

**Tuesday, June 13, 2006**

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:05 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

### **CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**

Loran Jay Forbes, 299082

2000, \$1,472.00 Assessment, \$368.00 Penalty

2001, \$1,765.00 Assessment, \$441.25 Penalty

For Appellant:

Loran Jay Forbes, Taxpayer

For Franchise Tax Board:

Mark McEvelly, Tax Counsel

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

Issues: Whether appellant has demonstrated error in respondent Franchise Tax Board's proposed assessments.

Whether appellant has shown reasonable cause so that the late filing penalties should be abated.

Whether a frivolous appeal penalty should be imposed against appellant.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 6.1)

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

Exhibits to these minutes are incorporated by reference.

### **HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARING**

Robert Taurone, 332895

2004, \$1.00 or more

For Claimant:

Robert Taurone, Taxpayer

For Franchise Tax Board:

Dennis Haase, Tax Counsel

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

Issue: Whether respondent properly denied appellant's claim for property tax assistance.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 6.2)

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

### **CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**

Sonce Leroux, 311939

1986, \$441.18 Assessment

For Appellant:

Sonce Leroux, Taxpayer

For Franchise Tax Board:

Dennis Haase, Tax Counsel

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

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Issue: Whether appellant has shown that respondent abused its discretion in refusing to abate interest.

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

Morris Winkler and Mitzi Winkler, 315221

2002, \$117,715.00 Claim for Refund

For Appellant: Richard Mandelsohn, CPA

For Franchise Tax Board: Ann Hodges, Tax Counsel

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

Issue: Whether stock sold by appellants was "qualified small business stock," thereby entitling appellants to exclude 50 percent of the gain from gross income.

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

Walter Wu and Margarida Wu, 304943

2000, \$70,718.00 Claim for Refund

For Appellant: Ronald J. Rotstein, CPA

For Franchise Tax Board: Raul A. Escatel, Tax Counsel

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

Issue: Whether stock in appellant-husband's wholly-owned corporation became worthless in 2000.

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

Daniel L. Mahnke, 317354

2001, \$2,324.00 Assessment, \$581.00 Penalty

For Appellant: Daniel Mahnke, Taxpayer

For Franchise Tax Board: Mark McEvelly, Tax Counsel

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

Issues: Whether appellant has demonstrated error in the proposed assessment.

Whether appellant has shown reasonable cause such that the late filing penalty should be abated.

Whether the Board should impose a frivolous appeal penalty.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 6.3)

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

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**FINAL ACTION ON HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE  
CLAIM HEARING HELD JUNE 13, 2006**

Robert Taurone, 332895

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

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES  
HEARINGS HELD JUNE 13, 2006**

Sonce Leroux, 311939

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Parrish abstaining, the Board sustained the action with concession by the Franchise Tax Board.

Walter Wu and Margarida Wu, 304943

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board sustained the action of the Franchise Tax Board.

Morris Winkler and Mitzi Winkler, 315221

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**

Leonard R. Magness, 268508

2001, \$1,965.00 Tax, \$491.25 Failure to File Penalty

For Appellant: No Appearance

For Franchise Tax Board: Mark McEvelly, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2001.

Whether appellant has shown the failure to file penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed here.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

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**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD JUNE 13, 2006**

Daniel L. Mahnke, 317354

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$5,000.00 frivolous appeal penalty.

Loran Jay Forbes, 299082

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang voting no, the Board sustained the action of the Franchise Tax Board and imposed a \$5,000.00 frivolous appeal penalty for each year on appeal.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**

Steven R. Nicholas, 311219

2002, \$8,005.00 Tax, \$2,001.25 Notice and Demand Penalty, \$2,001.25 Late Filing Penalty

For Appellant: No Appearance

For Franchise Tax Board: Mark McEvelly, Tax Counsel

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

Issues: Whether appellant has demonstrated any error in respondent's proposed assessment for 2002.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$5,000.00 frivolous appeal penalty.

The Board recessed at 10:35 a.m. and reconvened at 1:30 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

**SALES AND USE TAX APPEALS HEARINGS**

Herbert Steinberg, 260859 (UT)

January 12, 2004, \$990.00 Tax

For Claimant: Michael Mitchell, Attorney

Herbert Steinberg, Taxpayer

For Sales and Use Tax Department: Christine Bisauta, Tax Counsel

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

Issues: Whether claimant is entitled to a refund of use tax.

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

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**Vasant Kale, 187468 (EH)**

1-1-99 to 12-31-01, \$18,795.09 Tax, \$1,879.54 Penalty

For Petitioner: Vasant Kale, Taxpayer

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

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

Issues: Whether petitioner is entitled to additional adjustment because unreported taxable sales established by markup is excessive.

Whether petitioner was negligent.

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

**Elinux.com, Inc., 302076, 346826 (AS)**

4-1-00 to 3-31-03, \$95,333.43 Tax

For Petitioner: Ferdinand Alfajora, Representative

For Sales and Use Tax Department: Bradley Heller, Tax Counsel

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

Issues: Whether the Sales and Used Tax Department properly disallowed the disputed nontaxable sales for resale to D.C. Sunrose, Inc.

Whether petitioner was required to collect use tax with respect to sales to the California State Court of Appeal.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board ordered that the petition be submitted for decision.

**Perfect PC Technologies, Inc., 258181 (EA)**

7-1-99 to 6-30-02, \$165,592.08 Tax

For Claimant: No Appearance

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

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Issue: Whether adjustments are warranted to the audited understatement of reported taxable sales.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board ordered that the petition be postponed and rescheduled to the September 2006 Culver City meeting.

**RGO Imports, Inc., 119173 (EH)**

4-1-96 to 3-31-00, \$17,998.35 Tax, \$5,969.77 Penalty

**Ralph Ossko and Carol Ossko, 135303 (EH)**

4-1-96 to 3-31-00, \$59,697.44 Tax, \$25,844.03 Penalty

For Petitioner: Ralph Von Ossko, Taxpayer

Steven J. Cote, Attorney

Wallace W. Luna, Jr., Witness

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For Sales and Use Tax Department: Kevin Hanks, Hearing Representative  
 Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.  
 Issues: Whether the audited amount of unreported taxable sales is excessive.  
 Whether the negligence penalty is warranted.  
 Whether the dual determination issued against predecessor, for petitioner's tax liability, is proper.  
 Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

**Orna Amzaleg, Asher Fadlon and Isack Fadlon, 171769 (AS)**

1-1-97 to 12-31-99, \$329,497.80 Tax, \$32,949.84 Penalty

For Petitioner: Manny Almeida, Representative  
 Steven Cabrera, CPA  
 Orna Amzaleg, Taxpayer  
 Isack Fadlon, Taxpayer

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative  
 Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.  
 Issues: Whether the understated taxable sales are excessive.  
 Whether the allowance for exempt and nontaxable sales should be increased.  
 Whether petitioner was negligent.  
 Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

**Modern Mold International, Inc., 46790, 151920 (FH)**

10-1-95 to 12-31-98, \$5,209,287.00 Claim for Refund

1-1-99 to 6-30-00, \$2,024,963.00 Claim for Refund

**Internet Design Technologies, LLC, 104735, 202260**

7-1-00 to 9-30-00, \$585,025.00 Claim for Refund

7-1-00 to 6-30-01, \$585,025.00 Claim for Refund

For Claimant: Ernest J. Dronenburg, Jr., Representative  
 Harold Hoch, Taxpayer

For Sales and Use Tax Department: Bradley Heller, Tax Counsel  
 Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether gifts by claimants of promotional pens occurred in Mexico, or instead occurred in California when a related company delivered the pens in its own vehicles to Postal Service in San Diego for mailing to claimants' prospective customers.  
 Whether claimants' use of the pens in California was exempt from tax under the printed sales message exemption.

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

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The Board recessed at 3:15 p.m. and reconvened at 3:30 with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

**LEGAL APPEALS MATTERS, CONSENT**

The Board deferred consideration of the following matter: *Lynne Meredith, 241993 (EA)*.

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

Stephen S. Hiller, 240369 (UT)

July 7, 1998, \$72,189.00 Tax

Stephen S. Hiller, 240370 (UT)

March 9, 2001, \$303,988.00 Tax

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

Mohammad Abdizadeh and William G. Morshauser, 206397 (EH)

1-1-99 to 11-10-01, \$55,058.80 Tax, \$5,395.98 Penalty

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

Lynne Meredith, 241993 (EA)

Action: The Board took no action.

Steve K. Fleming, 265133 (EAA)

4-1-02 to 12-31-02, \$32,020.87 Tax, \$6,276.90 Penalty

Action: Redetermine as recommended by the Appeals Division.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT**

The Board deferred consideration of the following matter: *Robert K. Kent, 287713*; and, *Bradley C. Mart and Madeline Mart, 313041*.

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

Charles L. Edington and Adrienne J. Edington, 317239

1997, \$3,951.60 Assessment

1999, \$2,296.80 Assessment

Action: Sustain the action with concession by the Franchise Tax Board.

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Estate of Robert F. Hoyer, 313097

2001, \$4,217.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Richard Jerrard, 313903

2001, \$100.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Robert K. Kent, 287713

1995, \$18,930.79 Claim for Refund

1996, \$11,137.75 Claim for Refund

1997, \$9,665.62 Claim for Refund

1998, \$8,405.61 Claim for Refund

Action: The Board deferred consideration of this matter.

David B. Levin, 311933

1982, \$3,877.49 Assessment

Action: Sustain the action with concession by the Franchise Tax Board.

Steve Xin Liang, 314938

2001, \$1,603.75 Claim for Refund

Action: Modify the action of the Franchise Tax Board.

James J. Mahoney, 309906

1989, \$2,519.00 Claim for Refund

1991, \$63.75 Claim for Refund

1995, \$1,560.00 Claim for Refund

1996, \$543.09 Claim for Refund

1999, \$1,238.50 Claim for Refund

2001, \$14.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Bradley C. Mart and Madeline Mart, 313041

Action: The Board took no action.

Allen Nichelini, 311076

1998, \$6,571.40 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

J. Ricardo Sobrevilla and Enedelia Sobrevilla, 310301

1986, \$292.28 Accrued Interest

Action: Modify the action of the Franchise Tax Board.

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F. J. A. Winery, Inc., 303607

2001, \$200.00 Claim for Refund

2002, \$2,579.25 Claim for Refund

2003, \$10,895.25 Claim for Refund

2004, \$3,589.90 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**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 Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Robert E. Armstrong, 332776

2005, \$305.00

Action: Sustain the action of the Franchise Tax Board.

Angelina V. Bascos, 330697

2005, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Samuel L. Boyd, 299917

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Jessie Burns, 328901

2005, \$343.00

Action: Sustain the action of the Franchise Tax Board.

Beverly J. Candler, 332394

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Gloria J. Carr, 330815

2005, \$320.00

Action: Sustain the action of the Franchise Tax Board.

Maurice N. Carter, 332656

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Laurice Eid Chidiac, 330223

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Kogiah Ethridge, 330474

2005, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Rita Nicole Hamlett, 331504

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Hai Y. Hwang, 330289

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Alla Ilyasova, 330103

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Louis J. Jackson, Jr., 330288

2005, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Carolyn D. Jones, 329964

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Kenneth R. Jones, 333208

2005, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Valentina Kaganovsky, 330361

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Sherry R. King, 310079

2004, \$312.50

Action: Sustain the action of the Franchise Tax Board.

Cleotha Kinnie, 333204

2005, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Ludmila Masenko, 329596

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Ziya Moaven, 332189

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Elvira Oliverio, 330355

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

A. Roushanaei, 331068

2005, \$275.00

Action: Sustain the action of the Franchise Tax Board.

Dusteen L. Smith, 330298

2004, \$345.00

Action: Sustain the action of the Franchise Tax Board.

Eva Zaleska, 330326

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Yve A. Zara, 329997

2005, \$332.50

Action: Sustain the action of the Franchise Tax Board.

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

The Board deferred consideration of the following matter: *Banctec Third Party Maint, Inc., 347876.*

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *VW Credit Leasing, LTD, 347878*, the Board made the following orders:

J. T. Mc-Kinney Company, Inc., 333933 (AA)

7-1-01 to 6-30-04, \$70,262.39

Action: Approve the redetermination as recommended by staff.

Starpoint USA, Inc., 197554 (AA)

7-1-98 to 5-15-02, \$780,662.89

Action: Approve the redetermination as recommended by staff.

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Envision Media, 162547 (GHC)

10-1-97 to 12-31-00, \$249,970.73

Action: Approve the redetermination as recommended by staff.

Round Table Development Company, 347875 (CH)

1-1-05 to 3-31-05, \$53,511.80

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

Banctec Third Party Maint, Inc., 347876 (OHC)

4-1-05 to 4-30-05, \$70,535.70

Action: The Board deferred consideration of this matter.

RMC Pacific Materials, Inc., 347675 (GHC)

7-1-05 to 7-31-05, \$89,678.51

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

Sky Chefs, Inc., 313844 (OHC)

4-1-01 to 9-30-02, \$190,763.00

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

Phase Three, Inc., 281769 (GH)

1-1-03 to 12-31-03, \$208,313.00

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

Allied Domecq Sprts &amp; Wine USA, 207097 (OHA)

10-1-99 to 12-31-02, \$97,248.00

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

Behr Process Corporation, 330249 (EA)

1-1-01 to 12-31-03, \$1,200,000.00

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

Piping Companies, Inc., 196913 (OHC)

4-1-02 to 6-30-02, \$55,409.71

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

UAG Cerritos, LLC, 258025 (AA)

1-1-03 to 3-31-03, \$90,409.10

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

Greenbriar Homes Com., Inc., 333029 (CH)

1-1-01 to 12-31-03, \$81,337.44

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

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VW Credit Leasing, LTD, 347878 (OHA)

2-1-05 to 2-28-05, \$99,297.44

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

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

The Board deferred consideration of the following matter: *Comcast of California XIII, Inc., 347914.*

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Hewlett-Packard Financial Service, 339196*, the Board made the following orders:

Golden State Irrigation Services, 267246 (KH)

1-1-03 to 3-31-03, \$53,487.53

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

BLT &amp; Associates, Inc., 289301 (AS)

7-1-01 to 6-30-05, \$52,815.06

Action: Approve the refund as recommended by staff.

Lagraphico.com, Inc., 207265 (AC)

10-1-99 to 12-31-04, \$132,244.98

Action: Approve the refund as recommended by staff.

Den-Mat, Inc., 343141 (GH)

7-1-02 to 6-30-05, \$232,405.50

Action: Approve the refund as recommended by staff.

K. Micro, Inc., 294830 (AS)

10-1-01 to 9-30-04, \$420,168.48

Action: Approve the refund as recommended by staff.

Georgia-Pacific Corp., 307525 (OHC)

10-1-98 to 9-30-04, \$154,510.74

Action: Approve the refund as recommended by staff.

Benicia Fabrication &amp; Machine, Inc., 296992 (JHF)

4-1-02 to 12-31-03, \$113,886.10

Action: Approve the refund as recommended by staff.

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Canon Anelva Corporation, 340459 (GH)

7-1-05 to 9-30-05, \$55,127.48

Action: Approve the refund as recommended by staff.

Comcast of California XIII, Inc., 347914 (OH)

Action: The Board took no action.

Hyundai Motor Finance Company, 344852 (EA)

4-1-00 to 3-31-04, \$318,957.74

Action: Approve the refund as recommended by staff.

Kent's Oil Service, 340696 (KH)

4-1-05 to 9-30-05, \$161,149.79

Action: Approve the refund as recommended by staff.

Medline Industries, Inc., 286924 (OHA)

10-1-01 to 12-31-04, \$163,359.45

Action: Approve the refund as recommended by staff.

Milgard Manufacturing, Inc., 288179 (OH)

7-1-01 to 12-31-02, \$2,120,995.97

Action: Approve the refund as recommended by staff.

Dresser Rand Company, 306041 (OHB)

4-1-02 to 12-31-03, \$82,779.09

Action: Approve the refund as recommended by staff.

Siemens Airfield Solutions, Inc., 334820 (OHA)

4-1-05 to 6-30-05, \$60,459.16

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA, LLC., 340309 (KH)

1-18-06 to 2-14-06, \$273,685.00

Action: Approve the refund as recommended by staff.

Bystronic, Inc., 301634 (OHB)

7-1-01 to 12-31-04, \$67,789.92

Action: Approve the refund as recommended by staff.

Central Coast I. V. Services, LLC., 347073 (GHC)

7-1-02 to 12-31-03, \$52,220.13

Action: Approve the refund as recommended by staff.

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Hewlett-Packard Financial Service, 339196 (OHB)

4-1-05 to 6-30-05, \$220,935.59

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

DT Research, Inc., 339202 (GH)

7-1-05 to 9-30-05, \$88,953.46

Action: Approve the refund as recommended by staff.

Compass Financial Corporation, 344668 (OHC)

4-1-05 to 6-30-05, \$56,947.47

Action: Approve the refund as recommended by staff.

Insight Electronics, LLC., 268390 (FHB)

4-1-01 to 3-31-03, \$194,994.19

Action: Approve the refund as recommended by staff.

Bendick Scott Hyundai, LLC., 340737 (AP)

7-1-05 to 9-30-05, \$90,217.79

Action: Approve the refund as recommended by staff.

RDO Agriculture Equipment Company, 347951 (OHA)

1-1-01 to 12-31-02, \$54,164.23

Action: Approve the refund as recommended by staff.

Entrisphere, Inc. 345642 (GH)

1-1-01 to 6-30-04, \$52,904.75

Action: Approve the refund as recommended by staff.

Avis Rent-A-Car System, Inc., 343350 (OHB)

10-1-00 to 9-30-03, \$321,055.42

Action: Approve the refund as recommended by staff.

M & R Sales and Service, Inc., 333155 (OHA)

4-1-05 to 6-30-05, \$104,671.73

Action: Approve the refund as recommended by staff.

Dawn Patrol Incorporated, 261857 (AS)

1-1-01 to 3-31-05, \$382,068.49

Action: Approve the refund as recommended by staff.

Upstate USA, Inc., 267867 (OHB)

1-1-02 to 12-31-02, \$51,256.49

Action: Approve the refund as recommended by staff.

Tuesday, June 13, 2006

Space Exploration Tech Corp., 309525 (AS)

7-1-02 to 6-30-05, \$68,884.17

Action: Approve the refund as recommended by staff.

Fuelcell Energy, Inc., 332063 (OHB)

4-1-05 to 6-30-05, \$77,160.35

Action: Approve the refund as recommended by staff.

A – L Financial Corp., 342197 (EA)

10-1-05 to 12-31-05, \$155,552.12

Action: Approve the refund as recommended by staff.

**PUBLIC COMMENTS**

Speakers: Jeffrey S. Baird, Bewley, Lassleben & Miller, LLP  
Joseph A. Vinatieri, Bewley, Lassleben & Miller, LLP, provided an exhibit  
(Exhibit 6.4).

**ANNOUNCEMENT OF CLOSED SESSION**

Upon motion of Ms. Yee, seconded by Mr. Leonard, and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board deferred closed session and requested a report from Chief Counsel regarding closed session for certain types of litigation.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD JUNE 13, 2006**

Herbert Steinberg, 260859 (UT)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Vasant Kale, 187468 (EH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

**SALES AND USE TAX APPEALS HEARING**

Amscot Holdings, Inc., 187459 (GH)

10-1-98 to 9-30-99, \$50,149.59 Tax

For Petitioner:

Appearance Waived

For Sales and Use Tax Department:

Kevin Hanks, Hearing Representative

**Tuesday, June 13, 2006**

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Issues: Whether the amount of audited taxable sales was established on an accrual basis in the current audit.

Whether petitioner is entitled to relief from the tax because it relied on erroneous written advice.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

### **FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD JUNE 13, 2006**

Elinux.com, Inc., 302076, 346826 (AS)

Final Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

RGO Imports, Inc., 119173 (EH)

Ralph Ossko and Carol Ossko, 135303 (EH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Orna Amzaleg, Asher Fadlon and Isack Fadlon, 171769 (AS)

Final Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the petitioner's supporting documents, the Department's response and provide its recommendation to the Board.

Modern Mold International, Inc., 46790, 151920 (FH)

Internet Design Technologies, LLC, 104735, 202260

Final Action: Mr. Leonard moved to grant the petition. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Mr. Parrish voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

### **PUBLIC COMMENTS**

Speaker: Donald Williamson, San Bernardino County Assessor

**Tuesday, June 13, 2006**

The Board adjourned at 4:30 p.m.

*The foregoing minutes are adopted by the Board on September 27, 2006.*

Note: The following case was voluntary postponed to a later date: *Jack. Newton, 331494.*

Note: The following cases were removed from the calendar prior to the meeting: *.Terry L. Moreland and Peggy J. Moreland, 294805, and, Terry L. Moreland and Peggy J. Moreland, 286425.*