

Wednesday, March 10, 2004

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:00 a.m., with Ms. Migden, Chairwoman, Mr. Parrish, Vice Chairman, Mr. Leonard and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

FINAL ACTION ON SPECIAL TAXES APPEALS HEARINGS HELD MARCH 9, 2004

La Paz C. Yun, 157732

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

The Board directed staff to proceed with collection against the partner before proceeding against petitioner.

Gary R. Gibbs, 143214

Final Action: Ms. Mandel moved to redetermine the petition as recommended by the Appeals Division. Mr. Leonard made a substitute motion to delete the penalties, otherwise redetermine as recommended by the Appeals Division. The substitute motion was seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD MARCH 9, 2004

Sirarpi Kechedzian, 113001

Final Action: Ms. Mandel moved to redetermine the petition as recommended by the Appeals Division. The motion was seconded by Mr. Chiang. Mr. Leonard made a substitute motion to reduce the measure of tax by \$60,000.00. The substitute motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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

Lee Anthony Brown and Janis I. Brown, 169040

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Migden and Mr. Chiang voting no, the Board ordered that the penalties be deleted, otherwise redetermined as recommended by the Appeals Division.

Mark Colin Brown, 156578

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

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Premier Motorsport, Inc., 191540

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

Temecula Valley RV Services, Inc., 183008

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

Temecula Valley RV, LLC, 184489

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

The Foundation Center, 142831, 186480

Final Action: Ms. Mandel moved to redetermine the petition as recommended by the Appeals Division. Mr. Parrish made a substitute motion to grant the petition. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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

Yehudah Zoldan, 173615

Final Action: Ms. Migden moved to redetermine the petition as recommended by the Appeals Division. The motion was seconded by Ms. Mandel. Mr. Parrish made a substitute motion to delete the penalties, otherwise redetermine the petition as recommended by the Appeals Division. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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

Akira Sonomura, 171771

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

Celebrate Freedom Outreach, Inc., 194097

Final Action: Ms. Migden moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Mandel. Mr. Leonard made a substitute motion to grant the petition. The substitute motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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

Russell E. Belttary and Harold Edward Belttary, 191539, 184597

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

Bill Badi I. Gammoh and Bassam D. Moussa, 156131, 194155

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

Bill Badi I. Gammoh, 156130

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

L.S.M.G. Corporation, 142128

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

Gordana Samardzic, 195296

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

The Board directed staff to offer the petitioner a generous payment plan.

SALES AND USE TAX APPEALS HEARINGS

John R. McCrea and Gentry McCrea, 172992

1-1-98 to 3-31-00, \$42,060.37 Tax

For Petitioner: No Appearance

For Sales and Use Tax Department: Sandy McCaleb, Hearing Representative

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

Issues: Whether the unaccounted for excess bank deposits represent additional taxable gross receipts.

Whether the 10 percent penalty for negligence was properly imposed.

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

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Classic Camaro, Inc., 142837

1-1-97 to 12-31-99, \$5,259.31 Tax

For Petitioner:

Waived Appearance

For Sales and Use Tax Department:

Kevin Hanks, Hearing Representative

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

Issues: Whether petitioner provided sufficient evidence to allow further adjustment to the measure of tax.

Whether the negligence penalty was properly applied.

Action: Upon motion of Ms. Migden, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang 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 MARCH 9, 2004

Wellness Lifestyles, Inc. (dba American Longevity), 194820

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

Best American Services, Inc., 161058

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Rayburn Willard Fladeboe, 182605

1989, \$45,148.00 Assessment, \$3,550.20 Penalty

1990, \$40,718.00 Assessment, \$8,010.80 Penalty

1991, \$18,882.00 Assessment, \$3,776.40 Penalty

For Appellant:

Ronald K. Van Wert, Attorney

Rayburn Willard Fladeboe, Taxpayer

David Gardner, CPA

For Franchise Tax Board

Ann Hoover-Hodges, Tax Counsel

Jozel Brunett, Tax Counsel

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

Issues: Whether or not appellant has established that the rentals he charged to his controlled S corporation in 1989 and 1990 for certain automobile dealership property were not in excess of the fair rental value of such property.

Did appellant receive an S corporation distribution of \$237,717.00 in 1989 when the corporation's accountant made a year-end adjusting entry recording a loan payable to him in that amount out of the corporation's accumulated adjustments account, even though appellant had never loaned such amount to the corporation.

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Whether or not appellant has established that any portion of the interest that has accrued on the assessment of additional taxes against him was attributable in whole or in part to any unreasonable error or delay by an officer or employee of respondent in performing a ministerial act.

Whether or not appellant has established both reasonable cause for any underpayment of taxes and his good faith with respect to such underpayment so as to provide a basis for relief from the accuracy-related penalties imposed by respondent.

Appellant's Exhibit: Timeline (Exhibit 3.2)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang 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 HEARINGS

Charlotte M. Bell, 198291

1998, \$240.00 Claim for Credit

1999, \$240.00 Claim for Credit

For Claimant:

Charlotte M. Bell, Claimant

For Franchise Tax Board

Suzanne Small, 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 3.3)

Respondent's Exhibit: 1998 Renters Assistance Claim (Exhibit 3.4)

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

Michael E. Mitchell, 213096

2002, \$347.50 or more Claim for Credit

For Claimant:

Michael E. Mitchell, Claimant

For Franchise Tax Board

Suzanne Small, 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.

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

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CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**Shintaro Kurita, 199175**

1997, \$600.00 Claim for Refund

For Claimant:

Shintaro Kurita, Claimant

For Franchise Tax Board

Craig Scott, Tax Counsel

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

Issue: Whether appellant's claim for refund is properly barred as untimely under the applicable statute of limitations.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the claim for decision.

Earl Dwaine Finley, 207678

1996, \$19,468.59 Claim for Refund

1997, \$425.84 Claim for Refund

For Claimant:

Earl Dwaine Finley, Claimant

For Franchise Tax Board

Jozel Brunett, Tax Counsel

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

Issue: Whether appellant's claims for refund for 1996 and 1997 are barred by the applicable statute of limitations.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the claim for decision.

Judith A. Marshall, 182110

1987, \$2,944.00 Claim for Refund

For Claimant:

Judith A. Marshall, Claimant

For Franchise Tax Board

Suzanne Small, Tax Counsel

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

Issue: Whether appellant's claim for refund is barred by the statute of limitations.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.5)

Respondent's Exhibit: Return Information (Exhibit 3.6)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the claim for decision.

Obed Alan Miranda and Aida R. Lacara, 218786

1999, \$2,090.00 Assessment

For Appellant:

Obed Alan Miranda, Taxpayer

For Franchise Tax Board

Craig Scott, Tax Counsel

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

Issue: Whether appellants have shown entitlement to their claimed deductions and credits.

Appellant's Exhibit: Cashback Bonus Award Statement (Exhibit 3.7)

Respondent's Exhibit: 1999 CA Tax Form 2555 (Exhibit 3.8)

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

Estate of Hubert J. Idleman (Deceased) and Joann Idleman, 153581, 209932

1993, \$23,024 Assessment

1995, \$86,458.00 Claim for Refund

For Appellant:

Warren Nemiroff, Attorney

Tom Dial, CPA

For Franchise Tax Board

David Gemmingen, Tax Counsel

Diane Ewing, Tax Counsel

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

Issues: Whether appellants have demonstrated error in respondent's assessment of tax for 1993; and, whether appellants have shown that interest should be abated.

Whether appellants have demonstrated that they are entitled to a claimed refund for 1995.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.9)

Respondent's Exhibit: 1993 CA Tax Form 100X (Exhibit 3.10)

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

Donald A. and Mary H. Norberg, 164082

1992, \$19,722.00 Claim for Refund

1993, \$17,158.00 Claim for Refund

For Claimant:

Michael Shaw, CPA

Donald A. Norberg, Claimant

For Franchise Tax Board

Ann Hoover-Hodges, Tax Counsel

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

Issues: Whether respondent has shown that the instant appeal is barred by "res judicata."

Whether appellants have shown that they have sufficient basis in their stock in Century Financial Services to allow the deductions that they had taken on their 1992 and 1993 California tax returns.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.11)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the claim for decision.

Paul E. Ballmer, 192188

1999, \$2,365.00 Tax, \$591.25 Late Filing Penalty, \$591.25 Notice and Demand Penalty

For Appellant:

Paul E. Ballmer, 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 assessment of tax.

Whether appellant has demonstrated reasonable cause for abatement of the late filing penalty.

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Whether appellant has demonstrated reasonable cause for abatement of the notice and demand penalty.

Whether the Board should impose a penalty for filing a frivolous appeal.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.12)

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

Kathleen A. Little, 205956

1998, \$2,415.69 Tax, \$603.92 Late Filing Penalty, \$730.50 Notice and Demand Penalty

For Appellant:

Stan Antlocer, Representative

Kathleen A. Little, Taxpayer

For Franchise Tax Board

Jozel Brunett, Tax Counsel

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

Issues: Whether appellant has demonstrated error in the assessment of tax.

Whether appellant has demonstrated reasonable cause for abatement of the late filing penalty.

Whether appellant has demonstrated reasonable cause for abatement of the notice and demand penalty.

Whether the Board should impose a penalty for filing a frivolous appeal.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.13)

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

Leonard M. and Merri Jean Ross, 203280

1997, \$46,979.00 Claim for Refund

For Claimant:

Perry Oretzky, CPA

Leonard M. Ross, Claimant

For Franchise Tax Board

Jeanne Sibert, Tax Counsel

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

Issues: Given that respondent granted appellants' 1996 tax refund claim in full, does the Board have jurisdiction in this appeal to address respondent's disallowance of appellants' 1996 passive interest deduction of 176,292.00, which had the effect of reducing the net operating loss carryover available to appellants in future years.

Whether or not the statute of limitations precludes respondent from partially denying appellants' 1997 refund claim by reducing the claimed interest deduction in the amount of the Internal Revenue Code section 453A interest refunded to appellants.

Whether or not respondent correctly determined that the Internal Revenue Code section 453A interest initially paid by appellants to the FTB and IRS in 1997, and later refunded to appellants under their 1997 refund claim in 2002, constituted nondeductible personal interest.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.14)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the claim for decision.

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**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARINGS HELD MARCH 10, 2004**

Rayburn Willard Fladeboe, 182605

Final Action: Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board accepted the taxpayer's reported rental amounts on the Irvine property as indicated on his tax returns as to Issue 4, and deleted the negligence penalties imposed by the respondent, but sustained the action of the Franchise Tax Board on all other issues.

Shintaro Kurita, 199175

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Dale McRaven, 166385

1982, \$15,198.00 Assessment

For Appellant: No Appearance

Susan McRaven, 256200

For Appellant: Appearance Waived

For Franchise Tax Board: Mark McEvilly, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: A disqualifying contribution was disclosed to Mr. Parrish. No other disqualifying contributions were disclosed.

Issue: Whether appellant has met his burden to prove error in respondent's grant of separate liability innocent spouse relief to his former spouse.

Appellant's Exhibit: Declarations of Susan McRaven and Susan Goldstein (Exhibit 3.15)

Respondent's Exhibit: Miscellaneous Documents (Exhibit 3.16)

Action: Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish not participating in accordance with Government Code section 15626, the Board sustained the action of the Franchise Tax Board.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARINGS HELD MARCH 10, 2004**

Earl Dwaine Finley, 207678

Final Action: Ms. Mandel moved to sustain the action of the Franchise Tax Board.

Mr. Leonard made a substitute motion to reverse the action of the Franchise Tax Board. The substitute motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Mandel, Mr. Chiang and Ms. Mandel voting no.

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

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Judith A. Marshall, 182110

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board reversed the action of the Franchise Tax Board, granting the Claimant \$2,944.00.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Commercial Sand Blast Company, 203377

6-30-00, \$12,076.00 Claim for Refund

For Claimant: Appearance Waived

For Franchise Tax Board Michael Smalley, Tax Counsel

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

Issues: Whether appellant has shown that amounts paid to, or for the benefit of, its sole shareholder were true loans rather than constructive dividends.

Whether appellant has shown that, if those amounts were true loans, they became worthless during 2000.

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

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD MARCH 10, 2004

Leonard M. and Merri Jean Ross, 203280

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

Obed Alan Miranda and Aida R. Lacara, 218786

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

Estate of Hubert J. Idleman (Deceased) and Joann Idleman, 153581, 209932

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

William Charles Rader, 216573

1993, \$95,736.00 Assessment

For Appellant: Appearance Waived

For Franchise Tax Board Shane Hofeling, Tax Counsel

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

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Issue: Whether appellant has shown that the federal determination, upon which respondent bases its proposed assessment, is erroneous.

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

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD MARCH 10, 2004

Donald A. and Mary H. Norberg, 164082

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

Paul E. Ballmer, 192188

Final Action: Upon motion of Mr. Leonard, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$1,000.00 frivolous appeal penalty.

Kathleen A. Little, 205956

Final Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$1,000.00 frivolous appeal penalty.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Joe Fraga, 218635

2000, \$697.00 Assessment

For Appellant:

Joe Fraga, Taxpayer

For Franchise Tax Board

Diane Ewing, Tax Counsel

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

Issue: Whether appellant is entitled to claim head of household filing status utilizing his domestic partner's son as his qualifying individual.

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

The Board recessed at 11:30 a.m. and reconvened at 11:35 a.m. with Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

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**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
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Joe Fraga, 218635

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

The Board adjourned at 11:37 a.m.

The foregoing minutes are adopted by the Board on May 25, 2004.

Note: The following cases were removed from the calendar prior to the meeting: *Lorraine M. Leighton, 221263; Solito A. Barana, 203375; Colleen A. Owen, 215639; Lance Crain, 194035; John R. Bova, 212925; and, Jeffrey Balkin, 145089.*