

Tuesday, June 11, 2013

The Board met at its offices at 450 N Street, Sacramento, at 11:10 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.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Emmis Communications Corporation, 547964

2006, \$76,544.00 Assessment

For Appellant:

Ryan Hornaday, Representative

Carley A. Roberts, Attorney

Timothy Gustafson, Attorney

For Franchise Tax Board:

Ted Tourian, Tax Counsel

Norm Scott, Tax Counsel

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

Issues: Whether respondent properly excluded \$931,119,059 from the sales factor denominator pursuant to California Code of Regulations, title 18, section 25137(c)(1)(A) (Regulation 25137(c)(1)(A)) as substantial amounts of gross receipts arising from an occasional sale of a fixed asset or other property held or used in the regular course of appellant's trade or business.

If respondent did properly exclude the gross receipts at issue, whether appellant has shown by clear and convincing evidence that the exclusion of gross receipts pursuant to Regulation 25137(c)(1)(A) results in an unfair representation of its business activities in California.

Appellant's Exhibit: Miscellaneous Charts and Documents ([Exhibit 6.1](#))

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

Exhibits to these minutes are incorporated by reference.

The Board recessed at 1:28 p.m. and reconvened at 2:15 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARING

Paul Anthony Wasseem, 535330 (GH)

10-1-06 to 6-30-07, \$28,889.70 Tax, \$3,196.19 Late Filing Penalty, \$12.77 Finality Penalty

For Petitioner:

Paul A. Wasseem, Taxpayer

For Sales and Use Tax Department:

Kevin Smith, Tax Counsel

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

Issues: Whether petitioner is personally liable as a responsible person for the unpaid liabilities of Bike Spring, LLC pursuant to Revenue and Taxation Code section 6829.

Whether taxpayer has established reasonable cause sufficient for relieving the penalties for late filing of returns and the finality penalty originally assessed against Bike Spring.

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.

Tuesday, June 11, 2013

PUBLIC HEARINGS**Timber Harvest Values and Modified Harvest Values**

David Yeung, Principal Property Appraiser, State-Assessed Properties Division, Property and Special Taxes Department, made introductory remarks regarding the timber harvest values and modified harvest values. On or before June 30, 2013, the Board shall estimate the immediate harvest values of and adopt schedules for each species or sub-classification of timber harvested between July 1 and December 31, 2013. Additionally, the Board may modify immediate harvest values to reflect material changes in timber values that result from fire or other catastrophic cause for any area or part thereof in which damaged timber is located. (R&T Code § 38204.) ([Exhibit 6.2.](#))

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

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 timber harvest values and modified harvest values as recommended by staff.

Proposed Adoption of Amendments to Cigarette and Tobacco Products Licensing Act (Act) Regulations 4601, 4603, 4604 and 4605

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for adoption of proposed amendments to Cigarette and Tobacco Products Licensing Act (Act) Regulations 4601, *Service of a Notice of Violation or Warning Notice*; 4603, *Penalties for Licensed or Unlicensed Retailers*; 4604, *Penalties for Licensed or Unlicensed Wholesalers and Distributors*; and, 4605, *Penalties for Licensed or Unlicensed Manufacturers and Importers*; to provide for the service of all notices under the Act and the reduction of suspensions to five days when warranted ([Exhibit 6.3.](#))

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

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 adopted the amendments to Cigarette and Tobacco Products Licensing Act (Act) Regulations 4601, 4603, 4604 and 4605 as recommended by staff.

Ms. Steel requested a report regarding staff's use of the new discretion to reduce suspensions to 5 days, after the proposed amendments to Regulations 4603-4605 are effective and implemented, to make sure that staff is using the discretion to help taxpayers by reducing what would otherwise be 10-day suspensions to 5-day suspensions, when a 10-day suspension seems to harsh, and staff is not using the discretion to increase what would otherwise be 0-day suspensions to 5-day suspensions.

Tuesday, June 11, 2013

Proposed Adoption of Amendments to Property Tax Rule 462.040, *Change in Ownership – Joint Tenancies*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for adoption of amendments to Property Tax Rule 462.040, *Change in Ownership – Joint Tenancies*, to make the rule consistent with and clarify current law regarding transactions involving joint tenancies ([Exhibit 6.4](#)).

Speakers: Janet Lewis, Supervising Real Property Appraiser, Sacramento County Assessor's Office
Barbara Edginton, Manager, San Luis Obispo County Assessor's Office

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 Property Tax Rule 462.040 as recommended by staff.

Ms. Yee thanked Ms. Edginton for her work on this regulation.

LEGAL APPEALS MATTERS, CONSENT

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

David Michael Glass and Cecilia A. Sahm-Glass, 512133 (JH)
7-1-04 to 6-10-08, \$12,798.74 Tax, \$4,958.73 Negligence Penalty
Action: Redetermine as recommended by the Appeals Division.

Richard Alvin Hamilton, 592324 (CH)
1-1-92 to 12-31-92, \$7,379.27 Claim for Refund
Action: Deny the claim for refund as recommended by the Appeals Division.

St. Abraam Business Invest Group, 681992 (STF)
10-3-12 Seizure Date, \$551.88 Approximate Value
Action: Determined that staff properly seized the tobacco products.

Balraj Singh Dhillon, 682007 (STF)
9-20-12 Seizure Date, \$1,428.00 Approximate Value
Action: Determined that staff properly seized the tobacco products.

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

Tuesday, June 11, 2013

Shonna Beach, 563270

2004, \$3,074 Assessment

Action: Sustain the action of the Franchise Tax Board.

Barbara Brown, 561362

2006, \$22,861.30 Assessment

Action: Sustain the action of the Franchise Tax Board.

Frank F. Chen and Susan H. Chen, 603431

2005, \$5,070.00 Claim for Refund

2006, \$23,225.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Keith Costello, 432902

2002, \$17,804.00 Tax, \$863.01 Post-Amnesty Penalty

2003, \$13,114.00 Tax, \$2,622.80 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Florence Fang, 587071

2003, \$169,280 Assessment

Action: Dismiss for lack of jurisdiction.

William Freeman, 585926

2007, \$1,129.00 Assessment

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

Jo A. Garcia, 530560

2005, \$15,434.00 Assessment, \$3,858.50 Failure to Furnish Information Penalty

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

Vijaya Gummadi and Rose Gummadi, 554793

2005, \$4,615.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gregory A. Hammonds, 496847

2005, \$8,739.00 Tax, \$2,184.75 Late Filing Penalty

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

Li-Mei Echo Hsueh, 573978

2005, \$4,868.15 Claim for Refund

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

David M. Kupfer and Kelley J. Kupfer, 575345

2009, \$35,519.08 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Tuesday, June 11, 2013

Gabriel Martinez and Piedad Perez, 600106
2003, \$938.32 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Francois Masciopinto and Delphine Masciopinto, 593169
2009, \$5,903.10 Claim for Refund
Action: Sustain the action of the Franchise Tax Board.

Michael Edwin Napoliello, 435098
2000, \$598,740.40 Claim for Refund
Kosti Shirvanian and Marian Shirvanian, 351829
1999, \$1,071,517.00 Claim for Refund
James P. Rhodes and Julie A. Rhodes, 461388
1999, \$1.00 or more

2000, \$1.00 or more
Stanley Ross and Marilyn B. Ross, 461997
2000, \$1.00 or more

Peter Thomas and Stacy Thomas, 450982
1999, \$1,246.49 Claim for Refund
2000, \$0.00 Claim for Refund

Ahmadreza Rofougaran and Neda Semsar, 357311
2000, \$530,303.00 Claim for Refund

Estate of William E. Simon and Tonia A. Simon, 362327
1999, \$321,108.00 Claim for Refund
2000, \$53,419.00 Claim for Refund

Jason Moskowitz and Wendy Moskowitz, 435095
2000, \$599,745.60 Claim for Refund
2001, \$411.15 Claim for Refund

Leonard I. Green (Dec'd), 346243
2000, \$43,388.00 Claim for Refund

Sean K. Tayebi, 352188
2000, \$319,404.19 Claim for Refund

Lodwick M. Cook and Carole D. Cook, 389000
1999, \$176,000 Claim for Refund
2000, \$132,500 Claim for Refund

Denis R. Brown and Margaret Brown, 341479
1999, \$335,929.00 Claim for Refund

Frank M. Goldberg and Lee Goldberg, 350470
1999, \$100,291.00 Claim for Refund

2000, \$22,788.00 Claim for Refund
2001, \$3,197.00 Claim for Refund

Donald Munro and Julie A. Simon, 348939
1999, \$49,445.00 Claim for Refund

2000, \$32,406.00 Claim for Refund
(Continued on next page.)

Tuesday, June 11, 2013

(Continued from previous page.)

Charles Michael Carter and Diane K. Carter, 342745

1999, \$107,934.00 Claim for Refund

James McCloskey and Maureen McCloskey, 348736

1999, \$87,291.00 Claim for Refund

Edwin O. De Silva, 342162

1999, \$162,535.00 Claim for Refund

2000, \$89,503.00 Claim for Refund

Ravinder Sethi and Risham Sethi, 343001

1999, \$576,054.00 Claim for Refund

Paul Marciano, 348732

1999, \$396,713.00 Claim for Refund

Armand Marciano, 343109

1999, \$66,770.00 Claim for Refund

Maurice Marciano, 349026

1999, \$284,184.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Cort O'Haver and Rachael O'Haver, 609862

2007, \$3,517.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Albert E. Quackenbush IV, 593991

2007, \$372.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Craig Rentle and Barbara Rentle, 596459

2010, \$1,858.19 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Hassan Saberi, 597468

2009, \$1,390.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ricky Washington, 588735

2006, \$1,462.29 Assessment

Action: Sustain the action of the Franchise Tax Board.

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

Tuesday, June 11, 2013

Konica Minolta Bus Solutions U.S.A., 577445 (OH)

1-1-06 to 12-031-08, \$317,378.57

Action: Approve the redetermination as recommended by staff.

Airgas-West, Inc., 418893 (AA)

1-1-02 to 12-31-04, \$140,908.60

Action: Approve the redetermination as recommended by staff.

Road Runner Sports, Inc., 595718 (FH)

1-1-07 to 12-31-08, \$249,008.18

Action: Approve the redetermination as recommended by staff.

Alexander Michael Pistone, 522521 (FH)

1-1-05 to 12-31-08, \$114,896.89

Action: Approve the redetermination as recommended by staff.

Planet Fortune, Inc., 577426 (AP)

10-1-07 to 9-30-10, \$117,846.86

Action: Approve the redetermination as recommended by staff.

Charles Franklin Newcomb, 631073 (AS)

12-01-09 to 5-12-12, \$137,369.88

Action: Approve the redetermination as recommended by staff.

Mc-Donald's Restaurants Calif., Inc., 722795 (OH)

10-1-12 to 12-31-12, \$281,137.10

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

PVH Retail Stores, Inc., 722798 (OH)

7-1-12 to 9-30-12, \$140,568.17

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

Automotive Funding Group, Inc., 557529 (EA)

1-1-10 to 3-31-11, \$220,098.45

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

Mel-Jen, 722250 (AS)

7-1-11 to 9-30-11, \$654.79.00 Interest Adjustment

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

Benicia Fabrication & Machine, Inc., 722258 (JH)

11-1-12 to 11-30-12, \$828.45 Interest Adjustment

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

Tuesday, June 11, 2013

Bruker Nano, Inc., 722260 (GH)

8-1-12 to 8-31-12, \$412.53 Interest Adjustment

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

Meyer Global, Inc., 722263 (AR)

11-1-12 to 11-30-12, \$74.38 Interest Adjustment

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

B & H Education, Inc., 722261 (AS)

10-1-12 to 10-31-12, \$448.43 Interest Adjustment

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

S.J. Craig Corporation, 722262 (AS)

7-1-12 to 9-30-12, \$502.79 Interest Adjustment

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

Eagle Marine Services LTD, 722257 (CH)

8-1-12 to 8-31-12, \$86.54 Interest Adjustment

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

Cambria Company, LLC, 722256 (OH)

7-1-11 to 6-30-12, \$2,253.99 Interest Adjustment

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

His Place #2, LLC, 722252 (BH)

4-1-12 to 6-30-12, \$79.35 Interest Adjustment

Action: Approve the one day interest relief 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 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 *Walt Disney Pictures & Television, 715877 (OH)*; and, *The Walt Disney Company, 715871 (OH)*; the Board made the following orders:

Big O Tires, Inc., 722865 (OH)

7-1-06 to 12-31-09, \$151,466.17

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

Arthur Valle, Jr., 531175 (AS)

1-1-04 to 10-29-06, \$100,000.00

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

Tuesday, June 11, 2013

Kourosh Hakimpoor, 721999 (AS)

7-1-03 to 6-30-08, \$2,048,304.88

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

Walt Disney Pictures & Television, 715877 (OH)

1-1-06 to 12-31-09, \$4,186,376.34

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

A K H Company Incorporated, 715850 (EA)

7-1-09 to 6-30-12, \$111,318.31

Action: Approve the refund as recommended by staff.

Scripps Health, 611070 (FH)

4-1-09 to 12-31-11, \$541,254.85

Action: Approve the refund as recommended by staff.

Children's Hospital Health Center, 570167 (FH)

1-1-08 to 6-30-11, \$629,753.17

Action: Approve the refund as recommended by staff.

American Material MGT Alliance, Inc., 573962 (EH)

4-1-10 to 12-31-10, \$360,009.00

Action: Approve the refund as recommended by staff.

Rumsey Band Wintun Indians, 623751 (JH)

7-1-10 to 12-31-11, \$627,067.00

Action: Approve the refund as recommended by staff.

Des Aviation, LLC, 607662 (UT)

8-4-10 to 8-4-10, \$285,187.50

Action: Approve the refund as recommended by staff.

Gor Acquisition Corp., 444431 (AS)

1-1-05 to 12-31-07, \$125,477.04

Action: Approve the refund as recommended by staff.

The Walt Disney Company, 715871 (OH)

1-1-06 to 12-31-09, \$156,442.27

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

Granite Rock Company, 710792 (GH)

10-1-08 to 9-30-11, \$223,164.37

Action: Approve the refund as recommended by staff.

Tuesday, June 11, 2013

Coasthills Federal Credit Union, 596912 (GH)

10-1-08 to 12-31-11, \$148,338.77

Action: Approve the refund as recommended by staff.

Stanford Federal Credit Union, 600607 (GH)

10-1-07 to 6-30-11, \$249,596.41

Action: Approve the refund as recommended by staff.

KFC Corporation, 609888 (OH)

9-30-08 to 9-26-11, \$136,844.17

Action: Approve the refund as recommended by staff.

Automotive Funding Group, Inc., 557529 (EA)

1-1-10 to 3-31-11, \$302,418.45

Action: Approve the refund as recommended by staff.

Sonic - Santa Monica M, Inc., 570839 (AS)

1-1-07 to 9-30-12, \$138,347.87

Action: Approve the refund as recommended by staff.

Financial Partners Credit Union, 711964 (AA)

4-1-10 to 12-31-11, \$100,650.00

Action: Approve the refund as recommended by staff.

Sonic Calabasas M, Inc., 531145 (AC)

4-28-07 to 9-30-12, \$130,994.51

Action: Approve the refund as recommended by staff.

Dorothy K. Nishimoto, 712958 (DF)

7-1-10 to 3-31-12, \$136,141.42

Action: Approve the refund as recommended by staff.

Kimberly-Clark Global Sales, Inc., 625017 (OH)

10-1-07 to 6-30-11, \$169,373.50

Action: Approve the refund as recommended by staff.

Bankers Auto Acceptance Corp., 623741 (AA)

1-1-10 to 12-31-11, \$296,672.00

Action: Approve the refund as recommended by staff.

Orchard Supply Hardware, LLC, 717032 (GH)

10-1-07 to 9-30-10, \$380,160.17

Action: Approve the refund as recommended by staff.

Tuesday, June 11, 2013

Ixmation, Inc., 649578 (OH)

4-1-12 to 6-30-12, \$343,777.50

Action: Approve the refund as recommended by staff.

Optical Coating Laboratory, LLC, 609826 (JH)

1-1-11 to 3-31-12, \$202,494.19

Action: Approve the refund as recommended by staff.

Storage Solutions, 708601 (OH)

4-1-12 to 9-30-12, \$121,084.00

Action: Approve the refund as recommended by staff.

Ready Tech Go, Inc., 716853 (OH)

1-1-12 to 12-31-12, \$323,202.00

Action: Approve the refund as recommended by staff.

**SPECIAL TAXES MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES,
DENIAL OF CLAIM FOR REFUND, CONSENT**

With respect to the Special Taxes Matters, Redeterminations, Relief of Penalties, Denial of Claim For Refund, Consent Agenda, upon a single motion of Mr. Runner, 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 orders:

Sentry Insurance, A Mutual Co., 254101 (STF)

1-1-02 to 12-31-02, \$241,924.00

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

Mercury Casualty Company, 216497 (STF)

1-1-98 to 12-31-00, \$1,023,975.00

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

Mercury Insurance Company, 216498 (STF)

1-1-98 to 12-31-99, \$1,606,282.00

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

Sentry Select Insurance Company, 250591 (STF)

1-1-02 to 12-31-02, \$172,647.00

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

Tuesday, June 11, 2013

Philadelphia Indemnity Ins. Co., 250592 (STF)

1-1-02 to 12-31-02, \$381,928.00

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

Golden Eagle Insurance Corp., 306238 (STF)

1-1-02 to 12-31-03, \$12,957.00

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

Flyers Energy LLC, 707698 (STF)

10-1-11 to 10-31-11, \$274,265.30

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

Flyers Energy LLC, 707699 (STF)

12-1-11 to 12-31-11, \$259,780.80

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

Liberty Life Assurance Co./Boston, 223992 (STF)

1-1-97 to 12-31-97, \$431,361.89

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

SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Special Taxes 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 and Mr. Runner voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Peerless Insurance Company, 250594 (STF)

1-1-01 to 12-31-02, \$2,547,788.30

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

Chicago Title Insurance Co., 572473 (STF)

1-1-06 to 12-31-08, \$2,881,516.31

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

Tuesday, June 11, 2013

PHL Variable Insurance Company, 608368 (STF)

1-1-08 to 12-31-09, \$125,078.82

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

LEGAL APPEALS MATTERS, ADJUDICATORY

Bar Codes Unlimited, Inc., 523577 (FH)

1-1-06 to 12-31-07, \$31,144.32 Tax

Considered by the Board: Hearing Notice Sent – No Response

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

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

Josie Rowe, 538662 (GH)

1-1-07 to 2-10-08, \$4,858.00 Tax, \$276.20 Late Returns Penalty, \$209.60 Failure to File Penalty, \$209.60 Finality Penalty

Considered by the Board: Hearing Notice Sent – No Response

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

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

Tri-Signal Integration, Inc., 384478 (AC)

1-1-03 to 6-30-06, \$0.00 Tax, \$106,006.29 Negligence Penalty, \$15,934.39 Failure to File Penalty

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 to issue 1 as presented by staff.

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 to issues 3 and 4 as presented by staff.

Upon motion of Mr. Runner, seconded by Ms. Steel and duly carried, Mr. Horton, Ms. Steel and Mr. Runner voting yes, Ms. Yee and Ms. Mandel voting no, the Board adopted the written summary decision as to issue 2 as presented by staff.

Tuesday, June 11, 2013

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**PROPERTY TAX MATTERS****Audits**

MetroPCS California, LLC (2733)

2009-2012, \$256,200,000.00 Escaped Assessment, \$25,620,000.00 Penalties, \$40,905,000.00 In-lieu Interest

Action: Upon motion of Ms. Yee, seconded by Ms. Steel 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 adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

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 *Karmjut Singh Buttar; Thomas James Charlebois; Jill L. Johnson; Kay & Kai Corporation; Leoma Reed Perry and Leoma R. Perry, Inc.; Jose Vicente Reyes; Ziad George Richa; Alicia Shelton; and, Triseven Corporation;* as recommended by staff.

CHIEF COUNSEL MATTERS**RULEMAKING****Proposed Amendments to the Board of Equalization *Rules for Tax Appeals (RTAs)***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to publish proposed amendments to incorporate, implement, and clarify Revenue and Taxation Code section 40, and address clean-up and housekeeping issues ([Exhibit 6.5](#)).

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 authorized publication of the proposed amendments to the RTAs as recommended by staff, and directed staff to make the grammatical changes Ms. Mandel deems necessary to the proposed text of Regulation 5453 before starting the rulemaking process.

Tuesday, June 11, 2013

Section 100 Changes**Regulation 1703, *Interest and Penalties***

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to amend Sales and Use Tax Regulation 1703 to incorporate the addition of Revenue and Taxation Code section 6591.6, and to make minor grammatical edits ([Exhibit 6.6](#)).

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 authorization to make Rule 100 changes to Regulation 1703 as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, 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, 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 6.7](#)).

Dan Bertuldo, Business Taxes Specialist I, Business Taxes Committee and Training Section, Sales and Use Tax Department

Sherri M. Quint, Business Taxes Administrator I, Consumer Use Tax Section, Sales and Use Tax Department

Action: Approve the Board Meeting Minutes of November 14-15, 2012.

ADOPTION OF BOARD COMMITTEE REPORT AND APPROVAL OF COMMITTEE ACTIONS**Business Taxes Committee**

Action: The Board deferred the matter to the July meeting.

OTHER ADMINISTRATIVE MATTERS**Executive Director's Report**

Cynthia Bridges, Executive Director, provided a report regarding time extensions to Alpine, El Dorado, Lassen, Los Angeles, Madera, Plumas, Santa Cruz, Sonoma, and Tehama Counties to complete and submit the 2013/14 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 ([Exhibit 6.8](#)).

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.

Tuesday, June 11, 2013

Sales and Use Tax Deputy Director's Report

Jeff McGuire, Deputy Director, Sales and Use Tax Department, provided an update on current and upcoming Sales and Use Tax Department activities.

Property and Special Taxes Deputy Director's Report

Lynn Bartolo, Chief, Policy and Compliance Division, Property and Special Taxes Department, provided an update regarding the Fire Prevention Fee Program.

Administration Deputy Director's Report

Liz Houser, Deputy Director, Administration Department, provided an update on the Headquarters facilities located at 450 N Street ([Exhibit 6.9](#)).

Liz Houser, Deputy Director, Administration Department, introduced Edna Murphy, Chief, Financial Management Division, who presented the following 2014/15 Budget Concepts for Board direction and input to develop into Budget Change Proposals for possible inclusion in the Governor's Fiscal Year 2014/15 Budget: *Tax Gap II and Lumber Products Assessment; Southern California Appeals and Settlement Unit; Fire Prevention Fee; Valuation Factors Studies for County-Assessed Properties; Intrusion Detection/Intrusion Prevention System – Information Security; Headquarters Consolidation; and, CROS Project (Phase II) – Placeholder* ([Exhibit 6.10](#)).

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD JUNE 11, 2013

Emmis Communications Corporation, 547964

Final Action: Upon motion of Mr. Runner, seconded by Ms. Steel and duly carried, Mr. Horton, Ms. Steel, Mr. Runner and Ms. Mandel voting yes, Ms. Yee voting no, the Board reversed the action of the Franchise Tax Board.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD JUNE 11, 2013

Paul Anthony Wasseem, 535330 (GH)

Final Action: Ms. Steel moved that the penalty be abated and that the petition otherwise be redetermined as recommended by the Appeals Division, and that staff inform the taxpayer of the offer in compromise program. The motion was seconded by Mr. Runner but failed to carry, Ms. Steel and Mr. Runner voting yes, Mr. Horton, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel 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 and that staff inform the taxpayer of the offer in compromise program.

Tuesday, June 11, 2013

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 4:01 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 4:04 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

The Board adjourned at 4:05 p.m.

The foregoing minutes are adopted by the Board on October 29, 2013.

Note: The following matters were removed from the calendar prior to the meeting: *FNB Bancorp, 596038; Amador Patino and Gerardo Javier Guzman, 532069, 549106 (CH); La Primavera Products Svcs., Inc., 550549 (CH); Ardysa California, Inc., 560909 (AA); Ardyss International, Inc., 561575 (EH); Theresa Galea DeRouen, 526948 (BH); 2013 Board Calendar adjustment; Consideration of New Board of Equalization Logo; and, 2013/14 Budget Update.*