced Wayne Mashihara, Chief, Sales and Use Taxes Field Operations; John Huk, Business Taxes Administrator, San Francisco District Office; James Goan, Business Taxes Administrator, Santa Rosa District Office; Henry Wong, Business Taxes Administrator, Oakland District Office; and, Veronica Santillanes, Business Taxes Administrator, San Jose District Office. Each of the administrators presented accomplishments of their respective district office employees ([Exhibit 3.1](#)).

Members made many complimentary remarks, thanking staff for their hard work, strong work ethic and progressive results. Mr. Horton commended Ms. Yee for her visionary leadership.

Exhibits to these minutes are incorporated by reference.

### **SALES AND USE TAX APPEALS HEARING**

Loucas Savvas Kakoullis, 571124 (CH)

07/01/07 to 06/30/10, \$18,942.27 Tax, \$1,894.23 Negligence Penalty

For Petitioner: Loucas Savvas Kakoullis, Taxpayer

For Sales and Use Tax Department: Scott Lambert, Hearing Representative

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

Issues: Whether adjustments are warranted to the amount of unreported taxable sales.  
Whether petitioner was negligent.

Action: Upon 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 ordered that the petition be submitted for decision.

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**PUBLIC HEARINGS****Proposed Adoption of Amendments to Sales and Use Tax Regulation 1603,  
*Taxable Sales of Food Products***

Cary Huxsoll, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments, which provide that mobile food vendors' sales of items subject to tax, on or after July 1, 2014, are presumed to be made on a tax-included basis ([Exhibit 3.2](#)).

Speakers were invited to address the Board, but there were none.

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 amendments to Sales and Use Tax Regulation 1603, *Taxable Sales of Food Products*, as recommended by staff.

**Proposed Adoption of Amendments to Sales and Use Tax Regulation 1699,  
*Permits***

Erin Dendorfer, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments, which incorporate and clarify Revenue and Taxation Code section 6070.5's provisions authorizing the Board to refuse to issue seller's permits under specified circumstances ([Exhibit 3.3](#)).

Speakers were invited to address the Board, but there were none.

Action: Upon 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 adopted the amendments to Regulation 1699, *Permits*, as recommended by staff.

**LEGAL APPEALS MATTERS, CONSENT**

With respect to the Legal Appeals 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:

Tim Byrd, 602305 (UT)

02/01/06, \$1,550.00 Tax, \$0.00 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

Jason Chow, 526540 (EH)

11/29/05, \$1,751.00 Tax

Action: Redetermine as recommended by the Appeals Division.

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**Breadstick's LA Wine Bar Café, LLC, 546527 (AS)**

10/01/05 to 09/30/08, \$40,303.87, \$4,030.42 Negligence Penalty, \$4,030.39 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

**Duane Fitzgerald Corporation, 563219 (EA)**

06/20/06 to 12/31/06, \$1,615.00 Tax

Action: Redetermine as recommended by the Appeals Division.

**Salvador Escareno and Irving Arnold Sofen and Alonzo Christopher Clark, 568565 (EH)**

09/22/09 to 06/30/10, \$5,695.00 Tax, \$569.50 Failure-to-File Penalty

Action: Redetermine as recommended by the Appeals Division.

**Hillcrest Travel Plaza, LLC, 558082 (DF)**

07/01/07 to 12/31/09, \$550,642.08 Tax, \$230,274.51 Penalty

Action: Redetermine as recommended by the Appeals Division.

**Hot's Tacos Restaurants, LLC, 495796 (AC)**

07/01/05 to 06/30/08, \$116,289.35 Tax

Action: Redetermine as recommended by the Appeals Division.

**Jesse's Auto Mart, Inc., 513014 (AC)**

10/01/04 to 09/30/07, \$44,548.50 Tax

Action: Redetermine as recommended by the Appeals Division.

**Carl Marantz and Nelly Marantz, 595738 (EA)**

07/01/08 to 06/30/11, \$261,807.38 Tax, \$26,180.76 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

**Abel Orozco and Athala Orozco, 380684 (AA)**

01/01/04 to 03/31/06, \$222,054.51 Tax, \$55,513.67 Fraud Penalty, \$22,205.45 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

**Choon S. Park and Cecilia Park, 600481(EH)**

04/01/08 to 03/31/11, \$69,752.86 Tax, \$6,975.31 Penalty

Action: Redetermine as recommended by the Appeals Division.

**Platinum Auto Sports, Inc., 576207 (EH)**

10/01/06 to 09/30/09, \$60,753.25 Tax, \$6,075.33 Penalty

Action: Redetermine as recommended by the Appeals Division.

**Michael Ray Sears, 547013, 548285, 548287, 559962, 559963 (DF)**

01/01/06 to 03/31/06, \$3,093.88 Tax

04/01/06 to 03/31/07, \$15,076.94 Tax

Action: Redetermine as recommended by the Appeals Division.

**Michael Ray Sears and Mike Dirker, 548283 (DF)**

04/01/06 to 12/31/08, \$74,202.14 Tax, \$7,420.21 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

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Tabitha Denille Williams, 574283 (EH)

10/01/07 to 12/31/10, \$82,577.26 Tax, \$8,257.77 Penalties

Action: Redetermine as recommended by the Appeals Division.

Star Wireless, Inc., 564432 (AC)

07/01/07 to 03/31/10, \$493,706.28 Tax, \$49,370.67 Negligence Penalty, \$49,370.63 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Willy Motors, LLC, 529890 (AP)

07/01/05 to 06/30/08, \$15,457.82 Tax

Action: Redetermine as recommended by the Appeals Division.

Jeto, Inc., 745238 (STF)

March 12, 2013 Seizure Date, \$420.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Michael Josphine, Inc., 745229 (STF)

May 8, 2013 Seizure Date, \$988.15 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Mohinder Singh Nahal, 745230 (STF)

April 9, 2013 Seizure Date, \$140.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Shayan's Trading, Inc., 745232 (STF)

May 22, 2013 Seizure Date, \$240.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Bay Area High Reach, Inc., 374287 (CH)

04/01/02 to 03/31/05, \$470,359.76 Tax

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:

Lauren J. Glass, 728284

2007, \$397.00 Late Filing Penalty, \$3,496.00 Demand Penalty, \$100.00 Filing Enforcement  
2008, \$928.75 Late Filing Penalty, \$4,507.00 Demand Penalty, \$100.00 Filing Enforcement,  
\$170.00 Collection Cost Fee

Action: Sustain the action of the Franchise Tax Board.

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Sergei Goncharoff and Ingrid Goncharoff, 574870

2006, \$24,172.00 Assessment, \$4,834.40 Accuracy-Related Penalty

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

Steven T. Waltner and Sarah V. Waltner, 729266

2007, \$2,412.00 Assessment

Action: Sustain the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

Pamela Willis, 620761

2008, \$216.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Mario Benitez and Fausta Robles, 624515

2003, \$648.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Allen G. Bennett, 717448

2008, \$2,180.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Robert L. Botello and Anselma Botello, 607350

2006, \$1,139.40 Assessment

2007, \$702.00 Assessment

2008, \$337.40 Assessment

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

Roberto Chavez and Estella O. Chavez, 694026

2006, \$4,724.00 Assessment, \$1,181.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

David Crawley, 606545

2007, \$372.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Goldfish (DE) LP, 675642

2011, \$200.00 Late Filing Penalty, \$432.00 Late Filing Penalty Partnership Return

Action: Sustain the action of the Franchise Tax Board.

Ronald Herrera, 626169

2010, \$1,109.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Christopher Hogan, 639477

2007, \$705.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Carl W. Holm and Carolyn V. Holm, 701952

2011, \$4,078.12 Claim Refund of Penalties

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

Donald M. Jinks and Sandra Jinks, 614126

2006, \$112,957.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Pamela Judice, 627120

2007, \$2,995.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Maria Teresa Estandarte Mabugat, 563598

2004, \$122,056.00 Assessment, \$22,411.20 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Sherie L. Mclean, 601797

2007, \$2,160.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Menmar Entertainment, Inc., 589300

2006, \$200.00 Late Filing Penalty, \$51.20 Estimated Tax Penalty, \$22.00 Lien Fee, \$352.00

Collection Cost Recovery

2007, \$200.00 Late Filing Penalty, \$58.70 Estimated Tax Penalty

2008, \$200.00 Late Filing Penalty, \$49.55 Estimated Tax Penalty

Action: Sustain the action of the Franchise Tax Board.

Merrill L. Mago Trust 14, 627298

2002, \$12,588.75 Assessment

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

Matthew S. Mitchell, 570291

2005, \$21,445.06 Assessment

2008, \$3,149.23 Assessment

Action: Sustain the action of the Franchise Tax Board.

Monsterops, LLC, 620341

2009, \$1,700.00 Assessment, \$137.50 Late Payment Penalty, \$225.00 Late Filing Penalty,

\$425.00 Demand Penalty, \$100.00 Late Return Penalty, \$88.00 Filing Enforcement Fee

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

Pilar Nevarez and Fernando Peniche, 608110

2004, \$10,445.99 Tax and Applicable Interest

2005, \$17,810.32 Applicable Interest

Action: Sustain the action of the Franchise Tax Board.

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Walter M. O'Grodnick, 646220

2010, \$1,304.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Barry Rossum and Darlene Rossum, 695903

2000, \$9,512.00 Assessment, \$3,804.80 Accuracy-Related Penalty, \$1,796.28 Estimated Post-Amnesty Penalty

Action: Sustain the action of the Franchise Tax Board.

Edward Salgado and Susana Salgado, 693074

2008, \$1,179.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

William R. Taylor, 605380

2010, \$648.96 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Glen Steward and Jill Steward, 631064

2006, \$101,471.00 Assessment, \$43,715.95 Penalties

Gregory Bischoff and Bonita Bischoff, 635970

2006, \$78,311.00 Assessment, \$29,631.00 Penalties

Action: Dismiss for lack of jurisdiction.

Doyle Whitcomb, 634737

2008, \$943.00 Assessment

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

Victor Lee White and Dawn Teresa White-Gatewood, 612740

2009, \$3,282.12 Unpaid Final Balance Due

2010, \$1,982.43 Unpaid Final Balance Due

Action: Sustain the action of the Franchise Tax Board.

Robert Zaragoza, 711969

2010, \$1,009.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Richard J. Oleksa, Jr. and Michelle Oleksa, 600511

2008, \$15,501.10 Claim For Refund

Action: Deny the petition for rehearing.

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

With respect to the Sales and Use Tax Matters, Redeterminations, Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Runner 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 *Ericsson, Inc., 405617 (OH)*, the Board made the following orders:

Viking Ready Mix Co. Inc., 557497(DF)

01/01/06 to 12/31/08, \$407,265.46

Action: Approve the redetermination as recommended by staff.

Advanced Cleanup Technologies, Inc., 521950 (UT)

04/20/04 to 04/20/04, \$129,490.80

Action: Approve the redetermination as recommended by staff.

Advanced Cleanup Technologies, Inc., 521952 (UT)

06/28/05 to 06/28/05, \$136,125.00

Action: Approve the redetermination as recommended by staff.

Frank C. Girardot, Jr., 586549 (GH)

07/01/02 to 12/31/06, \$188,017.11

Action: Approve the redetermination as recommended by staff.

EDS Information Services, LLC, 505939 (OH)

04/01/04 to 12/31/07, \$2,397,786.04

Action: Approve the redetermination as recommended by staff.

Vertis, Inc., 716415 (OH)

04/01/08 to 06/30/11, \$3,360,619.56

Action: Approve the redetermination as recommended by staff.

TRE, Inc., 572002 (EH)

04/01/07 to 03/31/10, \$101,386.31

Action: Approve the redetermination as recommended by staff.

Ericsson, Inc., 405617 (OH)

04/01/05 to 06/30/09, \$972,592.82

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

MSC Group, Inc., 785276 (OH)

10/01/08 to 09/30/11, \$386,390.00

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

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**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. Steel, seconded by Ms. Yee 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 *Cisco Systems, Inc., 620545 (CH)*; *Diageo North America, Inc., 522406 (OH)*; *Ericsson, Inc., 405617 (OH)*; and, *Google, Inc., 711136 (GH)*; the Board made the following orders:

Suzanne Hoo, 547290 (BH)

07/01/95 to 09/30/98, \$155,060.38

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

Alcan Global Phrmctl Pckngng, Inc., 694941(OH)

01/01/07 to 12/31/09, \$1,286,286.30

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

Pacifica Petroleum, Inc., 788783 (AP)

04/01/09 to 06/30/09, \$112,851.67

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

ECI Mobile, Inc., 786953 (BH)

04/01/09 to 09/30/09, \$136,367.00

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

ECI Mobile, Inc., 786954 (BH)

10/01/09 to 04/30/12, \$258,757.71

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

Initial R. Corp., 789933 (AP)

01/01/05 to 04/30/06, \$141,049.28

Action: Approve the refund as recommended by staff.

Wells Fargo Auto Finance, Inc., 614191 (CH)

01/01/08 to 06/30/10, \$6,931,089.82

Action: Approve the refund as recommended by staff.

Cisco Systems, Inc., 620545 (GH)

07/01/08 to 12/31/12, \$6,923,072.90

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

California Casualty Management, Co., 741188 (OH)

01/01/09 to 12/31/12, \$197,282.63

Action: Approve the refund as recommended by staff.

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Diageo North America, Inc., 522406 (OH)

10/01/06 to 06/30/08, \$193,191.22

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

Hill's Pet Nutrition Sales, Inc., 660113 (OH)

07/01/09 to 09/30/12, \$343,271.32

Action: Approve the refund as recommended by staff.

Hughes Circuits, Inc., 557548 (FH)

07/01/07 to 09/30/09, \$122,395.51

Action: Approve the refund as recommended by staff.

Ericsson, Inc., 405617 (OH)

04/01/05 to 06/30/09, \$2,609,823.68

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

Google, Inc., 711136 (GH)

07/01/06 to 06/30/08, \$833,573.83

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

Liebherr Cranes, Inc., 738980 (OH)

04/01/13 to 06/30/13, \$382,980.35

Action: Approve the refund as recommended by staff.

Behr Paint Corporation, 745445 (OH)

10/01/07 to 09/30/10, \$132,017.23

Action: Approve the refund as recommended by staff.

Ocean Alexander of California, LLC, 774374 (EA)

01/01/12 to 03/31/12, \$328,125.00

Action: Approve the refund as recommended by staff.

Peritus Portfolio Services, LLC, 606054 (OH)

10/01/11 to 12/31/11, \$230,328.67

Action: Approve the refund as recommended by staff.

#### **LEGAL APPEALS MATTERS, ADJUDICATORY**

Speaker: Moti Balyan, Agent, *Nirvair Corporation, 529714*

Labeau, LLC, 556888, 558475, 608117 (AS)

10/01/04 to 08/31/08, \$9,752.01 Tax

10/01/04 to 08/31/08, \$3,348 Claim for Refund

10/01/04 to 08/31/08, \$4,010 Claim for Refund

Considered by the Board: Hearing Notice Sent – No Response

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

Action: Upon 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 ordered that the petition be redetermined as recommended by the Appeals Division.

**Terry D. Eaves, 475767, 515719 (AC)**

07/01/00 to 06/30/03, \$0.00 Tax, \$0.00 Penalty

**Gordon W. Kelley, 475764, 515722 (AC)**

07/01/00 to 06/30/03, \$0.00 Tax, \$0.00 Penalty

Considered by the Board: October 30, 2013

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

Action: Upon 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 ordered that the petition be redetermined as recommended by the Appeals Division.

**Nirvair Corporation, 529714 (EA)**

04/01/05 to 03/31/08, \$57,186.78 Tax, \$12,914.60 Penalty

Considered by the Board: July 18, 2013

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

Action: Ms. Yee moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Mr. Horton. Ms. Steel made a substitute motion to reduce the audited taxable mini-mart sales for each of the three quarters from April 1, 2005, through December 31, 2005, to 50 percent of average quarterly audited taxable mini-mart sales for 2006, and reduce the markup used to establish audited taxable fuel sales for 2007 to 1.77 percent, and that the petition otherwise be redetermined as recommended by the Appeals Division. The substitute motion was seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes.

### **CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY**

**Barry L. Weiss and Dorraine Gilbert Weiss, 605043**

1993, \$524.00 Claim for Refund

1994, \$7,380.31 Claim for Refund

1996, \$26,453.34 Claim for Refund

1997, \$25,543.44 Claim for Refund

1998, \$11,879.00 Claim for Refund

2000, \$35,344.86 Claim for Refund

2001, \$5,542.91 Claim for Refund

2003, \$1,351.86 Claim for Refund

2004, \$1,303.36 Claim for Refund

2005, \$1,609.50 Claim for Refund

2006, \$619.55 Claim for Refund

Considered by the Board: May 22, 2013

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

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Action: Upon 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 adopted a decision denying the petition for rehearing.

### LEGAL APPEALS PROPERTY TAX MATTERS, ADJUDICATORY

Verizon California, Inc. (201), 742936

2013, \$2,681,300,000.00 Unitary Value

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

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 adopted the written summary decision as amended.

La Paloma Generating Company, LLC (1112), 742923

2013, \$333,300,000.00 Unitary Value

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

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

Action: Upon 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 adopted the written summary decision as presented by staff.

GWF Energy, LLC – Hanford (1122), 743424

2013, \$41,100,000.00 Unitary Value

GWF Energy, LLC – Henrietta (1123), 743425

2013, \$35,800,000.00 Unitary Value

GWF Energy, LLC – Tracy (1124), 743427

2013, \$266,400,000.00 Unitary Value

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

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

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Horton, Ms. Yee and Ms. Mandel voting yes, Ms. Steel and Mr. Runner voting no, the Board adopted the written summary decision as presented by staff.

### 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 *Aloha Community Collective Association; Michael Beurer; Wireless Plaza, Inc.; Yen Bond Chyau; Katie Chyau; Sergio Gabriel DePhilippis; Timothy O. Finnerty; Harper Enterprises, Inc.; Gregory D. Harper; Mobile 2 Mobile USA, Inc.; Geoffrey Crispin Stout; and, Geoffrey Crispin Stout*; as recommended by staff.

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The Board recessed at 1:51 p.m. and reconvened at 2:04 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

## **CHIEF COUNSEL MATTERS**

### **OTHER CHIEF COUNSEL MATTERS**

#### **Report on Property Tax Rule 21, *Taxable Possessory Interests-Valuation***

Richard Moon, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's recommendation for the Board to issue a Letter to Assessors regarding the stated term of possession used to value taxable possessory interests ([Exhibit 3.4](#)).

Speaker: Richard N. Benson, Marin County Assessor

Action: Upon 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 authorized the drafting of the Letter to Assessors as recommended by staff.

## **ADMINISTRATIVE SESSION**

### **ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative 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:

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 3.5](#)).

Kathryn Hale, Business Taxes Representative, Centralized Collection Section,  
Headquarters  
Timothy Munz, Business Taxes Specialist II, Special Operations Branch,  
Investigations and Special Operations Division, Legal Department  
Rosemary Noriega, Tax Technician III Lead, Ventura District Office  
John W. O'Brien, Business Taxes Specialist II, Sales and Use Tax Department,  
Chicago Office  
Celia Gail Stormes, Business Taxes Specialist I, Sales and Use Tax Department,  
Riverside District Office  
Theresa Vina, Tax Service Specialist, Outreach Services Division, Headquarters

Action: Approve the Board Meeting Minutes of November 19-20, 2013; December 17, 2013; and January 16, 2014.

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Action: Approve the proposed revisions to the Compliance Policy and Procedures Manual, Chapter 2, *Registration* ([Exhibit 3.6](#)).

Action: Approve the proposed revisions to the Compliance Policy and Procedures Manual, Chapter 7, *Collections* ([Exhibit 3.7](#)).

Action: Approve the proposed revisions to the Compliance Policy and Procedures Manual, Chapter 8, *Consumer Use Tax* ([Exhibit 3.8](#)).

## **ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS**

### **Legislative Committee – March 25, 2014**

Action: Upon 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 approved the Legislative Committee report and the actions therein ([Exhibit 3.9](#)).

### **Property Tax Committee – January 16, 2014**

Action: Upon motion of Ms. Steel, seconded by Ms. Mandel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Property Tax Committee report and the actions therein ([Exhibit 3.10](#)).

## **OTHER ADMINISTRATIVE MATTERS**

### **Executive Director's Report**

Cynthia Bridges, Executive Director, provided a report regarding the organization of the various Board functions related to customer service.

Cynthia Bridges, Executive Director, provided a report regarding the progress on the CROS project to replace BOE's two current tax legacy technology systems.

### **Chief Counsel's Report**

Randy Ferris, Chief Counsel, introduced Randy Silva, Chief, Investigations Division, Legal Department who provided a status report on the Revenue Recovery and Collaborative Enforcement Act, and the Tax Recovery and Criminal Enforcement Team (Pilot Project).

### **Sales and Use Tax Deputy Director's Report**

Jeff McGuire, Deputy Director, Sales and Use Tax Department, provided an update regarding the Sales and Use Tax Department's Audit Program ([Exhibit 3.11](#)).

Tuesday, March 25, 2014

**Property and Special Taxes Deputy Director's Report**

David Gau, Deputy Director, Property and Special Taxes Department, made introductory remarks regarding the approval of the 2014 Timber Advisory Committee (TAC) appointments, and staff's recommendation to approve TAC members for four-year terms starting in 2015 ([Exhibit 3.12](#)).

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 approved the 2014 Timber Advisory Committee and four-year terms starting in 2015 as recommended by staff.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD  
MARCH 25, 2014**

Loucas Savvas Kakoullis, 571124 (CH)

Final Action: Upon 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 ordered that the audited taxable sales ratio of credit card sales be increased to 85 percent, and that the petition otherwise be redetermined as recommended by the Appeals Division.

**ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 2:37 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 settlements (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 2:44 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Mr. Horton announced the appointment of Debra Kalfsbeek to the position of Chief, Special Taxes Audit, Appeals and Motor Carrier Division.

The Board adjourned at 2:45 p.m.

*The foregoing minutes are adopted by the Board on April 22, 2014.*

Note: The following matters were removed from the calendar prior to the meeting: *Kenneth Dean, 62012*; and, *Enyinnaya Christian Ojogho, 396268, 414889, 610607*.