

Wednesday, April 25, 2007

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Ms. Yee, Chairwoman, Ms. Chu, Vice Chair, Mr. Leonard and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang 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 2006-07 Sustained Superior Accomplishment Awards to employees in recognition of their outstanding achievements.

## **LEGAL APPEALS MATTERS, CONSENT**

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

Marcella Maria Rosales, 308469 (KH)

1-1-03 TO 11-17-03, \$1,404.00 Tax, \$140.40 Failure to File Penalty

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

S & A Equipment, 97857 (OHC)

1-1-95 to 3-31-99, \$00.00 Tax, \$00.00 Penalty

Action: Redetermine as recommended by the Appeals Division.

Daniel Mahlon Newell, 289946 (UT)

February 7, 2002, \$4,960.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Phien Thi Huynh, 388367 (ET)

November 9, 2006, \$1,358.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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

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

Jon Trickel, 336547

2000, \$968.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Wednesday, April 25, 2007

Dawn B. Forbes, 305181

2002, \$333.00 Tax, \$291.25 Penalty, \$250.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

James W. James, 260720

1999, \$4,889.00 Tax

2000, \$5,446.00 Tax

2001, \$3,541.00 Tax

Action: Deny the petition for rehearing.

John Noyes, 311022

2002, \$606.00 Tax, \$151.50 Penalty, \$750.00 Frivolous Appeal Penalty

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

Maria Mancilla Esteta, 362991

2006, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Donna Firsov, 363011

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Rosa Mendivil, 350273

2005, \$220.00

Action: Sustain the action of the Franchise Tax Board.

Sydell Dublin, 328880

2005, \$1.00 or more

Action: Deny the petition for rehearing.

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

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

Wednesday, April 25, 2007

Foss Maritime Company, 348259 (UT)

1-28-04 to 1-28-04, \$142,618.50

Action: Approve the redetermination as recommended by staff.

Newport Franklin, Inc., 348810 (OHB)

10-1-01 to 9-30-04, \$89,983.38

Action: Approve the redetermination as recommended by staff.

Weatherford U S LP, 260488 (OHC)

1-1-97 to 12-31-99, \$814,674.52

Action: Approve the redetermination as recommended by staff.

Rapid Gas, Inc., 390149 (AS)

2-1-06 to 2-28-06, \$114,000.00

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

Jack In The Box, Inc., 390572 (FH)

10-3-05 to 10-30-05, \$314,172.42

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

Cleansource, Inc., 390579 (GH)

1-1-06 to 3-31-06, \$59,957.30

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

Stryker Sales Corporation, 386722 (OHA)

10-1-99 to 6-30-02, \$66,249.09

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

G-Two Graphic Service, Inc., 262553 (AC)

1-1-01 to 12-31-05, \$500,000.00

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

Ritz Camera Centers, Inc., 342942 (OHB)

1-1-03 to 12-31-03, \$202,544.88

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

Prestige Air LLC, 376629 (UT)

1-1-01 to 1-1-01, \$381,480.00

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

Tesoro Refining & Marketing Co., 356850 (OHC)

4-1-02 to 6-30-02, \$131,427.91

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

Xyratex International Limited, 390148 (GH)

10-1-05 to 12-31-05, \$52,387.20

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

Wednesday, April 25, 2007

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

The Board deferred consideration of the following matter: *Cisco Systems Capital Corporation, 373491.*

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

Interplay Productions, 341715 (EAA)

10-1-00 to 9-30-03, \$76,052.71

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

Top Furniture Company, Inc., 390595 (CH)

10-1-03 to 10-31-03, \$100,904.37

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

Yrene Asalde-Infante, 387204 (AA)

10-25-03 to 12-31-03, \$52,559.36

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

Daniel J. Maitland, 316701 (EA)

4-1-00 to 7-31-04, \$80,590.84

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

Ronald D. Searls, 383355 (AP)

1-1-95 to 12-31-99, \$71,892.55

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

Neelm Kumari Schade, 388960 (UT)

6-26-05 to 6-26-05, \$59,075.11

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

Showcase Home Ent Center, Inc., 388133 (EH)

1-1-06 to 5-1-06, \$53,172.98

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

Owens & Minor West, Inc., 293737 (OHB)

1-1-01 to 12-31-01, \$56,857.68

Action: Approve the refund as recommended by staff.

Prime Wheel Corporation, 381467 (AS)

10-1-05 to 12-31-05, \$118,298.74

Action: Approve the refund as recommended by staff.

Wednesday, April 25, 2007

Mercury Air Group, Inc., 384770 (AS)

4-1-02 to 6-30-05, \$716,823.39

Action: Approve the refund as recommended by staff.

Specialty Steel Service Company, Inc., 373673 (KH)

7-1-04 to 9-30-04, \$51,377.82

Action: Approve the refund as recommended by staff.

Trans Bay Steel Corporation, 386714 (JHF)

1-1-05 to 6-30-05, \$68,590.71

Action: Approve the refund as recommended by staff.

24 Hour Fitness, Inc., 387631 (CH)

1-1-05 to 3-31-05, \$63,064.98

Action: Approve the refund as recommended by staff.

Fleet Card Fuels, 379510 (ARH)

10-1-05 to 12-31-05, \$306,449.47

Action: Approve the refund as recommended by staff.

Sierra Aluminum Company, Inc., 362183 (EH)

4-1-06 to 6-30-06, \$77,699.57

Action: Approve the refund as recommended by staff.

Fabrica International, 287948 (OHA)

7-1-01 to 12-31-0, \$198,773.88

Action: Approve the refund as recommended by staff.

Science Applications Intl. Corporation, 318323 (FH)

7-1-01 to 6-30-04, \$1,257,309.62

Action: Approve the refund as recommended by staff.

J.B. Dewar Inc., 381464 (GH)

10-1-03 to 9-30-06, \$57,298.24

Action: Approve the refund as recommended by staff.

Mammoth Mountain Ski Area, 381015 (KH)

1-1-06 to 3-31-06, \$316,475.00

Action: Approve the refund as recommended by staff.

R.R. Donnelley & Sons Company, 335792 (OHB)

7-1-01 to 6-30-04, \$203,492.56

Action: Approve the refund as recommended by staff.

Ritz Camera Centers, Inc., 297818 (OHB)

1-1-03 to 12-31-03, \$259,131.14

Action: Approve the refund as recommended by staff.

Wednesday, April 25, 2007

Baker Hughes Oilfield Oper., Inc., 387748 (OHC)

4-1-96 to 6-30-03, \$173,393.12

Action: Approve the refund as recommended by staff.

Seneca Capital Management LLC, 267102 (BH)

1-1-00 to 12-31-01, \$61,289.03

Action: Approve the refund as recommended by staff.

Buford B. Wiley Consulting, Inc., 379040 (UT)

2-4-03 to 2-04-03, \$61,049.62

Action: Approve the refund as recommended by staff.

Cisco Systems Capital Corporation, 373491 (GH)

10-1-03 to 6-30-04, \$949,661.77

Action: The Board took no action.

Blockbuster, Inc., 374796 (OHC)

4-1-01 to 9-30-04, \$373,504.68

Action: Approve the refund as recommended by staff.

Philips Products, Inc., 354084 (OHA)

1-1-03 to 12-31-05, \$143,104.43

Action: Approve the refund as recommended by staff.

Visterra Credit Union, 340738 (EH)

10-1-02 to 12-31-05, \$94,525.26

Action: Approve the refund as recommended by staff.

Zappos.com, Inc., 339175 (EH)

4-1-03 to 9-30-05, \$289,151.15

Action: Approve the refund as recommended by staff.

GOR Acquisition Corporation, 299312 (AC)

10-1-01 to 12-31-05, \$713,159.58

Action: Approve the refund as recommended by staff.

Scharzkopf Technologies Corp, 381463 (OHB)

1-1-05 to 6-30-06, \$63,010.25

Action: Approve the refund as recommended by staff.

Ultratech Stepper, Inc., 380443 (GH)

10-1-05 to 12-31-05, \$126,425.59

Action: Approve the refund as recommended by staff.

Visa International Service Assn., 387287 (BH)

10-1-01 to 12-31-04, \$1,383,173.51

Action: Approve the refund as recommended by staff.

Wednesday, April 25, 2007

Pro-Shore, LLC, 349808 (CH)

7-1-03 to 6-30-05, \$67,038.10

Action: Approve the refund as recommended by staff.

Credit One Corporation, 296947 (EA)

1-1-03 to 12-31-04, \$54,125.46

Action: Approve the refund as recommended by staff.

Premier America Credit Union, 350101 (AC)

7-1-05 to 3-31-06, \$71,617.29

Action: Approve the refund as recommended by staff.

A-L Financial Corporation, 383622 (EA)

7-1-06 to 9-30-06, \$177,834.86

Action: Approve the refund as recommended by staff.

10 West Motorsports, Inc., 357109 (EHC)

4-18-04 to 12-31-05, \$64,554.48

Action: Approve the refund as recommended by staff.

Kinecta Federal Credit Union, 386717 (AS)

7-1-03 to 12-31-05, \$313,660.37

Action: Approve the refund as recommended by staff.

**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,  
CONSENT**

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *National Indemnity Company, 350355*; the Board made the following orders:

Duke Energy Merchants LLC, 378394 (MT)

6-1-03 to 7-31-06, \$487,001.19

Action: Approve the refund as recommended by staff.

Anahead Kouroumilan, 353923 (MT)

4-1-00 to 8-25-03, \$151,041.31

Action: Approve the refund as recommended by staff.

Ramos Oil Company, Inc., 314392 (MT)

1-1-03 to 3-31-05, \$175,413.51

Action: Approve the refund as recommended by staff.

Wednesday, April 25, 2007

National Indemnity Company, 350355 (ET)

1-1-01 to 12-31-01, \$109,481.38

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

### **LEGAL APPEALS MATTERS, ADJUDICATORY**

Robert L. Reynolds, 208940 (KHM)

7-1-98 to 6-30-01, \$122,378.93 Tax

Considered by the Board: Memorandum Opinion

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

Action: The Board took no action.

Effective Engineering, Inc., 143932 (AC)

4-1-97 to 3-31-01, \$00.00 Tax, \$00.00 Penalty

Considered by the Board: December 12, 2006

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

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

Shannon Elaine Mc Kelvey, 242685 (KHM)

1-1-00 to 12-31-02, \$23,978.35 Tax

Considered by the Board: December 12, 2006

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

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

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

Craig Dillard, 342261

1994, \$733.78 Claim for Refund

1995, \$657.87 Claim for Refund

1996, \$600.00 Claim for Refund

Considered by the Board: February 1, 2007

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

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

Wednesday, April 25, 2007

Tony Jibilian, 346087

2003, \$2,131.00 Tax, \$532.75 Penalty

Considered by the Board: February 1, 2007

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

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

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

Cynthia Fowler, 348940

2005, \$347.50

Considered by the Board: February 1, 2007

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

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

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

Bericap LLC, 294804 (EH)

5-1-02 to 6-30-04, \$113,924.08

Considered by the Board: December 12, 2006

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

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the denial of claim for refund as recommended by staff.

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

Husky Injection Molding Systems, Inc., 346221 (OHB)

1-1-02 to 3-31-03, \$78,736.91

Considered by the Board: December 12, 2006

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

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

Wednesday, April 25, 2007

### **PUBLIC COMMENT**

Speaker: Michael J. Mupo, Executive Director, Verizon Wireless

Mr. Mupo discussed the settlement of the audit and argued the associated application of interest calculated by staff (Exhibit 4.5).

Exhibits to these minutes are incorporated by reference.

### **TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**

#### **PROPERTY TAX MATTERS**

##### **Audits**

##### **Sprint Nextel Corporation (2737)**

2002, \$198,300,000.00 Escaped Assessment, \$19,830,000.00 Penalties, \$83,286,000.00 In-lieu Interest

2003, \$237,600,000.00 Escaped Assessment, \$23,760,000.00 Penalties, \$78,408,000.00 In-lieu Interest

2004, \$329,800,000.00 Escaped Assessment, \$32,980,000.00 Penalties, \$79,152,000.00 In-lieu Interest

2005, \$328,000,000.00 Escaped Assessment, \$32,800,000.00 Penalties, \$49,200,000.00 In-lieu Interest

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

##### **Verizon Wireless Companies:**

##### **(a) Verizon Wireless (VAW) LLC (2512)**

2002, \$5,100,000.00 Excessive Assessment

2003, \$10,700,000.00 Escaped Assessment, \$690,000.00 Penalties, \$3,531,000.00 In-lieu Interest

2004, \$7,000,000.00 Escaped Assessment, \$470,000.00 Penalties, \$1,680,000.00 In-lieu Interest

2005, \$17,400,000.00 Escaped Assessment, \$1,390,000.00 Penalties, \$2,610,000.00 In-lieu Interest

##### **(b) Sacramento Valley Limited Partnership (2513)**

2002, \$2,248,700.00 Excessive Assessment

2003, \$5,000,000.00 Escaped Assessment, \$400,000.00 Penalties, \$1,650,000.00 In-lieu Interest

2004, \$21,600,000.00 Escaped Assessment, \$1,630,000.00 Penalties, \$5,184,000.00 In-lieu Interest

Interest

2005, \$8,900,000.00 Escaped Assessment, \$490,000.00 Penalties, \$1,335,000.00 In-lieu Interest

Wednesday, April 25, 2007

(c) Los Angeles SMSA Ltd., Partnership (2532)

2002, \$24,765,400.00 Excessive Assessment

2003, \$11,300,000.00 Escaped Assessment, \$740,000.00 Penalties, \$3,729,000.00 In-lieu Interest

2004, \$37,300,000.00 Escaped Assessment, \$1,380,000.00 Penalties, \$8,952,000.00 In-lieu Interest

2005, \$36,900,000.00 Escaped Assessment, \$1,550,000.00 Penalties, \$5,535,000.00 In-lieu Interest

(d) Fresno MSA Limited partnership (2552)

2002, \$4,100,000.00 Excessive Assessment

2003, \$5,600,000.00 Escaped Assessment, \$70,000.00 Penalties, \$1,848,000.00 In-lieu Interest

2004, \$9,600,000.00 Escaped Assessment, \$390,000.00 Penalties, \$2,304,000.00 In-lieu Interest

2005, \$5,800,000.00 Escaped Assessment, \$16,000.00 Penalties, \$870,000.00 In-lieu Interest

(e) GTE Mobilnet of California, Ltd. Partnership (2559)

2002, \$22,200,000.00 Excessive Assessment

2003, \$8,500,000.00 Escaped Assessment, \$1,000.00 Penalties, \$2,805,000.00 In-lieu Interest

2004, \$32,000,000.00 Escaped Assessment, \$1,590,000.00 Penalties, \$7,680,000.00 In-lieu Interest

Interest

2005, \$46,800,000.00 Escaped Assessment, \$2,520,000.00 Penalties, \$7,020,000.00 In-lieu Interest

Interest

(f) GTE Mobilnet of Santa Barbara L.P. (2627)

2002, \$2,700,000.00 Excessive Assessment

2003, \$1,800,000.00 Escaped Assessment, \$180,000.00 Penalties, \$594,000.00 In-lieu Interest

2004, \$100,000.00 Escaped Assessment, \$10,000.00 Penalties, \$24,000.00 In-lieu Interest

2005, \$1,000,000.00 Escaped Assessment, \$100,000.00 Penalties, \$150,000.00 In-lieu Interest

(g) Cellco Partnership (2667)

2002, \$60,000.00 Excessive Assessment

2003, \$10,900,000.00 Escaped Assessment, \$540,000.00 Penalties, \$3,597,000.00 In-lieu Interest

2004, \$12,200,000.00 Escaped Assessment, \$710,000.00 Penalties, \$2,928,000.00 In-lieu Interest

2005, \$12,400,000.00 Escaped Assessment, \$590,000.00 Penalties, \$1,860,000.00 In-lieu Interest

(h) California RSA #4 Partnership (2669)

2002, \$1,000,000.00 Excessive Assessment

2003, \$500,000.00 Excessive Assessment

2004, \$100,000.00 Excessive Assessment

2005, \$100,000.00 Escaped Assessment, \$10,000.00 Penalties, \$15,000.00 In-lieu Interest

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

**Unitary Land Escaped Assessments**

(a) Cingular Wireless, LLC (2606)

2006, \$7,091,358.00 Value

(b) Sprint PCS (2720)

2006, \$2,188,606.00 Value

Wednesday, April 25, 2007

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary land escaped assessment as recommended by staff.

### Unitary Escaped Assessments

(a) Sprint Communications Company, L.P. (2014)

2003-2004, \$55,000.00 Value

(b) Los Angeles SMSA Ltd. Partnership (2532)

2006, \$322,584.00 Value

(c) GTE Mobilnet of California, Ltd. Partnership (2559)

2005, \$101,893.00 Value

(d) Sprint PCS (2720)

2003-2006, \$1,511,589.00 Value

(e) Sprint Nextel Corporation (2737)

2004-2006, \$438,203.00 Value

(f) OmniPoint Communications, Inc. (2748)

2005-2006, \$2,677,881.00 Value

Action: Upon motion of Ms. Chu, seconded by Ms. Steel and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the unitary escaped assessment as recommended by staff.

### OFFERS-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Chu, seconded by Ms. Steel and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Jenny Suh* and *Desert Valley Medical, Inc.* as recommended by staff.

### CHIEF COUNSEL MATTERS

#### RULEMAKING

#### **Request to Publish Chapter 3: Property Taxes, of the Board of Equalization Rules for Tax Appeals**

Robert Lambert, Acting Assistant Chief Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the request to publish *Chapter 3: Property Taxes, of the Board of Equalization Rules for Tax Appeals*. These rules provide comprehensive guidance regarding the administrative and appellate review processes for the tax programs administered by the Board. (Exhibit 4.6.)

Revision to section 5000.3163

Action: Ms Mandel moved that alternative 3 be adopted. The motion failed for lack of a second.

Wednesday, April 25, 2007

Upon motion of Ms. Chu, seconded by Mr. Leonard and duly carried, Ms. Chu, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel voting no, Ms. Yee abstaining, the Board adopted alternative 1.

Revision to section 5000.3002

Action: Ms Mandel moved that alternative 1 be adopted. The motion failed for lack of a second.

Upon motion of Ms. Chu, seconded by Mr. Leonard and duly carried, Ms. Chu, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel voting no, Ms. Yee abstaining, the Board adopted alternative 2A.

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and duly carried, Ms. Chu, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel voting no, Ms. Yee abstaining, the Board approved authorization to publish.

**Request for Adoption of Revised Language to Sales and Use Tax Regulation 1603, Taxable Sales of Food Products**

Cary Huxsol, Tax Counsel, Legal Department, made introductory remarks regarding the adoption of revised language to Sales and Use Tax Regulation 1603, *Taxable Sales of Food Products* (Exhibit 4.7).

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

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board adopted the changes to the published version of the regulation as recommended by staff.

**Proposed Amendments to Property Tax Rule 462.060, Change in Ownership – Life Estates and Estates for Years**

Robert Lambert, Acting Assistant Chief Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the petition to amend Property Tax Rule 462.060, *Change in Ownership – Life Estates and Estates for Years* (Exhibit 4.8).

Speakers: Steven Bennett, CPA, Letwak & Bennett  
Bruce Dear, Assessor – Placer County, CA Assessor's Association

Action: Upon motion of Ms. Chu, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board denied the petition as recommended by staff.

Mr. Leonard moved that the regulation move to an interested parties meeting outlining a Life Estates Process. The motion was seconded by Ms. Steel but failed to carry, Mr. Leonard and Ms. Steel voting yes, Ms. Yee, Ms. Chu, and Ms. Mandel voting no.

Wednesday, April 25, 2007

**OTHER CHIEF COUNSEL MATTERS****Bankruptcy Update – Comprehensive Report**

Jan Thurston, Assistant Chief Counsel, Legal Affairs Division, Legal Department, made introductory remarks regarding the bankruptcy report (Exhibit 4.9).

**ADMINISTRATIVE SESSION****ADMINISTRATIVE MATTERS, CONSENT**

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

Action: Adopt the following resolution extending its best wishes on her retirement and its appreciation for her service to the State Board of Equalization and the State of California (Exhibit 4.10).

Carazon E. Pascual, Business Taxes Specialist, San Francisco District Office

Action: Adopt the following resolution extending its best wishes and its appreciation for his service to the State Board of Equalization and the State of California (Exhibit 4.11).

Chris Schutz, Tax Counsel, Advisor to Board Member Chu's Office

Action: Approve the Board Meeting Minutes of January 31, 2007; February 1, 2007; and, February 27-28, 2007.

Action: Approve the Board Meeting Date of October 17, 2007 – Shell Beach (Exhibit 4.12).

Action: Approve the 2007-08 Other Tobacco Products Tax Rate (Exhibit 4.13).

Action: Approve the Proposed Revisions to Audit Manual Chapter 2, Preparation of Field Audit Reports (Exhibit 4.14).

Action: Approve time extensions to Mariposa and Santa Cruz Counties to complete and submit 2007-08 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155 (Exhibit 4.15).

**BOARD COMMITTEE REPORTS****Legislative Committee**

Action: Upon motion of Ms. Chu, seconded by Ms. Mandel and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board approved the Legislative Committee report (Exhibit 4.16).

Wednesday, April 25, 2007

**Customer Services and Administrative Efficiency Committee**

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Customer Services and Administrative Efficiency Committee report (Exhibit 4.17).

**Property Tax Committee**

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Property Tax Committee report (Exhibit 4.18).

**OTHER ADMINISTRATIVE MATTERS**

**Executive Director's Report**

Ramon Hirsig, Executive Director, provided an update regarding the Strategic Plan.

Mr. Hirsig made introductory remarks regarding the Tax Gap Plan (Exhibit 4.19).

Speakers: Teresa Casazza, Acting President, Cal-Tax (Exhibit 4.20)  
William Lasher, Senior Director, Indirect Taxes, eBay Inc.  
David London, Deputy Director, Government Relations, eBay Inc.

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board directed staff to revise the current plan using input that was provided. Staff is to return to the July meeting with a final implementation report for the Tax Gap Plan. Staff was directed to put the report on the website for comment.

Mr. Hirsig made introductory remarks regarding the organizational proposals for Technology Services Division (Exhibit 4.21).

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the organizational proposal for Technology Services Division.

Mr. Hirsig made introductory remarks regarding the organizational proposals for External Affairs Department.

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the organizational proposal for an External Affairs Department.

Mr. Hirsig made introductory remarks regarding the organizational proposals for Board Proceedings Division.

Wednesday, April 25, 2007

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the organizational proposals for Board Proceedings Division.

Mr. Hirsig introduced Todd Gilman, Chief, Taxpayers' Rights and Equal Employment, who made introductory remarks regarding the Taxpayer Bill of Rights Hearing Actions (Exhibit 4.22).

### **Deputy Directors Report**

Randie Henry, Sales and Use Tax Department, made introductory remarks regarding the Tax Amnesty Final Report.

David Gau, Property and Special Taxes Department, made introductory remarks regarding the opening of California/Mexico Border (Exhibit 4.23).

Karen Johnson, Deputy Director, Administration Department, provided updates regarding the CEA Salary Compaction Issues, Budget Hearing, Interagency Agreement Contract Over \$1 Million, and a facilities update on the Board hearing room and Curtain Wall (Exhibit 4.24).

Action: Upon motion of Mr. Leonard, seconded by Ms. Chu and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Interagency Agreement Contract Over \$1 Million (Exhibit 4.25).

### **ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 12:53 p.m. and reconvened immediately in closed session with Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel present.

### **CLOSED SESSION**

The Board met to discuss pending litigation (Gov. Code § 11126(e)), settlements (Rev. & Tax. Code §§ 7093.5, 30459.1 and 50156.11) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 2:35 p.m. and reconvened at 2:39 p.m. in open session with Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel present.

### **EXECUTIVE DIRECTOR'S REPORT**

Ramon Hirsig, Executive Director, announced the appointments of Todd Gilman to the position of CEA II, Taxpayers' Rights and Equal Employment Division and Caroline Cabias to the position of Chief, Financial Management Division.

**Wednesday, April 25, 2007**

The Board adjourned at 2:41 p.m. in memory of Juanita McDonald, former Chairwoman of the Assembly Revenue and Taxation Committee.

*The foregoing minutes are adopted by the Board on June 1, 2007.*