

Wednesday, July 1, 2005

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.

## **PUBLIC HEARING**

### **Proposed Amendments to Regulation 1698, Records**

Selvi Stanislaus, Acting Assistant Chief Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments to Regulation 1698, *Records*, which will require taxpayers participating in the Tax Amnesty Program to retain records for at least ten years. The regulation language is also updated to the current correct usage of capitalized words. (Exhibit 7.1.)

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

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 abstaining, the Board adopted the amendments to Regulation 1698, *Records*.

Exhibits to these minutes are incorporated by reference.

## **CHIEF COUNSEL MATTERS**

### **RULEMAKING--BUSINESS TAXES**

#### **Authorization to Publish Regulation 1823.4, Place of Delivery of Tangible Personal Property Generally**

Selvi Stanislaus, Acting Assistant Chief Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding authorization to publish Regulation 1823.4, *Place of Delivery of Tangible Personal Property Generally*. (Exhibit 7.2.)

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board authorized publication of Regulation 1823.4, *Place of Delivery of Tangible Personal Property Generally*.

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

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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 7.3.)

Judy Lee Tashjian, Staff Services Analyst, Special Procedures Section,  
Headquarters

Action: Approve the Board Meeting Minutes of April 12, 2005 and April 27, 2005.

Action: Approve extensions of time to complete and submit 2005-06 Local Assessment Rolls pursuant to Revenue and Taxation Code section 155 granted to Alpine, Butte, El Dorado, Inyo, Madera, Modoc, Monterey, Orange, Tehama, Trinity and Yuba Counties. (Exhibit 7.4.)

Action: Approve the proposed revision to Subscription Fees, and Filing Requirement and Fees for Jurisdictional Boundary Statements and Redevelopment Project Filings. (Exhibit 7.5.)

With respect to the Administrative Matters, Consent Agenda, upon motion of Ms. Yee, seconded by Mr. Chiang and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board made the following order:

Action: Approve the request to conduct the proposed special topic survey for business property. (Exhibit 7.6.)

## **BOARD COMMITTEE REPORTS**

### **Business Taxes Committee**

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Business Taxes Committee report. (Exhibit 7.7.)

### **Property Tax Committee**

Action: The Board deferred consideration of this matter to later in the day, directing staff to edit the Property Tax Committee report to reflect the committee members' votes.

## **OTHER ADMINISTRATIVE MATTERS**

### **Executive Director's Report**

Ramon Hirsig, Executive Director, reported on the CEA upgrades and reorganization proposals for External and Legislative Affairs Department. (Exhibit 7.8.)

Action: Ms. Mandel moved to refer the matter to Closed Session to discuss the personnel portion. Mr. Parrish made a substitute motion to approve the reorganization as recommended by staff. The substitute motion was seconded by Mr. Leonard and duly carried, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no.

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Mr. Hirsig introduced Jerri Dale, Chief, Customer and Taxpayer Services Division, who provided an update on Electronic Services– Initiative I. (Exhibit 7.9.)

Mr. Hirsig introduced Karen Johnson, Deputy Director, Administration Department, who provided an update on the Strategic Plan. (Exhibit 7.10.)

Mr. Hirsig reported on the CEA upgrades and reorganization proposals for the Sales and Use Tax Department realignment. (See Exhibit 7.8.)

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

The Board recessed at 10:05 a.m. and reconvened at 10:10 a.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD  
JUNE 30, 2005**

Nortel Networks, Inc., 140851, 150425

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

Charles C. Kelley, 220111

Final Action: Mr. Leonard moved that the penalties be deleted, otherwise redetermine as recommended by the Appeals Division. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Yee and Ms. Mandel voting no, Mr. Chiang not participating.

The Board deferred consideration of this matter to a later date and requested a transcript of the June 30, 2005 hearing.

Davinder Singh Pabla, Mohinder Singh Pabla, Dial Kaur Pabla, 194819, 205731

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board ordered that the petition be redetermined and directed the Appeals Division to draft a Memorandum Opinion as to the finality penalty for Board consideration.

Synergem, Inc., 217118

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 not participating, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

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**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS****Mercury General Corporation, 145450**

1993, \$1,924,582.16 Assessment

1994, \$1,593,504.39 Assessment

1995, \$1,936,025.87 Assessment

1996, \$2,131,411.09 Assessment

For Appellant:

Ernest J. Dronenburg, Jr., Representative

Rick Richman, Representative

For Franchise Tax Board:

John Penfield, Tax Counsel

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

Issue: Whether or not appellant has met its burden of proving error in respondents determination to allocate administrative and operating expense deductions between exempt and nonexempt income.

Appellant's Exhibit: San Francisco Superior Court decision on *American General Realty Investment Corp. v. Franchise Tax Board* (Exhibit 7.11.)  
Trace of Indebtedness (Exhibit 7.12.)

Action: Upon motion of Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the appeal be postponed to a later date, granting the appellant 30 days to submit additional briefing, to be followed by the normal briefing process for oral hearing.

**The Pacific Lumber Company, 264893**

Year ended 2-26-86 or 1994, \$528,736.00 Claim for Refund

For Claimant:

Jeffrey M. Vesely, Attorney

Kerne H. O. Matsubara, Attorney

For Franchise Tax Board:

Dennis Haase, Tax Counsel

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

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

Appellant's Exhibit: Miscellaneous Documents (Exhibit 7.13.)

Respondent's Exhibit: Miscellaneous Documents (Exhibit 7.14.)

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

**George and Judy Georgiou, 254030**

1989, \$51,738.00 Tax, \$2,586.90 Negligence Penalty

1990, \$185,554.00 Tax, \$37,110.80 Negligence Penalty

For Appellant:

Russell B. Longaway, Attorney

George Georgiou, Taxpayer

For Franchise Tax Board:

Shane Hofeling, Tax Counsel

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

Issue: Whether appellants have shown that the proposed assessments are erroneous.

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Appellant's Exhibit: Miscellaneous Documents (Exhibit 7.15.)  
Action: The Board postponed this matter to the next Board meeting.<sup>1</sup>

Entropic Speech, Inc., 281161  
1999, \$208,121.13 Assessment

For Appellant: Julian C. Roberts, Attorney  
Paul Starrett, Attorney  
For Franchise Tax Board: Dennis Haase, Tax Counsel

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

Issues: Whether the shareholder monetary transfers made to appellant were capital contributions or bona fide debts.

If the shareholders' monetary transfers were bona fide debts, whether appellant incorrectly took a lump-sum deduction for all of the accrued interest expense in one year rather than taking the deduction in the year in which the interest expense was accrued.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 7.16.)

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

Virtual Media International, Inc., 286398  
2003, \$84.57 Claim for Refund

For Claimant: Daniel G. DeBusschere, Taxpayer  
For Franchise Tax Board: Dennis Haase, Tax Counsel

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

Issues: Whether an underpayment of estimated tax penalty was properly imposed.  
Whether appellant has shown reasonable cause for relief from a late payment penalty.

Whether appellant has shown that respondent abused its discretion in refusing to abate disputed interest charges.

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

Simon Ye, 259427  
2000, \$5,208.00 Assessment

For Appellant: Simon Ye, Taxpayer  
For Franchise Tax Board: Christine Roloff, Tax Counsel

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

Issue: Whether appellant is entitled to a claimed casualty/theft loss deduction under Internal Revenue Code section 165.

Appellant's Exhibit: Letters (Exhibit 7.17.)

Respondent's Exhibit: Miscellaneous Document (Exhibit 7.18.)

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<sup>1</sup> Additional action was taken later in the day

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

### **SALES AND USE TAX APPEALS HEARING**

Joe Singh Sandhu, 186293, 169564

4-1-94 to 3-31-99, \$179,701.50 Tax, \$44,925.46 Fraud Penalty

For Petitioner: No Appearance

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

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

Issues: Whether the audited understatement of taxable sales is excessive.

Whether taxpayer committed fraud.

Whether relief from the finality penalty is warranted.

Action: The Board postponed this matter. Also, the Board directed Taxpayers' Rights Advocate's staff to explain to the taxpayer his options for resolving these issues in a more timely manner.

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

George and Judy Georgiou, 254030

Action: The Board postponed this matter to the next Board meeting, granting the appellant 20 days to explain the relevance of the new evidence, the Franchise Tax Board 20 days to respond, and the Appeals Division 20 days thereafter to review the appellant's supporting documents, the Franchise Tax Board's response and provide its hearing summary to the Board.

### **FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD JULY 1, 2005**

The Pacific Lumber Company, 264893

Final 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 appeal be submitted for decision, granting the Franchise Tax Board 30 days from receipt of the Board hearing transcript to submit supporting documents, the appellant 30 days to respond, and the Appeals Division 30 days thereafter to review the Franchise Tax Board's supporting documents, the appellant's response and provide its recommendation to the Board.

The Board directed staff to notify the Franchise Tax Board and appellant when the matter is scheduled for decision so both parties may be present and available for public comment on any questions the Members may have.

Entropic Speech, Inc., 281161

Final 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 sustained the action of the Franchise Tax Board.

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Virtual Media International, Inc., 286398

Final Action: Mr. Leonard moved that the late filing penalty be relieved, otherwise sustain the action of the Franchise Tax Board. The motion failed for lack of a second.

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

Simon Ye, 259427

Final Action: Mr. Leonard moved that 50 percent of the claimed casualty loss be allowed, otherwise sustain the action of the Franchise Tax Board. The motion failed for lack of a second.

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 20 percent of the claimed casualty loss be allowed, otherwise sustain the action of the Franchise Tax Board.

The Board recessed at 12:08 p.m. and reconvened at 1:35 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

**LEGAL APPEALS MATTERS, CONSENT**

The Board deferred consideration of the following matter: *A. Diamond Production, Inc., 36630.*

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

A. Diamond Production, Inc., 36630

7-1-91 to 12-31-96, \$1,009,810.76 Tax, \$00.00 Fraud Penalty

Action: The Board took no action.

Premier Image, Inc., 251241

1-1-00 to 10-20-02, \$42,846.73 Tax, \$5,302.39 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Michael D. Brown, 215698

4-13-01, \$487,500.00 Tax, \$00.00 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

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

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Daniel Acuna, 269711

2001, \$1,488.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Caren Armstrong, 260012

1995, \$1,287.51 Assessment

Action: Reverse the action of the Franchise Tax Board.

Benziger Family Ranch, 283195

1998, \$1,420.01 Claim for Refund

1999, \$1,332.11 Claim for Refund

2000, \$1,299.05 Claim for Refund

2001, \$1,203.43 Claim for Refund

2002, \$1,037.44 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Gissel S. Nevarez, 283225

2000, \$1,392.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Darrel Alan Travis, 273346

2000, \$208.00 Tax, \$100.00 Late Filing Penalty

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

Jerry Throgmorton, 282813

2001, \$546.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Qian Wang, 286403

2001, \$744.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

John Hysore, 260583, 263300, 268643

2000, \$3,839.92 Claim for Refund

2001, \$2,935.71 Claim for Refund

2002, \$5,197.00 Assessment

2003, \$5,928.00 Assessment

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

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Rodica Bodnar, 288991

2004, \$340.00

Action: Sustain the action of the Franchise Tax Board.

David Cano, 296210

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Alaska Morris, 298580

2004, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Zinaida Shtanskaya, 288513

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Pearlie B. Walker, 295130

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Derwin Jay Ward, 295186

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Jasper Bailey, 251837

2003, \$342.00

Action: Deny the petition for rehearing.

**SALES AND USE TAX MATTERS, REDETERMINATIONS AND RELIEF OF PENALTIES, CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations and Relief of Penalties, Consent Agenda, upon a single 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 made the following orders:

Wind USA, Inc., 244378

1-1-99 to 6-30-02, \$64,494.75

Action: Approve the redetermination as recommended by staff.

Kone, Inc., 208212

7-1-98 to 6-30-01, \$172,662.34

Action: Approve the redetermination as recommended by staff.

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Filterfresh Acquisition Corporation, 293071

1-1-03 to 3-31-03, \$201,274.00

Action: Approve the redetermination as recommended by staff.

Rancho Motor Company, Inc., 307645

7-1-04 to 9-30-04, \$58,238.30

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

Gonzales Automotive Group, Inc., 305489

7-1-04 to 9-30-04, \$55,191.50

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

The Good Guys-California, Inc., 307259

4-1-04 to 6-30-04, \$289,635.80

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

Home Shopping, LP., 307329

10-1-04 to 11-30-04, \$136,158.66

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

Cook Medical, Inc., 305671

7-1-04 to 9-30-04, \$58,132.20

Action: Approve the relief of penalty 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. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105 in *Google Technology, Inc., 282871*; and, *Google, Inc., Will do Business in California, 285917*; Ms. Mandel not participating in accordance with Government Code section 87105 in *Chevrolet Motor Division, 305713*; and, *Genzyme Corporation, 306123*; the Board made the following orders:

Katherine Yuan Schiffeler, 260807

4-1-96 to 10-31-02, \$94,565.86

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

Blake's at Boundary Oak, LLC, 307983

7-1-99 to 6-30-02, \$143,827.73

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

Fotokem Industries, Inc., 297819

1-1-04 to 6-30-04, \$104,059.35

Action: Approve the refund as recommended by staff.

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Killingsworth Enterprises, Inc., 306141

4-1-01 to 3-31-04, \$198,663.24

Action: Approve the refund as recommended by staff.

Covina-Valley Unified School District, 304830

7-1-03 to 12-31-04, \$65,303.06

Action: Approve the refund as recommended by staff.

Decore-Ative Specialties, 260504

7-1-01 to 6-30-04, \$221,877.07

Action: Approve the refund as recommended by staff.

Visa U.S.A., Inc., 306974

7-1-00 to 6-30-03, \$73,416.30

Action: Approve the refund as recommended by staff.

Children's Hospital Health Center, 293781

10-1-01 to 9-30-04, \$75,053.39

Action: Approve the refund as recommended by staff.

Quebecor World (USA), Inc., 141210

10-1-98 to 12-31-02, \$219,045.32

Action: Approve the refund as recommended by staff.

Chevrolet Motor Division, 305173

6-17-04 to 2-1-05, \$949,550.70

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

Mercedes-Benz USA, LLC., 304642

12-28-99 to 5-27-04, \$77,574.00

Action: Approve the refund as recommended by staff.

San Bernardino County Sheriff's Department, 306775

8-10-01, \$160,034.41

Action: Approve the refund as recommended by staff.

Cornerstone Propane, L.P., 294781

4-1-03 to 3-31-04, \$161,902.75

Action: Approve the refund as recommended by staff.

Minimed Distribution Corporation, 306963

4-1-01 to 12-31-04, \$97,493.38

Action: Approve the refund as recommended by staff.

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**Genzyme Corporation, 306123**

7-1-00 to 9-30-03, \$58,492.23

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

**Apexon, Inc., 240750**

7-1-01 to 6-30-03, \$156,404.01

Action: Approve the refund as recommended by staff.

**Network Appliance Corporation, 306545**

4-1-03 to 6-30-03, \$119,282.06

Action: Approve the refund as recommended by staff.

**Electroglas, Inc., 286399**

10-1-03 to 3-31-04, \$79,657.52

Action: Approve the refund as recommended by staff.

**Arthrocare Corporation, 304340**

10-1-04 to 12-31-04, \$79,498.10

Action: Approve the refund as recommended by staff.

**Balboa Thrift & Loan Association, 290212**

1-1-03 to 12-31-03, \$87,130.90

Action: Approve the refund as recommended by staff.

**Google Technology, Inc., 282871**

1-1-03 to 8-31-03, \$324,120.09

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

**Google, Inc., Will do Business in California, 285917**

9-1-03 to 3-31-04, \$717,028.36

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

**A-L financial Corporation, 269627**

1-1-03 to 9-30-04, \$1,441,051.86

Action: Approve the refund as recommended by staff.

**Greco-Roman, Inc., 305390**

5-1-04 to 6-30-04, \$82,693.39

Action: Approve the refund as recommended by staff.

**Wheeled Coach Industries, Inc., 301072**

7-1-04 to 9-30-04, \$99,243.20

Action: Approve the refund as recommended by staff.

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Heritage Community Credit Union, 304827

10-1-04 to 12-31-04, \$68,668.64

Action: Approve the refund as recommended by staff.

**SPECIAL TAXES MATTERS, RELIEF OF INTEREST, DENIAL OF CLAIM FOR REFUND AND REDETERMINATION, CONSENT**

With respect to the Special Taxes Matters, Relief of Interest, Denial of Claim for Refund and Redetermination, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Ultramar, Inc., 244229*; and, *USAA Life Insurance Company, 306031*; the Board made the following orders:

Tosco Corporation, 305988

1-1-01 to 12-31-01, \$194,144.43

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

Ultramar, Inc., 244229

8-1-96 to 12-31-96, \$378,030.24

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

USAA Life Insurance Company, 306031

1-1-93 to 12-31-93, \$87,868.76

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

**SPECIAL TAXES MATTERS, REFUNDS, CONSENT**

With respect to the Special Taxes Matters, Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Americo Financial Life & Annuity Insurance, 307435*; and, *BC Life & Health Insurance Company, 154439*; the Board made the following orders:

Tosco Corporation, 264248

1-1-01 to 12-31-01, \$194,144.43

Action: Approve the refund as recommended by staff.

Americo Financial Life &amp; Annuity Insurance, 307435

1-1-02 to 12-31-02, \$91,710.80

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

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BC Life &amp; Health Insurance Company, 154439

1-1-97 to 12-31-00, \$2,242,345.52

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

**LEGAL APPEALS MATTERS, ADJUDICATORY**

Larry Cooke, 246683

7-1-95 to 6-30-98, \$00.00 Tax, \$763.78 Negligence Penalty

Peggy Cooke, 249465

7-1-95 to 6-30-98, \$00.00 Tax, \$763.78 Negligence Penalty

Considered by the Board: March 8, 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 Mr. Parrish, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Hoffmann Homecare, Inc., 244385

1-1-00 to 3-31-03, \$00.00 Tax

Considered by the Board: February 8, 2005

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

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

D &amp; G Marine, Inc., 82414, 90009, 207531

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

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

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

Doug Bombard Enterprises, Inc., 240445

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

Considered by the Board: May 25, 2005

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

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

Joaquin E. Hernandez, 217942

4-1-99 to 3-31-02, \$27,957.34 Tax, \$2,795.78 Negligence Penalty, \$2,795.78 Failure to File Penalty

Considered by the Board: Hearing Notice Sent – No Response

Wednesday, July 1, 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 Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the finality penalty be deleted if the taxpayer requests such and completes his tax payment plan, otherwise redetermine as recommended by the Appeals Division.

Allen L. Smith, 197119

12-1-00 to 9-25-01, \$143,585.91 Tax, \$5,033.01 Late Payment and Finality Penalties

Considered by the Board: Hearing Request Withdrawn

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

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the finality and amnesty interest penalties be deleted if the tax is paid in a timely manner, otherwise redetermine as recommended by the Appeals Division.

Quality Auto Brokers, Inc., 220313

1-1-98 to 12-31-00, \$31,163.87 Tax, \$5,158.01 Negligence Penalty

Considered by the Board: March 9, 2005

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

Action: Mr. Parrish moved to delete unreported taxable sales measure based on the missing DMV ROS slips, otherwise redetermine as recommended by the Appeals Division. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

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

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

Alan F. and Rita K. Shugart, 221743

1988, \$10,104.77 Claim for Refund

1990, \$118,851.99 Claim for Refund

1991, \$87,290.93 Claim for Refund

1992, \$193,161.42 Claim for Refund

1993, \$169,903.62 Claim for Refund

1994, \$110,426.26 Claim for Refund

Considered by the Board: Formal Opinion

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

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel voting no, Mr. Parrish not participating, the Board adopted the formal opinion.

Wednesday, July 1, 2005

Amir Mostafavi, 250124

1999, \$6,030.00 Tax, \$100.00 Late Filing Penalty

Considered by the Board: March 8, 2005

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

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish not participating, the Board adopted a decision sustaining the modified action of the Franchise Tax Board.

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

Robert S. Engel, 281929

2001, \$1.00 or more

Presented for Separate Discussion

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

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

Joe Santiago, 263154

2003, \$475.00

Considered by the Board: April 12, 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 Mr. Parrish, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Madison Shelby, 263148

2002, \$332.50

Considered by the Board: April 12, 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 Mr. Parrish, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Irene A. Henderson, 283775

2002, \$472.60

Considered by the Board: May 25, 2005

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

Wednesday, July 1, 2005

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

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

Trimble Navigation, LTD., 240955

1-1-99 to 12-31-99, \$400,425.00

Presented for Separate Discussion

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

Action: (Motion expunged.)

Praxair, Inc., 306183

1-1-98 to 12-31-02, \$139,440.17

Considered by the Board: June 7, 2005

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

Action: (Motion expunged.)

Reebok International, LTD., 303707

10-1-96 to 12-31-99, \$70,792.92

Considered by the Board: June 7, 2005

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

Action: (Motion expunged.)

MGE UPS Systems, Inc., 306082

7-1-98 to 3-31-02, \$73,275.05

Considered by the Board: June 7, 2005

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

Action: (Motion expunged.)

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

Stanford University, 240395

1-1-99 to 12-31-01, \$309,331.93

Presented for Separate Discussion

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

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 approved the refund as recommended by staff.

Praxair, Inc., 220277

1-1-98 to 12-31-02, \$1,651,184.61

Considered by the Board: June 7, 2005

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

Wednesday, July 1, 2005

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 approved the refund as recommended by staff.

Reebok International, LTD., 303704

10-1-96 to 12-31-99, \$124,149.82

Considered by the Board: June 7, 2005

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

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 87105, the Board approved the refund as recommended by staff.

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

Upon motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that its previous motion with respect to the Sales and Use Tax Matters, Denials of Claims for Refund and Denials of Relief of Penalties, Adjudicatory Agenda, be expunged.

Trimble Navigation, LTD., 240955

1-1-99 to 12-31-99, \$400,425.00

Presented for Separate Discussion

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

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

Praxair, Inc., 306183

1-1-98 to 12-31-02, \$139,440.17

Considered by the Board: June 7, 2005

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

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

Reebok International, LTD., 303707

10-1-96 to 12-31-99, \$70,792.92

Considered by the Board: June 7, 2005

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

Action: Upon motion of Mr. Parrish, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 87105, the Board approved the denial of claim for refund as recommended by staff.

Wednesday, July 1, 2005

MGE UPS Systems, Inc., 306082

7-1-98 to 3-31-02, \$73,275.05

Considered by the Board: June 7, 2005

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

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

**ADMINISTRATIVE SESSION****BOARD COMMITTEE REPORT****Property Tax Committee**

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Property Tax Committee report as to Issue 1. (Exhibit 7.19.)

Upon motion of Mr. Parrish, seconded by Ms. Yee and duly carried, Mr. Chiang, Mr. Parrish and Ms. Yee voting yes, Mr. Leonard and Ms. Mandel voting no, the Board approved the Property Tax Committee report as to Issue 2.

**OTHER ADMINISTRATIVE MATTERS****Adoption of the 2005 State-Assessed Property Roll**

Stanley Siu, Chief, Valuation Division, Property and Special Taxes Department, was available to answer questions regarding the 2005 State-Assessed Property Roll. (Exhibit 7.20.)

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the 2005 State-Assessed Property Roll.

**ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 1:58 p.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 2:44 p.m. and reconvened immediately in open session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

**Wednesday, July 1, 2005**

Mr. Chiang adjourned the meeting at 2:45 p.m. in memory of Assemblymen Mike Gordon, former Mayor and City Council Member of El Segundo, and Rabbi Emeritus Hakham, Yedidia Shofet of the Nessah Synagogue in Beverly Hills.

*The foregoing minutes are adopted by the Board on October 25, 2005.*

Note: The following cases were removed from the calendar prior to the meeting: *Alfredo Rivera, 295179; Providian Corporation, 186643; and, Ida Hunter-Lawton, 281312.*