

Wednesday, November 19, 2014

The Board met at its offices at 450 N Street, Sacramento, at 10:09 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.

Mr. Horton congratulated the Members elect on winning their respective electoral races.

The Board recessed at 10:10 a.m. and reconvened at 1:04 p.m. with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Rudolph Buriani and Norma Jean Buriani, 668146

2008, \$3,555.00 Assessment

For Appellant:

Rudolph Buriani, Taxpayer

Norma Jean Buriani, Taxpayer

For Franchise Tax Board:

Libby Rodoni, Tax Counsel

Mary Yee, Tax Counsel

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

Issue: Whether appellants have demonstrated error in the Franchise Tax Board's assessment, which was based upon a federal adjustment.

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 submitted the appeal for decision.

Clovus M. Sykes, 790625

2009, \$427.00 Tax, \$106.75 Late Filing Penalty, \$106.75 Demand Penalty, \$88.00 Filing Enforcement Fee

For Appellant:

Clovus M. Sykes, Taxpayer

For Franchise Tax Board:

Brian Werking, Tax Counsel

Mary Yee, Tax Counsel

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

Issues: Whether appellant has demonstrated any error in the Franchise Tax Board's proposed assessment.

Whether appellant has demonstrated reasonable cause to abate the late filing penalty.

Whether appellant has demonstrated reasonable cause to abate the demand penalty.

Whether the filing enforcement fee can be abated.

Whether the Board should impose a frivolous appeal penalty.

Appellant's Exhibit: Miscellaneous Documents ([Exhibit 11. 3](#))

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 submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

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SPECIAL TAXES APPEALS HEARING

E. M. Fransis Enterprises, Inc., 588145 (STF)

07/01/08 to 10/31/09, \$54,747.66 Tax, \$14,219.17 Negligence Penalty

For Petitioner:

Emad Fransis, Taxpayer

Homam Rady, Representative

Sherif Matar, Representative

For Property and Special Taxes Department: Pamela Mash, Tax Counsel

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

Issues: Whether adjustments are warranted to the amount of disallowed claimed exempt distributions of tobacco products in interstate commerce.

Whether petitioner was negligent.

Jeff Angeja, Tax Counsel, Appeals Division, Legal Department, advised of the revised recommendation of the Appeals Division to reduce the measure of tax by \$8,610 as to item 1.

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

LEGAL APPEALS MATTERS, CONSENT

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:

Almekdad Nasser Ahmed Alharbi and Fatima E. Abdalla, 578943 (CH)

10/01/07 to 09/30/10, \$33,112.90 Tax, \$3,383.67 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Vernon Hickman, 626555 (STF)

04/01/07 to 09/30/08, \$522.00 Tax, \$52.20 Finality Penalty

Vernon Hickman, 626556 (STF)

04/01/07 to 09/30/08, \$57.00 Tax, \$5.70 Finality Penalty

Action: Redetermine as recommended by the Appeals Division.

Kiosko, Inc., 538748 (OH)

09/03/04 to 12/31/08, \$23,236.01 Tax, \$1,732.79 Failure-to-File Penalty

Action: Redetermine as recommended by the Appeals Division.

Mariscos Linda, Inc., 528349 (AA)

01/05/05 to 12/31/07, \$87,098.97 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Folsom Discount Food & Liquor, Inc., 798658 (STF)

December 30, 2013 Seizure Date, \$583.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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GPS Enterprise, Inc., 825127 (STF)

May 20, 2014 Seizure Date, \$917.93 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Neszha0 Consulting Company, LLC, 826590 (STF)

May 14, 2014 Seizure Date, \$121.03 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Tareq Ziad Alrehani, 842769 (STF)

July 15, 2014 Seizure Date, \$2,346.68 Approximate Value

Action: Determined that staff properly seized the tobacco products.

GEO G2 Solutions, Inc., 563641 (UT)

05/09/08 Date Purchased, \$84,975.00 Tax

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

R & G Schatz Farms, Inc., 547724, 588579 (KH)

07/01/06 to 06/30/07, \$26,801.93 Tax

07/01/07 to 06/30/09, \$10,555.65 Tax, \$00.00 Penalty

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

Gurenderjeet Singh Sandhu, 515741 (KH)

07/01/05 to 12/31/08, \$84,655.73 Tax, \$00.00 Penalty

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Christopher Henningfeld and Christine Henningfeld, 735174; Sherri Jones, 756292; and Mark S. Shepherd, 789649.*

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:

Marie B. Batta, 766498

2008, \$9,127.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Donald E. Bloom, 745188

2008, \$6,531.66 Assessment

Action: Sustain the action of the Franchise Tax Board.

Justin Calvin, 728341

2008, \$780.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Staci A. Campbell, 594124

2006, \$40,829.41 Assessment

Action: Sustain the action of the Franchise Tax Board.

Shirley Carter, 636517

2006, \$1,083.44 Claim for Refund

2007, \$1,474.94 Claim for Refund

2008, \$1,618.24 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

The Chatsworth Company, 727158

1999, \$24,389.41 Assessment

2000, \$68,788.00 Assessment

2002, \$48,385.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Joy A. Clark, 739059

2008, \$731.40 Claim for Refund

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

Robert D. Cook, Jr., 694990

2008, \$1,067.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

George P. Gallegos, 538621

2003, \$10,571.60 Assessment

2004, \$10,095.60 Assessment

Action: Sustain the action of the Franchise Tax Board.

Joseph R. Gerardo, 758167

2008, \$882.00 Tax, \$220.50 Late Filing Penalty

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

Juan M. Gonzalez, 740764

2008, \$381.00 Assessment, \$100.00 Late Filing Penalty, \$95.25 Demand Penalty, \$100.00 Filing Enforcement Fee

Action: Sustain the action of the Franchise Tax Board.

Jay A. Greek, 773291

2009, \$1,156.00 Assessment

Action: Modify the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

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Guy Hamilton, 758168

2006, \$1,215.00 Assessment

2007, \$2,313.00 Assessment

2008, \$2,860.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Christopher Henningfeld and Christine Henningfeld, 735174

2007, \$1,447.00 Claim for Refund

Action: The Board took no action.

Allen B. Jacobs, 732679

2008, \$5,475.00 Assessment, \$1,095.00 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Sherri Jones, 756292

2008, \$5,316.00 Tax, \$1,329.00 Late Filing Penalty

Action: The Board took no action.

K & T Properties General Partnership, 733449

2010, \$432.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jessie Y. Lee, 721067

2008, \$510.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Jose Mendez, 759227

2010, \$1,135.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

James D. Morgan, 762099

2009, \$891.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Trang D. Nguyen, 764995

2002, \$18,815.00 Assessment, \$7,526.00 Accuracy-Related Penalty, \$1,276.80 Post-Amnesty Penalty

Action: Modify the action of the Franchise Tax Board.

Linda T. Noble, 790059

2011, \$405.50 Assessment

Action: Sustain the action of the Franchise Tax Board.

Barry L. Nudelman, 766821

2012, \$1,439.61 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Noel Pena, 610952

2008, \$558.00 Claim for Refund

Godofredo B. Abuyo, 611581

2008, \$462.00 Claim for Refund

2009, \$1,230.00 Claim for Refund

2010, \$1,193.00 Claim for Refund

Francisco B. Tacliad, Jr., 611699

2009, \$4,474.00 Claim for Refund

2010, \$4,503.00 Claim for Refund

Ernie Alayon and Roselle Alayon, 612714

2007, \$808.00 Claim for Refund

2009, \$1,082.00 Claim for Refund

Joel Malit, 620788

2007, \$570.00 Claim for Refund

2008, \$718.00 Claim for Refund

2009, \$630.00 Claim for Refund

Edward Conroy, 624143

2009, \$444.00 Claim for Refund

Eduardo U. Garcia, 624575

2008, \$3,019.00 Claim for Refund

Dennis W. Santana, 624643

2009, \$1,032.00 Claim for Refund

Ulysses B. Jacob and Lournia P. Jacob, 668187

2007, \$418.00 Claim for Refund

2009, \$378.00 Claim for Refund

2010, \$282.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jonathan D. Schultz, 609652

2005, \$2,718.00 Tax, \$679.50 Late Filing Penalty, \$543.60 Accuracy-Related Penalty

2006, \$4,523.00 Tax, \$1,130.72 Late Filing Penalty

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

Mark S. Shepherd, 789649

2012, \$3,750.59 Claim for Refund

Action: The Board took no action.

John L. Sommer, 702798

2005, \$655.00 Claim for Refund

2006, \$7,934.00 Claim for Refund

2007, \$6,799.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Woping Tam and YimYung Chiu, 710829

2009, \$1,154.00 Tax, \$230.80 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Marian Toma, 772611

2011, \$329.50 Assessment

Action: Sustain the action of the Franchise Tax Board.

Michael Tran, 788386

2009, \$2,048.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Christopher Treble and Estate of Nancy Treble (Dec'd), 736153

2003, \$1,247,532.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Roger P. Vititow and Janice Vititow, 724814

2006, \$263,998.00 Tax, \$52,799.60 Accuracy-Related Penalty

2007, \$114,157.00 Tax, \$22,831.40 Accuracy-Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Wayne T. Wefel and Christeta A. Wefel, 606169, 610528

2007, \$4,037.00 Claim for Refund

2008, \$3,292.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Charles F. Weymann and Janet S. Weymann, 756300

2011, \$1,041.32 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Joseph A. Zawacki, 741888

2006, \$632.00 Tax, \$126.40 Accuracy-Related Penalty

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. 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:

E Trade Financial Corp. Services, Inc., 724858 (OH)

01/01/08 to 12/31/10, \$1,084,089.58

Action: Approve the redetermination as recommended by staff.

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Sy Katz, 478354 (AP)

07/01/05 to 04/30/06, \$830,042.32

Action: Approve the redetermination as recommended by staff.

Kevin Heaton Whalen, 733799 (CH)

04/01/09 to 06/30/09, \$443,991.00

Action: Approve the redetermination as recommended by staff.

Horizon Distributors, Inc., 620767 (OH)

07/01/07 to 12/31/09, \$171,620.29

Action: Approve the redetermination as recommended by staff.

Stryker Sales Corporation, 523716 (OH)

10/01/03 to 09/30/06, \$4,557,115.23

Action: Approve the redetermination as recommended by staff.

J-2 Gourmet Kitchen, Inc., 556697 (AP)

09/01/03 to 06/30/09, \$151,060.54

Action: Approve the redetermination as recommended by staff.

Restoration Hardware, Inc., 842477 (JH)

01/01/14 to 03/31/14, \$214,585.90

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

Pier 1 Imports U.S., Inc., 842476 (OH)

05/01/14 to 06/15/14, \$105,393.78

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

Sunpower Corporation, Systems, 842478 (CH)

04/01/14 to 04/30/14, \$150,611.14

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

Taco Bell, 765475 (OH)

10/03/12 to 03/19/13, \$132,089.56

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

Gateway One Lending & Finance, LLC, 606705 (EA)

12/01/09 to 12/31/09, \$424,234.00

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

Gateway One Lending & Finance, LLC, 628385 (EA)

01/01/10 to 06/30/10, \$676,564.00

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

United Irish Cultural Center, 842480 (BH)

04/01/14 to 06/30/14, \$28.26

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

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Taft Auto Group, Inc., 842479 (DF)

01/01/14 to 03/31/14, \$170.11

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

Doppelmayr USA, Inc., 842482 (OH)

01/01/14 to 03/31/14, \$295.65

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

Joann.com, LLC, 842481 (OH)

01/01/14 to 01/31/14, \$263.84

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 Mr. Runner, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Morgan Stanley Capital Group, Inc., 731675 (OH)*, the Board made the following orders:

SSS Clothing, Inc., 842438 (AS)

01/02/13 to 12/31/13, \$333,450.00

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

Ward P. Warren, 781387 (AP)

04/01/05 to 03/31/13, \$184,299.19

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

Trojan Petroleum, Inc., 742008 (AR)

04/01/10 to 06/30/10, \$142,682.00

Action: Approve the refund as recommended by staff.

Kratos Analytical, Inc., 606746 (OH)

07/01/09 to 09/30/10, \$109,920.00

Action: Approve the refund as recommended by staff.

School Specialty, Inc., 765815 (OH)

01/01/08 to 12/31/10, \$214,413.87

Action: Approve the refund as recommended by staff.

BMW of North America, 839703 (OH)

06/07/13 to 08/29/13, \$530,514.24

Action: Approve the refund as recommended by staff.

BMW of North America, 839701 (OH)

01/18/13 to 04/26/13, \$363,550.18

Action: Approve the refund as recommended by staff.

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Gordon S. Barienbrock, 716688 (EA)

01/01/05 to 12/20/07, \$103,082.36

Action: Approve the refund as recommended by staff.

Albertsons, LLC, 826608 (UT)

03/28/14 to 03/28/14, \$233,716.00

Action: Approve the refund as recommended by staff.

Morgan Stanley Capital Group, Inc., 731675 (OH)

01/01/10 to 12/31/11, \$269,649.07

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

Midway Rent A Car, 447254 (AS)

10/01/06 to 12/31/07, \$105,166.27

Action: Approve the refund as recommended by staff.

Cellco Partnership, 743872 (OH)

01/01/12 to 06/30/12, \$246,155.75

Action: Approve the refund as recommended by staff.

Taco Bell, 765475 (OH)

10/03/12 to 03/19/13, \$846,819.44

Action: Approve the refund as recommended by staff.

Quest Diagnostics Incorporated, 608878 (OH)

01/01/09 to 12/31/10, \$116,093.84

Action: Approve the refund as recommended by staff.

Quest Diagnostics Clinical Labs, 609315 (OH)

01/01/09 to 12/31/10, \$196,902.85

Action: Approve the refund as recommended by staff.

Reliant Financial Corporation, 804391 (EA)

04/01/13 to 12/31/13, \$169,451.00

Action: Approve the refund as recommended by staff.

Creative Design Consultants, LLC, 809305 (EA)

10/01/09 to 09/30/12, \$106,456.12

Action: Approve the refund as recommended by staff.

T-System, Inc., 785922 (OH)

01/01/10 to 06/30/13, \$226,604.00

Action: Approve the refund as recommended by staff.

DISH Purchasing Corporation, 717020 (OH)

01/01/09 to 12/31/11, \$210,554.31

Action: Approve the refund as recommended by staff.

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Ricoh Produc. Print Solutions, LLC, 578749 (OH)

04/01/10 to 06/30/10, \$169,869.41

Action: Approve the refund as recommended by staff.

Symbility Solutions (USA), Inc., 636929 (OH)

10/01/11 to 12/31/11, \$100,100.00

Action: Approve the refund as recommended by staff.

Calisolar, Inc., 627171 (GH)

07/01/09 to 06/30/12, \$259,309.09

Action: Approve the refund as recommended by staff.

Mercedes-Benz Fncl Servs USA, LLC, 575854 (OH)

07/01/09 to 06/30/11, \$1,361,776.15

Action: Approve the refund as recommended by staff.

Laurent J. Katgely, 845399 (BH)

04/01/09 to 03/31/12, \$193,363.29

Action: Approve the refund as recommended by staff.

PROPERTY TAXES MATTERS, CONSENT

With respect to the Property Taxes Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Runner 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:

Petitions for Reassessment of Unitary Value

Qwest Communications Company, LLC (2463), 836940

2014, \$169,100,000.00 Unitary Value

Action: Reduce the 2014 unitary value to \$164,420,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

Indigo Generation, LLC (1141), 837311

2014, \$46,900,000.00 Unitary Value

Action: Reduce the 2014 unitary value to \$45,500,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

Bicent (California) Malburg, LLC (1154), 837315

2014, \$78,300,000.00 Unitary Value

Action: Reduce the 2014 unitary value to \$76,800,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

MetroPCS California, LLC (2733), 837528

2014, \$203,400,000.00 Unitary Value

Action: Reduce the 2014 unitary value to \$184,600,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

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Larkspur Energy, LLC (1142), 837542

2014, \$40,600,000.00 Unitary Value

Action: Reduce the 2014 unitary value to \$38,100,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

CPV Sentinel, LLC (1160), 837573

2014, \$798,200,000.00 Unitary Value

Action: Reduce the 2014 unitary value to \$710,900,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

NRG Marsh Landing, LLC (1157), 840267

2014, \$756,500,000.00 Unitary Value

Action: Reduce the 2014 unitary value to \$678,300,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

Petitions for Penalty Abatement on Unitary Value

Valley Electric Association, Inc. (160), 837309

2014, \$148,000.00 Unitary Value, \$14,800.00 Penalty

Action: Approve the penalty abatement on 2014 unitary value as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

Trona Railway Co. (882), 836909

2014, \$16,800,000.00 Unitary Value, \$1,680,000.00 Penalty

Action: Approve the penalty abatement on 2014 unitary value as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

Foresthill Telephone Co. (235), 836920

2014, \$17,600,000.00 Unitary Value, \$1,760,000.00 Penalty

Action: Approve the penalty abatement on 2014 unitary value as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

Audeamus (7824), 836928

2014, \$9,880,000.00 Unitary Value, \$988,000.00 Penalty

Action: Approve the penalty abatement on 2014 unitary value as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

NOS Communications, Inc. (2416), 824111

2014, \$742,000.00 Unitary Value, \$74,200.00 Penalty

Action: Approve the penalty abatement on 2014 unitary value as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

Kerman Telephone Co. (246), 836914

2014, \$23,400,000.00 Unitary Value, \$2,340,000.00 Penalty

Action: Approve the penalty abatement on 2014 unitary value as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

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Petitions for Reassessment and Penalty Abatement on Unitary Value

Searles Valley Minerals Operations, Inc. (475), 836911

2014, \$4,640,000.00 Unitary Value, \$464,000.00 Penalty

Action: Reduce the Board-adopted unitary value from \$5,104,000.00 to \$2,740,000.00 to reflect adjustment to the ReproCLD and abatement of the late-filing penalty as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

LEGAL APPEALS MATTERS, ADJUDICATORY

Raymond Harry Simmons, 531521 (AS)

10/01/06 to 01/18/07, \$00.00 Tax, \$00.00 Penalty

Considered by the Board: July 26, 2014

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

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

Mox, Inc., 569235 (STF)

01/01/06 to 02/28/06, \$382,591.73 Tax, \$95,647.93 Fraud Penalty

Mox, Inc., 570251 (STF)

05/01/04 to 12/31/05, \$2,389,056.31 Tax, \$597,264.00 Fraud Penalty

Speaker: Todd Luoma, Attorney

Considered by the Board: September 23, 2014

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

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 ordered that the petition for rehearing be denied.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Richard N. Eisenberg and Anita Eisenberg, 610025

2007, \$562,524.00 Tax, \$112,504.80 Accuracy-Related Penalty

Considered by the Board: August 5, 2014

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

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted a decision denying the petition for rehearing.

LEGAL APPEALS PROPERTY TAXES MATTERS, ADJUDICATORY

(Motion expunged later in the day.)

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TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**PROPERTY TAX MATTERS****Board Roll Changes****2014 Board Roll of State-Assessed Property**

Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Yee and Mr. Runner voting yes, Ms. Steel not participating in accordance with Government Code section 87105, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board approved corrections to the 2014 Board Rolls of State-Assessed Property as recommended by staff ([Exhibit 11.4](#)).

OFFER-IN-COMPROMISE RECOMMENDATIONS

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 Offer in Compromise Recommendations of *Lutfi Hussein Abed; Monterey Information Tech.; Crom, Inc.; Luis Gonzalo Diez-Canseco; Tram Anh Thi Duong; K & K Capital Investments, Inc.; Mohammad Khalid; George Khoury; Coco Rikka Kurelordpai; Robert Emmett Lynch; Robby Matar; Bruce Patrick McNall; Edwin E. Toy; Urban Gardens Unlimited, LLC; Ross Aldon Vexler*; and, *Christopher Lawrence White*; as recommended by staff.

CHIEF COUNSEL MATTERS**RULEMAKING****Regulation 6001, *General Provisions***

Kimberly Willy, Tax Counsel, Settlement & Taxpayer Services Division, Legal Department, made introductory remarks regarding s request for authorization to publish proposed amendments to update the Board's conflict of interest code ([Exhibit 11.5](#)).

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 publish proposed amendments to the Board's conflict of interest code as recommended by staff.

Section 100 Changes**Property Tax Rule 140.1, *Requirements for Managing General Partner of Limited Partnership for Welfare Exemption for Low-Income Housing Properties***

Amanda Jacobs, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to complete Section 100 changes to make the rule consistent with amendments to the Corporations Code ([Exhibit 11.6](#)).

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 authorization to make Rule 100 changes to Property Tax Rule 140.1 as recommended by staff.

Wednesday, November 19, 2014

OTHER CHIEF COUNSEL MATTERS**Request for Authorization to file Amicus Curiae Brief: *Gunter Seibold v. County of Los Angeles Assessment Appeals Board et al.*, Los Angeles Superior Court No. SC107640, Court of Appeal, 2nd Appellate District No. B253701**

Richard Moon, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to file amicus curiae brief regarding the assessment of a property interest on tax exempt publicly owned real property ([Exhibit 11.7](#)).

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 authorized the filing of the amicus curiae brief 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. Mandel 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 11.8](#)).

Julia Castaneda, Tax Technician II, San Jose District Office
Stephen Coyle, Staff Information Systems Analyst, Technology Services
Department, Headquarters
Frederick N. Dueñes, Supervising Tax Auditor II, Sales and Use Tax
Department, Culver City District Office
June Fukuhara, Business Taxes Specialist I, Sales and Use Tax Department,
Culver City District Office
Peter Murphy, Senior Forest Property Appraiser, State-Assessed Properties
Division, Property and Special Taxes Department, Redding District Office
Romulo S. Nogra, Business Taxes Specialist I, Sales and Use Tax Department,
New York Out-of State Office
Lilian M. Sibal, Office Assistant (T), Sales and Use Tax Department, West
Covina District Office
Edgar Valera, Business Taxes Specialist I, San Francisco District Office
Ronnie Yang, Tax Technician III, Sales and Use Tax Department, Ventura
District Office

Wednesday, November 19, 2014

Action: Approve the 2015 Timberland Production Zone Values as recommended by staff ([Exhibit 11.9](#)).

Action: Approve the 2015 revision of Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors*, as recommended by staff ([Exhibit 11.10](#)).

Action: Approve proposed revision to Compliance Policy and Procedures Manual Chapter 5, *Returns*, Sections 510.032 – 520.000 ([Exhibit 11.11](#)).

Action: Approve proposed revision to Compliance Policy and Procedures Manual Chapter 5, *Returns*, Sections 535.055 – 535.100 ([Exhibit 11.12](#)).

Action: Adopted the property tax forms as presented by staff ([Exhibit 11.13](#)).

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Business Taxes Committee

Action: The Board deferred matter to latter in the day.

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

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

Property and Special Taxes Deputy Director's Report

Lynn Bartolo, Acting Deputy Director, Property and Special Taxes Department, provided a report regarding the effects of Proposition 10 on cigarette and tobacco products consumption ([Exhibit 11.14](#)).

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Yee, Ms. Steel, Mr. Runner and Ms. Mandel voting yes, the Board approve the backfill determination of \$14.7 million for fiscal year 2013-14 for the effects of Proposition 10 on cigarette and tobacco products consumption as recommended by staff.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 2:44 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 2:50 p.m. and reconvened immediately in open session with Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel present.

Wednesday, November 19, 2014

LEGAL APPEALS PROPERTY TAXES MATTERS, ADJUDICATORY

With respect to the Legal Appeals Property Taxes Matters, Adjudicatory Agenda, upon 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 accordance with Government Code section 7.9, the Board ordered that its previous motions be expunged.

Petitions for Reassessment of Unitary Value

Verizon California, Inc. (0201), 837518

2014, \$2,936,500,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

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

Action: Upon 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 accordance with Government Code section 7.9, the Board ordered that the petition be granted in part reducing the 2014 Board-adopted unitary value to \$2,609,100,000.00 as recommended by the Appeals Division.

La Paloma Generating Company, LLC (1112), 837006

2014, \$300,200,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

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

Action: Upon 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 accordance with Government Code section 7.9, the Board ordered that the petition be denied as recommended by the Appeals Division.

Crown Castle NG West, Inc. (7982), 836972

2014, \$121,500,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

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

Action: Upon 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 accordance with Government Code section 7.9, the Board ordered that the petition be denied as recommended by the Appeals Division.

Pacific Pipeline System, LLC (486), 836319

2014, \$56,900,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

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

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Yee and Mr. Runner voting yes, Ms. Steel not participating in accordance with Government Code section 87105, Ms. Mandel not participating accordance with Government Code section 7.9, the Board ordered that the petition be granted in part reducing the 2014 Board-adopted unitary value to \$38,800,000.00 as recommended by the Appeals Division.

Wednesday, November 19, 2014

Plains West Coast Terminals, LLC (488), 836320

2014, \$6,150,000.00 Unitary Value

Considered by the Board: Presented for Separate Discussion

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

Action: Upon motion of Mr. Runner, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Yee and Mr. Runner voting yes, Ms. Steel not participating in accordance with Government Code section 87105, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board ordered that the petition be denied as recommended by the Appeals Division.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARINGS HELD NOVEMBER 19, 2014**

Rudolph Buriani and Norma Jean Buriani, 668146

Final 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 sustained the action of the Franchise Tax Board.

Clovus M. Sykes, 790625

Final 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 sustained the action of the Franchise Tax Board and imposed a \$5,000.00 frivolous appeal penalty.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
NOVEMBER 19, 2014**

Pritpal S. Walia, 609568 (CH)

07/01/08 to 06/30/11, \$54,266.48 Tax, \$5,531.27 Negligence Penalty

For Petitioner: Waived Appearance

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 redetermined as recommended by the Appeals Division.

Jagjit Singh Bhandal, 535643 (KH)

08/13/08 to 09/30/09, \$10,594.77 Tax

For Petitioner: Waived Appearance

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

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

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

Whether adjustments are warranted to the amount of unreported taxable cigarette rebates.

Wednesday, November 19, 2014

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

**FINAL ACTION ON SPECIAL TAXES APPEALS HEARING HELD
NOVEMBER 19, 2014**

E. M. Fransis Enterprises, Inc., 588145 (STF)

Final Action: Upon motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board ordered that the petition be redetermined in accordance with the revised recommendation of the Appeals Division.

ADMINISTRATIVE SESSION

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Business Taxes Committee (Continued)

Action: The Board deferred the matter to the December 2014 Sacramento meeting.

The Board adjourned at 2:57 p.m.

The foregoing minutes are adopted by the Board on December 18, 2014.

Note: The following matters were removed from the calendar prior to the meeting: *Capital City Restaurants, Inc., 522640; Rodolfo Dagoberto Carranza, 623951; Jagjit Singh Bhandal, 534239 (KH), and, Elite Cert' Auto Service & Tires, Inc., 550595.*