

Tuesday, April 18, 2006

The Board met at its offices at 450 N Street, Sacramento, at 9:30 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.

SPECIAL PRESENTATIONS

Superior Accomplishment Award Presentations

Ramon Hirsig, Executive Director, and Members of the Board presented the 2005-06 Sustained Superior Accomplishment Awards to employees in recognition of their outstanding achievements.

The Board recessed at 9:40 a.m. and reconvened at 10:23 a.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 10:24 a.m. and reconvened immediately in closed session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Govt. Code § 11126(e)) and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 10:37 a.m. and reconvened immediately in open session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Mr. Hirsig announced the appointment of Lynn Bartolo, Chief, Excise Taxes and Fees Division, Property and Special Taxes Department.

SALES AND USE TAX APPEALS HEARINGS

Tensor Group, Inc., 281211 (OHA)

4-1-95 to 3-31-03, \$21,528.23 Tax, \$3,368.93 Negligence Penalty

For Petitioner:

Raymond W. Godbout, Accountant

For Sales and Use Tax Department:

Kevin Hanks, Hearing Representative

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

Issues: Whether petitioner has established that a specific sale is nontaxable.

Whether petitioner was negligent.

Action: Upon 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 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.

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American Reprographics Company, LLC., 254516 (AP)

10-1-98 to 9-30-01, \$1,032,961.38 Tax

For Petitioner:

Glenn Bystrom, CPA

Mark Legg, Taxpayer

Charles D. Hayes, Taxpayer

For Sales and Use Tax Department:

Randy Ferris, Tax Counsel

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

Issues: Whether the deduction taken on petitioner's sales and use tax return for the second quarter 1999, for an asserted overpayment of tax on its return for the third quarter 1998, is proper.

Whether petitioner's discount procedures resulted in excess tax reimbursement.

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.

Karim Sarraf, 266956 (BH)

10-15-98 to 6-30-03, \$17,617.40 Tax, \$15,281.39 Penalties

For Petitioner:

Karim Sarraf, Taxpayer

For Sales and Use Tax Department:

Kevin Hanks, Hearing Representative

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

Issues: Whether taxpayer made taxable catering sales during the period under investigation.

Whether taxpayer can be held personally liable for the tax liabilities of "The

Caterer."

Whether taxpayer's liability was discharged in bankruptcy.

Whether the 50 percent penalty for knowingly operating without a valid seller's permit is appropriate.

Whether taxpayer has shown grounds for abating the failure-to-file penalty.

Whether relief from the finality penalty is warranted.

Whether taxpayer has established reasonable cause for his failure to participate in the amnesty program such that the amnesty interest penalty should be relieved.

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.

PUBLIC HEARINGS

Property Taxes – State Assessee's Presentations on the Valuation of State-Assessed Properties

Stanley Siu, Chief, Valuation Division, Property and Special Taxes Department, made introductory remarks regarding State assessee's presentations on the valuation of state-assessed properties.

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Speaker: Peter Michaels, Cooper, White and Cooper, spoke on behalf of State-assessed gas/electric, inter-county pipeline, telephone and railroad companies
 Fred E. Vance, Fred Vance & Associates, LLC, spoke on behalf of Elk Hills Power and the Calpine Entities (Exhibit 4.1)
 Samuel E. Steele, Director of Property Tax with Calpine Corporation, spoke on behalf of Delta Energy Center, Gilroy Energy Center; Pastoria Energy Center; Calpine Construction Finance Company; Metcalf Energy Center; Los Esteros Critical Energy Center

Exhibits to these minutes are incorporated by reference.

Proposed Amendments to Sales and Use Tax Regulation 1591, Medicines and Medical Devices

Randy Ferris, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments to Sales and Use Tax Regulation 1591, Medicines and Medical Devices, which would provide that, subject to certain qualifications, the term “medicines” includes any product approved by the U.S. Food and Drug Administration to diagnose, cure, mitigate, treat or prevent any disease, illness or medical condition (Exhibit 4.2).

Speakers: John Valencia, California Medicine Petitioners
 Tim Madden, California Society of Plastic Surgeons
 Jim Randlett, California Society of Plastic Surgeons
 Glenn Bystrom, Ernst & Young

Action: 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 approved the revised language to the regulation as recommended and referred the regulation to the 15-day file.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Western Materials, LLC, 245621*.

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

Western Materials, LLC, 245621 (AR)
 1-1-00 to 12-31-02, \$00.00 Tax

Action: The Board took no action.

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Qusro Masood Mohammad, 252953, 252955 (EA)

3-1-98 to 12-31-98, \$3,230.00 Tax, \$323.00 Failure to File Penalty

10-1-97 to 2-28-98, \$6,044.00 Tax, \$604.40 Failure to File Penalty

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

Fouad Mohammed Zamzami, 336700 (CH)

September 27, 2005 Notice of Seizure and Forfeiture, \$611.99 Approximate Value

Action: Determined that staff properly seized the cigarettes.

Jaswinder Singh and Jatinderpal Dhillon, 336708 (KH)

October 18, 2005 Notice of Seizure and Forfeiture, \$495.00 Approximate Value

Action: Determined that staff properly seized the cigarettes.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matter: *Andrew Abelman, 264122.*

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

Andrew Abelman, 264122

Action: The Board took no action.

Mark R. Christian, 314958

2003, \$508.17 Claim for Refund

Action: Reverse the action of the Franchise Tax Board.

Jose Coto, 315944

2003, \$565.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

John Gaydos and Angela Gaydos, 314979

2001, \$71.78 Assessment

Action: Sustain the action of the Franchise Tax Board.

Keith R. Martindale, 328134

2002, \$423.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Scott Reidenbaugh, 252161

2000, \$6,736.00 Assessment

Action: Modify the action of the Franchise Tax Board by reducing the proposed tax to \$2,318.00, the late filing penalty to \$579.50, and the notice and demand penalty to \$579.50; in all other aspects, sustain the action of the Franchise Tax Board.

James C. Ross and Anne J. Lumsdaine, 311707

2002, \$1,201.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Yolanda Villablackwell, 314304

2003, \$1,003.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Charles West, 316395

2001, \$829.00 Tax, \$151.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

Christina Hanzel, 281922

2001, \$7,968 Tax, \$3,984 Penalties

Action: Deny the petition for rehearing.

Elizabeth R. Magness, 268509

2001, \$217.00 Assessment, \$100.00 Penalty

Action: Deny the petition for rehearing.

Byron Reynolds, 267548

2001, \$6,555.00 Assessment, \$1,638.75 Penalty

Action: Deny the petition for rehearing.

Noel W. Spaid, 282897

2002, \$5,820.00 Tax, \$2,910.00 Penalties

Action: Deny the petition for rehearing.

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

Judi Jordan, 309692

2002, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

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Hoi Vu, 307046

2004, \$500

Action: Modify the action of the Franchise Tax Board to follow its concession to give appellant \$265.00 for the 2004 claim; otherwise sustain the action of the Franchise Tax Board.

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

The Board deferred consideration of the following matter: *MCY III Corporation, 218314.*

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board made the following orders:

Alaris, Inc., 239827 (CH)

10-1-98 to 12-31-00, \$1,167,208.77

Action: Approve the redetermination as recommended by staff.

Matrix Computer Funding Corporation, 298889 (OH)

1-1-1 to 12-31-03, \$676,164.76

Action: Approve the redetermination as recommended by staff.

The Walden Asset Group, Inc., 306956 (OH)

1-1-01 to 12-31-03, \$357,233.42

Action: Approve the redetermination as recommended by staff.

Ronald Charles Savona, 290757 (FH)

10-1-01 to 12-31-01, \$301,885.24

Action: Approve the redetermination as recommended by staff.

Ronald Charles Savona, 296710 (FH)

4-1-02 to 3-31-03, \$695,044.46

Action: Approve the redetermination as recommended by staff.

Jorge Luis Gonzalez, 288001 (CH)

1-1-01 to 3-31-04, \$116,678.30

Action: Approve the redetermination as recommended by staff.

Teradyne, Inc., 241879 (OHB)

1-1-99 to 12-31-01, \$385,016.00

Action: Approve the redetermination as recommended by staff.

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MCY III Corporation, 218314 (AC)

1-1-98 to 9-30-01, \$277,519.59

Action: The Board took no action.

Prudential Insurance Company of America, 341565 (OHB)

1-1-97 to 12-31-01, \$176,669.41

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

Novell, Inc., 309240 (OH)

1-1-02 to 12-31-04, \$200,000.00

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

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

The Board deferred consideration of the following matter: *Prestige Stations, Inc.*, 286359.

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board made the following orders:

Cypress Semiconductor Corporation, 342364 (GH)

4-1-05 to 6-30-05, \$75,688.00

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

Nielsen Dillingham Builders, Inc., 341781 (FH)

1-28-03 to 3-31-03, \$64,234.83

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

Prestige Stations, Inc., 286359 (OHC)

3-19-98 to 6-26-02, \$202,237.28

Action: The Board deferred consideration of this matter.

Nissan Motor Acceptance Corporation, 203010 (AS)

4-1-98 to 3-31-02, \$325,929.99

Action: Approve the refund as recommended by staff.

30 Sixty Design, Inc., 244198 (AS)

7-1-00 to 6-30-04, \$107,160.90

Action: Approve the refund as recommended by staff.

Nationwide Sec & Building Services, Inc., 223491 (AA)

4-1-00 to 12-31-02, \$271,444.66

Action: Approve the refund as recommended by staff.

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Mazda Motor of America, Inc., 331219 (EAA)

1-1-05 6-30-05, \$69,395.00

Action: Approve the refund as recommended by staff.

The Designory, Inc., 309202 (EAB)

1-1-02 to 3-31-05, \$219,702.35

Action: Approve the refund as recommended by staff.

Tegtmeier Associates, Inc., 313783 (GHC)

4-1-02 to 9-30-04, \$99,821.34

Action: Approve the refund as recommended by staff.

Hanson Aggregates Mid-Pacific, 340645 (CH)

7-1-01 to 6-26-04, \$279,379.05

Action: Approve the refund as recommended by staff.

Hanson Permanente Cement, Inc., 341508 (CH)

7-1-01 to 6-26-04, \$62,459.26

Action: Approve the refund as recommended by staff.

Rancho Ready Mix, 317032 (EH)

4-1-05 to 6-30-05, \$192,740.43

Action: Approve the refund as recommended by staff.

Helser Chev-Olds-Cad, Inc., 334829 (KHM)

7-1-05 to 9-30-05, \$100,444.66

Action: Approve the refund as recommended by staff.

Gelco Corporation, 313669 (OHA)

1-1-98 12-31-02, \$605,138.63

Action: Approve the refund as recommended by staff.

Payless Shoe Source, Inc., 340689 (OHA)

4-1-01 to 6-30-04, \$54,771.34

Action: Approve the refund as recommended by staff.

Mercedes-Benz USA, LLC., 331469 (KH)

10-25-05 to 12-14-05, \$190,784.00

Action: Approve the refund as recommended by staff.

Hirsch International Corporation, 262541 (OHB)

4-1-01 to 12-31-04, \$65,921.42

Action: Approve the refund as recommended by staff.

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Verizon Select Services, Inc., 340504 (OHB)

4-1-00 to 6-30-01, \$7,654,111.30

Action: Approve the refund as recommended by staff.

Softek Storage Solutions Corporation, 312939 (GH)

4-01-01 to 3-31-04, \$54,529.33

Action: Approve the refund as recommended by staff.

Medtronic Avenue, Inc., 330161 (JH)

7-1-00 to 6-30-03, \$439,168.60

Action: Approve the refund as recommended by staff.

Hunting Energy Services, LP, 220280 (OHC)

4-1-02 to 9-30-04, \$72,284.39

Action: Approve the refund as recommended by staff.

Briggs of Burton, Inc., 332059 (OHB)

1-1-05 to 3-31-05, \$91,262.50

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS REFUNDS, CONSENT

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

Atlantic Richfield Company, 158211 (MT)

1-1-99 to 12-31-99, \$180,855.73

Action: Approve the refund as recommended by staff.

LEGAL APPEALS PROPERTY TAX MATTERS, CONSENT

With respect to the Legal Appeals Property Taxes Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Parrish absent, the Board made the following order:

Petitions for Penalty Abatement on Unitary Escape Assessment

Korea Telecom America, Inc. (7781), 305275

2004, \$1,150,000.00 Assessed Value, \$115,000 Penalty

Action: Deny the penalty abatement on 2004 unitary value as recommended by staff.
Ms. Mandel not participating in accordance with Government Code section 7.9.

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LEGAL APPEALS MATTERS, ADJUDICATORY

James A. Hanson Attorney PC, Inc., 267073 (UT)

11-9-01, \$7,071.00 Tax

Considered by the Board: Hearing Notices Sent – No Response

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.

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

Advanced Acoustical Concepts, Inc., 206050 (OHA)

9-1-95 to 7-15-01, \$32,809.57 Tax, \$3,275.70 Failure to Fail Penalty, \$5.35 Negligence Penalty

Considered by the Board: Hearing Notices Sent – No Response

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.

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

Embroidertex West, Ltd., 237064 (AS)

7-1-99 to 9-30-02, \$8,044.29 Tax, \$798.83 Finality Penalty

Considered by the Board: Hearing Notices Sent – No Response

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.

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

Cosmos Medical Technology, Inc., 198974 (FHB)

7-1-98 to 12-31-01, \$00.00 Tax, \$00.00 Negligence Penalty

Considered by the Board: November 1, 2005

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

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

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Smiland Paint Company, 89000960020, -30, -40, -50, -60, -70 (MT)

1-1-93 to 12-31-93, \$25,937.42 Fee

1-1-91 to 12-31-91, \$30,271.79 Fee, \$3,027.18 Penalty

1-1-92 to 12-31-92, \$48,135.09 Fee

1-1-94 to 12-31-94, \$31,234.01 Fee

1-1-95 to 12-31-95, \$36,003.06 Fee

1-1-96 to 12-31-96, \$33,727.62 Fee

Considered by the Board: September 21, 2005

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

Action: Mr. Leonard moved that the petition be granted. The motion failed for lack of a second.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Parrish absent, the Board ordered that the petition for rehearing be denied.

Kretek International, Inc., 253847 (ET)

1-1-01 to 12-31-01, \$113,864.00 Fee

Considered by the Board: March 7, 2006

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

Action: Mr. Leonard moved that the petition be granted. The motion failed for lack of a second.

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

D & G Marine, Inc., 82414, 90009, 207531 (UT)

12-30-96, \$288,512.81 Claim for Refund

6-1-96, \$43,642.50 Claim for Refund

8-11-99, \$569,198.00 Tax

Doug Bombard Enterprises, Inc., 240445 (EAB)

4-12-01, \$629,600.00 Claim for Refund

Considered by the Board: ~~July 1, 2006~~ July 1, 2005 (Corrected 04/08/09)

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Ms. Yee moved that the petition be denied. The motion failed for lack of a second.

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

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

Nancy Schultz, 288572

1997, \$9,703.83 Claim for Refund

1998, \$4,377.68 Claim for Refund

Considered by the Board: March 7, 2006

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

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board adopted a decision sustaining the action of the Franchise Tax Board.

**HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS,
ADJUDICATORY**

Romanse Banks, 299984

2003, \$1.00 or more

Considered by the Board: October 25, 2005

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.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board adopted a decision sustaining the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, RELIEF OF PENALTIES/INTEREST,
ADJUDICATORY**

Janie Anne Lazarof, 345472

1-1-02 to 12-31-04, \$176,343.71

Presented for Separate Discussion

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

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the relief of penalty as recommended by staff.

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

Bruker Daltonics, Inc., 340975 (OHB)

2-1-99 to 9-30-02, \$95,794.84

Presented for Separate Discussion

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

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the credit and cancellation as recommended by staff.

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WFS Financial, Inc., 186987 (EAA)

1-1-02 to 6-30-05, \$13,129,125.55

Presented for Separate Discussion

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

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board approved the refund as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Audits

NobelTel, LLC (7992)

2003, \$789,000.00 Escaped Assessment, \$78,900.00 Penalties, \$189,360.00 In-lieu Interest

2004, \$625,000.00 Escaped Assessment, \$62,500.00 Penalties, \$93,750.00 In-lieu Interest

2005, \$518,000.00 Escaped Assessment, \$51,800.00 Penalties, \$31,080.00 In-lieu Interest

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Mr. Parrish absent, the Board adopted the audit escaped assessment, plus penalties and in-lieu interest, as recommended by staff.

The Board recessed at 12:10 p.m. and reconvened at 1:41 p.m. with Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel.

CHIEF COUNSEL MATTERS

RULEMAKING

Proposed Amendments to State Board of Equalization Rules of Practice

Kristine Cazadd, Chief Counsel, Legal Department, and Bradley Heller, Staff Counsel, Legal Department, made remarks regarding proposed amendments to the *Board of Equalization Rules for California Tax Administration and Appellate Review* (New Rules), Chapter 1, *Title*, and Chapter 2, *Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees*; and a status report on Chapter 3, Chapter 4 and Chapter 5. (Exhibit 4.3.)

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board approved the proposed amendments, Alternative 1, in concept only.

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PROPERTY AND SPECIAL TAXES**Proposed Revisions for Release or Recovery of Seized Cigarette and Tobacco Products**

Kristine Cazadd, Chief Counsel, Legal Department, made introductory remarks regarding the revision of Form BOE-1238-AID, *Verified Petition for Release or Recovery of Property* (Exhibit 4.4).

Action: Upon motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board approved Mr. Leonard's revisions to Form BOE-1238-AID as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

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

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 4.5).

Janis Arredondo, Data Processing Manager II, Technology Services Division,
Headquarters
Thomas R. Childress, Business Taxes Specialist II, Internal Security and Audit
Division, Headquarters
Karen G. Howard, Supervising Tax Auditor I, Santa Rosa District Office
(Revision - Previous resolution adopted 2/1/06 indicated Santa Ana Office)
Richard K. Kozman, Tax Technician II, County Property Tax Division, Norwalk
Office
Rosario M. Maquindang, Tax Technician II, Van Nuys District Office
Claire N. Mortenson, Tax Technician II, County Property Tax Division,
Headquarters
Janice A. Ochs, Tax Technician III, Return Analysis Section, Headquarters
Karin G. Olson, Business Taxes Specialist I, Local Revenue Allocation Unit
Headquarters
Cheryl Ann Todd, Tax Technician III, Return Analysis Unit, Headquarters

Tuesday, April 18, 2006

BOARD COMMITTEE REPORTS**Legislative Committee**

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board approved the Legislative Committee report (Exhibit 4.6).

Business Taxes Committee

Action: The Board deferred consideration of the Business Taxes Committee report to the May Board Meeting.

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

Kristine Cazadd, Chief Counsel, Legal Department, introduced John Helley, Director, Sacramento Emergency Food Link, who provided a report on the California State Employees' Food Drive Award, stating that 137,000 pounds of food were collected by the Board of Equalization during the holiday season.

Mr. Parrish presented the Sacramento Emergency Food Link trophy, which was awarded to the Board on a previous date, to Jose Gonzalez, Chair of the Holiday Food Drive, Business Taxes Specialist, Audit and Information Section, Sales and Use Tax Department, and directed the Chief Counsel to display the trophy in a prominent location.

Ms. Cazadd introduced attorneys recently promoted to Tax Counsel IV.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD APRIL 18, 2006

Karim Sarraf, 266956 (BH)

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

American Reprographics Company, LLC, 254516 (AP)

Final Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board found that petitioner collected excess tax reimbursement and thus ordered the petition denied, except that it ordered that petitioner be allowed 30 days to refund or credit the excess tax reimbursement to its customers in accordance with Regulation 1700. Any excess reimbursement so refunded or credited is to be removed from the deficiency, and the determination otherwise redetermined without adjustment.

Tuesday, April 18, 2006

SALES AND USE TAX APPEALS HEARING

Kenneth H. Lawson, 132581 (EA)

10-28-99, \$3,720.00 Tax

For Petitioner:

No Appearance

For Sales and Use Tax Department:

Carla Caruso, Tax Counsel

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

Issue: Whether the evidence shows that petitioner purchased a partially disassembled Helio Courier Aircraft for use in California.

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

The Board adjourned at 2:30 p.m. in memory of Herbert Freeman, former Board of Equalization Executive Director. In addition, Ms. Yee announced that Chris Smith, Professional Adviser, First District, will be leaving her office to return to the Franchise Tax Board and acknowledged his dedicated service.

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