

Wednesday, July 9, 2003

The Board met at its offices at 450 N Street, Sacramento, at 9:35 a.m., with Ms. Migden, Chairwoman, Mr. Parrish, Vice Chairman, Mr. Leonard and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

PROPERTY TAX MATTERS

2003/04 Private Railroad Car Tax Rate

David Hayes, Manager, Research and Statistics Section, Legislative Division, made introductory remarks regarding the 2003/04 Private Railroad Car Tax Rate.

Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted a rate for the 2003/04 private railroad car tax of 1.079 percent (Exhibit 7.1).

Exhibits to these minutes are incorporated by reference.

Adoption of the 2003 State-Assessed Property Roll

Harold Hale, Chief, Valuation Division, Property and Special Taxes Department, made introductory remarks regarding the 2003 State Assessed Property Roll.

Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Leonard and Mr. Chiang voting yes, Mr. Parrish not participating in accordance with Government Code section 87105, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the 2003 State-Assessed Property Roll (Exhibit 7.2).

Adoption of the 2003 Private Railroad Car Roll

Harold Hale, Chief, Valuation Division, Property and Special Taxes Department, made introductory remarks regarding the 2003 Private Railroad Car Roll.

Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Leonard and Mr. Chiang voting yes, Mr. Parrish not participating in accordance with Government Code section 87105, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the 2003 Private Railroad Car Roll (Exhibit 7.3).

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Mario Tejada, 162754

1988, \$2,144.00 or more Claim for Refund

1989, \$3,282.00 or more Claim for Refund

For Claimant:

Mario Tejada

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For Franchise Tax Board: Christine Roloff, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issues: Whether appellant's claims for refund are barred by the applicable statute of limitations.
Whether appellant has demonstrated error in the assessments, which were based upon a federal action.
Appellant's Exhibit: Letter from IRS (Exhibit 7.4)
Respondent's Exhibit: Miscellaneous Documents (Exhibit 7.5)
Action: Upon motion of Ms. Migden unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Tony P. Hoang, 182609
2000, \$925.00 Tax, \$231.25 Failure to Provide Information Penalty
For Claimant: Tony P. Hoang
For Franchise Tax Board: Kathleen Cooke, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issues: Whether or not appellant has established that the interest that has accrued on the assessment of additional taxes against him is attributable in whole or in part to any unreasonable error or delay by an officer or employee of respondent in performing a ministerial or managerial act.
Whether or not appellant has established that his failure to furnish the requested information to respondent was due to reasonable cause and not willful neglect so as to authorize the abatement of the penalty imposed by respondent.
Appellant's Exhibit: Claimant Statement (Exhibit 7.6)
Action: Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board canceled the penalty and the interest accrued on the penalty, otherwise, sustained the action of the Franchise Tax Board.

Ram Narayan, 202132
2000, \$352.67 Assessment
For Claimant: Ram Narayan
For Franchise Tax Board: Kathleen Cooke, Tax Counsel
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Issue: Whether a non-custodial parent is entitled to the dependent care expenses credit when authorized by a Court Order issued in conjunction with a Dissolution of Marriage Decree.
Appellant's Exhibit: Appellant Statement (Exhibit 7.7)
Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

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Mr. Leonard requested that staff inquire whether the Franchise Tax Board currently offers, or will offer, classes to the judiciary on the income tax ramifications of dissolution and custody decrees.

Ms. Migden stated for the record that the Board and the Franchise Tax Board came to a mutual agreement to dismiss the case of *Georgia Thompson, 192644*.

Maurice A. Mayben, Jr., 186286

1999, \$1,257.00 Tax, \$1,561.25 Late Filing Penalty

For Claimant: Waived Appearance

For Franchise Tax Board: Andrew O'Boyle, Staff Service Manager

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

Issues: Whether appellant has met his burden to prove error in the proposed assessment.
Whether appellant has shown reasonable cause for relief from the late filing penalty.

Whether a frivolous appeal penalty should be imposed.

Appellant's Exhibit: Claimant Statement (Exhibit 7.8)

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard voting no, the Board sustained the action of the Franchise Tax Board and imposed a \$2,500.00 frivolous appeal penalty.

Shirley A. Mayberry, 181462

1998, \$632.00 Assessment

For Claimant: Waived Appearance

For Franchise Tax Board: Joanne A. Garcia, Legal Analyst

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

Whether appellant has shown that the proposed assessments, based on federal audit adjustments, are incorrect.

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

SALES AND USE TAX APPEALS HEARINGS

William T. and Anne E. Rowlands, Mary Low Vieira and Donald Neal Vieira, 114639

4-20-98 to 10-3-98, \$121.51 Tax, \$12.14 Negligence Penalty

For Petitioner: William T. Rowlands

Lawrence Bartolomei, Representative

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

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

Issues: Whether the evidence shows that the audited fuel markup is excessive.

Whether the evidence shows that the audited bar markup of 196 percent is excessive.

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Whether the evidence shows that any of the other audited markups computed for taxable store merchandise are excessive.

Whether the audit allowance for self-consumption should be increased.

Whether the 10-percent penalty for negligence is applicable.

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

Chairwoman Migden requested that staff hearing summaries include (1) the dollar impact the Board's decision will have on other matters pending with the taxpayer but not technically before the Board, such as other Notices of Determination that are final but not paid and (2) a history of postponements with the reasons for the postponements.

Bobby R. and Mary H. Boydston, 37254, 37252

10-1-94 to 3-31-96, \$25,292.84 Tax, \$5,071.42 Finality Penalty

4-1-96 to 9-30-97, \$20,212.99 Tax, \$2,027.95 Finality Penalty

For Petitioner: Joseph Micallef, Representative

Joseph Micallef, Jr., Representative

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

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

Issues: Whether petitioner is entitled to any additional adjustment to the audited measure of understated taxable sales.

Whether the 10 percent penalty for negligence properly applies to petitioner's tax liability.

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

Costco Wholesale Membership Company, 132058

12-25-00 to 3-18-01, \$10,000.00 Claim for Refund

For Claimant: Joseph A. Vinatieri, Attorney

Richard Galanti, CFO

Jeff VanBurkleo, Tax Director

Jason Demille, Attorney

For Sales and Use Tax Department: Jeffrey H. Graybill, Tax Counsel

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

Issues: Whether relief from the tax is warranted, based on claimant's allegation that it, not Costco Wholesale Corporation, sold the memberships.

Whether the Board should apply a formula of apportionment so that only memberships purchased at bricks and mortar locations and used by a member to purchase tangible personal property at Costco.com should be subject to tax.

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and duly carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish voting no, the Board ordered that the petition be granted on the basis of a store-by-store analysis.

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Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered the Business Taxes Committee to explore whether or not there is a need to revise sales and use tax Regulation 1584, Membership Fees, and if so, begin the process which provides interested members of the public the opportunity to express their views and present proposals regarding the revision of the regulation.

Thomas Air Systems, Inc., 63099

7-1-96 to 6-30-99, \$22,599.40 Tax, \$00.00 Penalty

For Petitioner: Donald V. Thomas, President
Robert Thomas

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 reported taxable sales is excessive.
Whether the audited amount of materials and fixtures consumed on a contract with the U.S. Postal Service is excessive.

Chairwoman Migden requested staff provide Board Members a copy of our file purging policy. The Sales and Use Tax Department was directed to revisit the policy of purging prior audits.

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

Ali Ghafouri, et al., 112028

1-1-97 to 12-31-99, \$17,146.70 Tax

For Petitioner: Ali Ghafouri

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

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

Issue: Whether the Department properly determined petitioner's percentage of taxable sales for the audit period to be 49.70 percent.

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

Sam D'Ambrosio, 145476

7-1-97 to 9-30-00, \$9,943.32 Tax

For Petitioner: Sam D'Ambrosio

Judy Santoni, Bookkeeper

For Sales and Use Tax Department: Robert Tucker, Tax Counsel

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

Issues: Whether the audit incorrectly determined the amount of petitioner's unreported taxable sales.

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Whether the vehicle removed from resale inventory was used solely for demonstration or display while being held for sale in the regular course of business.

Chairwoman Migden requested staff investigate the procedures in place to ensure taxpayers' inquiries are responded to timely and appropriately, also that the taxpayer be provided a copy of the 3-Q-99 return.

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

Career Aviation Company Inc., 99048

12-4-98, \$00.00 Tax, \$00.00 Failure to File Penalty

For Petitioner: No Appearance

For Sales and Use Tax Department: Chris Schutz, Tax Counsel

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

Issues: None. The Appeals Division's revised recommendation is to grant the petition.

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

LEGAL APPEALS MATTERS, ADJUDICATORY

C & D Industrial Supply, Inc., 134879

1-1-97 to 6-30-00, \$63,231.47 Tax

Considered by the Board: Hearing Notice Sent – No Response

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

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

Paramount Pictures Corporation, 89000019140

Action: The Board took no action.

Loma Linda Merchantile, 51644, 89000411980

4-1-94 to 6-30-97, \$445,125.55 Tax, \$00.00 Negligence Penalty

10-1-96 to 6-30-97, \$1.00 or more Claim for Refund

Considered by the Board: March 5, 2003

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

Action: Mr. Leonard moved to grant the petition. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no

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

Plastic Pilings, Inc., 104744

10-1-97 to 9-30-99, \$55,026.48 Claim for Refund

Considered by the Board: March 4, 2003

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

Action: Mr. Parrish moved to grant the claim for refund. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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

Valor Computerized Systems, Inc., 87726, 140629

7-1-97 to 6-30-00, \$167,084.35 Tax

6-12-98 to 9-30-99, \$13,090.52 Claim for Refund

Considered by the Board: March 4, 2003

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

Action: Mr. Parrish moved to treat each transaction as a nontaxable transfer of software and a taxable sale of a dongle for \$48.36. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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

Parmodh Chander and Usha Rani, 214696

March 6, 2003 Notice of Seizure and Forfeiture

Considered by the Board: May 28, 2003

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

Action: Mr. Leonard moved to release the seized property. The motion was seconded by Mr. Parrish but failed to carry, Mr. Leonard and Mr. Parrish voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that staff properly seized the cigarettes.

Parmodh Chander and Usha Rani, 215463

March 6, 2003 Notice of Seizure and Forfeiture

Considered by the Board: May 28, 2003

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

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Action: Mr. Leonard moved to release the seized property. The motion was seconded by Mr. Parrish but failed to carry, Mr. Leonard and Mr. Parrish voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that staff properly seized the cigarettes.

The Board recessed at 11:55 a.m. and reconvened at 1:05 p.m. with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

PUBLIC HEARINGS

Proposed Amendments to Property Tax Rules 462.040, Change in Ownership - Joint Tenancies and 462.240, The Following Transfers do not Constitute a Change in Ownership

Kristine Cazadd, Assistant Chief Counsel, Property Tax Division, Legal Department, made introductory remarks regarding the proposed changes to Rule 462.040 interpret and explain the means by which joint tenants may become original transferors and the circumstances that terminate original transferor status. Under these changes, an assessor may deem co-owners to be joint tenants and original transferors if the assessor determines, based upon reasonable cause, that the co-owners intended to hold title as joint tenants and that they became original transferors. The proposed changes to Rule 462.240 interprets Probate Code provisions to exclude from change in ownership transfers from a deceased registered domestic partner to a surviving domestic partner.

Ms. Migden offered into the rulemaking file letters of support regarding the adoption of property tax Rules 462.040 and 462.240.

Speakers: Kate Kendell, Executive Director, National Center for Lesbian Rights, spoke in favor of the amendments to the property tax rules.
Geoffrey Kors, Executive Director, Equality California, spoke in favor of the amendments to the property tax rules.
Cynthia Carver, spoke in favor of the amendments to property tax rules and encouraged Board Members to adopt the amendments.
Joan Thayer, President, California Assessors' Association, Marin County Assessor-Recorder, spoke against the adoption of amendments to the property tax rules. She emphasized to the Board that it will cost the state millions if not billions to the State of California.
Mark Colombo, Assessor, Tehama County, spoke against the adoption of amendments to the property tax rules.
Ellen Pontac, Co-Chair, Sacramento/Yolo Chapter, Marriage Equality California, spoke in favor of the adoption of the amendments to the property tax rules.

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Tim Holcomb, Assessor, El Dorado County, stated for the record that he was in favor of the change in concept, but expressed several concerns with the proposed language.

April Hall, Member, Sacramento/Yolo Chapter, Marriage Equality California, spoke in favor of the amendments to the property tax rules.

Grant Metzger, Assessor, Calaveras County, explained that this matter should be handled by the legislature, not the Board of Equalization.

Shelly Bailes, Co-Chair, Sacramento/Yolo Chapter, Marriage Equality California, spoke in favor of the amendments to the property tax rules.

Daniel Roth, President, Stonewall Democratic Club of Greater Sacramento, spoke in favor of the amendments to the property tax rules.

Sam Catalano, Treasurer, Stonewall Democratic Club of Greater Sacramento, spoke in favor of the amendments to the property tax rules.

Therese M. Stewart, Chief Deputy, City and County of San Francisco, spoke in support of the amendments to the property tax rules, stating that: (1) the devastation caused by the loss of a domestic partner is compounded by the increase in property taxes of thousands of dollars, and often forces the surviving domestic partner to sell the home; (2) the amendments will not cause a substantial revenue loss; and, (3) the revenue estimates by the State Board of Equalization staff are accurate, and show that the revenue loss from application of the amendments is not significant.

Paula Pilecki, Executive Director, Spectrum Center for Lesbian, Gay, Bisexual and Transgender Concerns, encouraged the Board to adopt the amendments to the property tax rules.

Kinna Patel, Co-Chair, Sacramento/Yolo Chapter, Marriage Equality California, spoke in favor of the amendments to the property tax rules.

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board adopted the amendments to *Property Tax Rule 462.040, Change in Ownership Joint Tenancies* as published (Exhibit 7.9).

Upon motion of Ms. Migden, seconded by Mr. Chiang and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board approved the revised language to *Property Tax Rule 462.240, The Following Transfers do not Constitute a Change in Ownership*, as recommended by staff and referred the rule to the 15-day file (Exhibit 7.10).

Mr. Parrish stated for the record that there was a housekeeping matter that needed to be clarified. In the petitions of *Plastic Pilings, Inc., 104744*, and *Valor Computerized Systems, Inc., 87726, 140629*, the motions were not seconded.

Mr. Chiang seconded the motions.

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Proposed Adoption of Sales and Use Tax Regulation 1620.1, Sales of Certain Vehicles & Trailers for Use in Interstate or Out-of-State Commerce

Janice Thurston, Assistant Chief Counsel, Business Tax Division, Legal Department, made introductory remarks regarding that the proposed *Regulation 1620.1, Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code sections 6388 and 6388.5. The regulation is proposed to provide definitions of key terms; addresses the application of tax to sales of certain vehicles and trailers delivered to purchasers in California; provides criteria for properly completing an affidavit; provides guidelines for lessors; and provides record-keeping requirements for purchasers of the vehicles and trailers.

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

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted *Sales and Use Tax Regulation 1620.1, Sales of Certain Vehicles and Trailers for Use in Interstate or Out-of-State Commerce*, as published (Exhibit 7.11).

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Kennebeck Editions, LLC, 172823

1998, \$395.26 Claim for Refund

Considered by the Board: May 28, 2003

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

Action: Mr. Parrish moved to cancel the late penalty. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Parrish abstaining, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Robert and Carol Lienau, 156798

1995, \$21,313.00 Assessment

1996, \$3,754.00 Assessment

Vaughn and Cherye Dickson, 156808

1996, \$2,765.00 Claim for Refund

Anthony and Jacqueline Lienau, 156810

1995, \$26,367.00 Assessment

1996, \$13,153.00 Assessment

Paul and Christine Finie, 156814

1995, \$16,588.00 Claim for Refund

1996, \$2,697.00 Claim for Refund

Considered by the Board: May 28, 2003

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

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

Oryx Energy Company & Sun Company, Inc. (R&M), 59288

1982, \$330,467.00 Assessment

1983, \$607,552.00 Assessment

1984, \$814,116.00 Assessment

1985, \$1,457,040.00 Assessment

1986, \$853,014.00 Assessment

1987, \$258,280.00 Assessment

1988, \$267,442.00 Assessment

1989, \$222,697.00 Assessment

1990, \$223,581.00 Assessment

Considered by the Board: May 28, 2003

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

Action: Ms. Migden moved to sustain the action of the Franchise Tax Board. The motion was seconded by Ms. Mandel. Mr. Parrish offered a substitute motion to adopted a decision sustaining the action of the Franchise Tax Board with regards to Issue 1 and to reverse the action of the Franchise Tax Board with regards to Issue 2. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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

California Steel Industries, Inc., 160703

Considered by the Board: Opinion on Petition for Rehearing

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

Action: Upon motion of Ms. Mandel, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the opinion on petition for rehearing.

Conopco, Inc., 129732

Indopco, Inc., 129739

Sequoia-Turner Corp., 129741

Considered by the Board: June 25, 2003

Action: The Board took no action.

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

Rick Jenkins, 193298

2000, \$600.00 Claim for Credit

Considered by the Board: June 10, 2003

Action: The Board took no action on this matter.

Michael Joseph, 173490

2000, \$600.00 Claim for Credit

Considered by the Board: June 10, 2003

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

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

Khana Khanis, 187789

2002, \$347.50 Claim for Credit

Considered by the Board: June 10, 2003

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

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

Carolyn R. Sawin, 172395

2001, \$1.00 or more Claim for Credit

Considered by the Board: June 10, 2003

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

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

SALES AND USE TAX MATTERS, RELIEF OF PENALTIES, ADJUDICATORY

Micromass, Inc., 216089

4-1-96 to 10-28-02, \$263,892.16

Considered by the Board: May 28, 2003

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

Action: Mr. Leonard moved to grant the relief of penalty. Ms. Migden offered a substitute motion to deny the relief of penalty. The motion failed for lack of a second.

The Board deferred consideration of this matter, directing staff to provide specific information regarding the facts of this case as it pertains to their nexus-producing activities, along with an explanation of why staff is recommending relief of penalty.

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KMC Funding Corporation, 218204

2-1-02 to 3-31-02, \$446,913.45

Considered by the Board: June 10, 2003

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

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

KMC Millennium, LLC, 218182

10-1-01 to 12-31-01, \$179,705.10

Considered by the Board: June 10, 2003

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

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

Chairwoman Migden requested staff conceal names of employees when responding to Board Member requests regarding errors, and report to Board Members what steps the Sales and Use Tax Department is taking to ensure this error does not reoccur.

LEGAL APPEALS MATTERS, CONSENT

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

Kuroki International, Inc., 117153

1-1-98 to 12-31-00, \$41,539.54 Tax, \$4,160.97 Negligence Penalty

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

Advanced Information Services, Inc., 149828

7-1-97 to 9-30-00, \$61,664.38 Tax, \$00.00 Negligence Penalty

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

Regal Truck & Equipment Corporation, 128573

7-1-97 to 12-31-99, \$95,434.56 Tax, \$9,543.47 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred the following matters: *Gilbert Hansen, 186455, Mark E. Stamos, 167885 and Ronald J. Stucker, 186955.*

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

Hugo Aguas, 164540

1992, \$12,165.60 Claim for Refund

Action: Modified the action of the Franchise Tax Board.

Remigio I. and Nenita D. Agustin, 183945

1996, \$1.00 or more Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Donald L. and Geraldine Fogleson, 173224

1997, \$820.00 Tax

1998, \$1,107.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Anne Frederick, 195047

1998, \$1,694.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Neville Fridge, 188554

2001, \$4,810.54 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Hancock Financial, Inc., 187089

1993, \$1,437.97 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gilbert Hansen, 186455

1999, \$3,211.00 Assessment

Action: The Board deferred consideration of this matter.

Annette Hasalone, 187091

1992, \$1,684.39 Claim for Refund

1993, \$1,520.08 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Stephen and Elaine Hayden, 174615

1996, \$6,531.00 Tax

Action: Sustain the action of the Franchise Tax Board.

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Nathan A. and Julene Jez, 192293

1998, \$2,386.50 Claim for Refund

1999, \$284.55 Claim for Refund

2000, \$898.78 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

John R. Kenny, 187217

1996, \$343.70 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Harry Madsen, 183951

1990, \$1,175.53 Claim for Refund

Action: Sustain the action with concession of the Franchise Tax Board.

Arnold I. and Rona K. L. Mandel, 186853

1991, \$1,347.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Lucretia Moramarco, 188464

1987, \$2,361.24 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Pac/Gro & Associates, LLC, 198111

1998, \$1,013.20 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Pine Needles, LLC, 195968

1997, \$156.33 Claim for Refund

1998, \$190.37 Claim for Refund

1999, \$205.12 Claim for Refund

2000, \$284.87 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Greg Sanchez, 202265

2000, \$810.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Jay L. Schneider, 158354

1986, \$1.00 or more Assessment

Action: Sustain the action of the Franchise Tax Board.

Mark E. Stamos, 167885

1999, \$1,777.72 Claim for Refund

Action: The Board deferred consideration of this matter.

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Otto and Jill Stolz, 188238

1999, \$6,096.24 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ronald J. Stucker, 186955

1998, \$2,289.00 Tax, \$572.25 Late Filing Penalty

Action: The Board deferred consideration of the following matter.

United Fixtures Company, 195915

1993, \$2,671.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Sheng-Chuan Wu, 195948

2000, \$1,176.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Ganquan Xie, 186946

1996, \$2,288.08 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Donald and Julie Galloway, 89002467700

David L. (Deceased) and Juanita F. Thomas, 31869

1992, \$90,207.00 Tax

1992, \$96,203.00 Tax, \$23,730.25 Late Filing Penalty

Action: Deny the petition for rehearing.

Michael and Barbara Longbrook, 153386

1997, \$2,103.00 Assessment

1998, \$1,870.00 Assessment

Action: Deny the petition for rehearing.

John C. and Yoshi Ryan, 160247

1997, \$1.00 or more Assessment

Action: Deny the petition for rehearing.

Bruno W. and Grace Scherrer, 174167

1996, \$43,587.00 Tax, \$21.00 Notice and Demand Penalty

1997, 58,164.00 Tax, \$1,982.00 Notice and Demand Penalty

1998, \$41,880.00 Tax

Action: Deny the petition for rehearing.

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Jun Zhang, 174057
1999, \$964.00 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. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Dennis Dunham, Jr., 187473
1999, \$240.00 Claim for Credit
2000, \$235.00 Claim for Credit
Action: Sustain the action of the Franchise Tax Board.

Ralph A. Espinosa, 197596
2002, \$340.00 Claim for Credit
Action: Sustain the action of the Franchise Tax Board.

Dennis Friesen, 196111
2002, \$349.00 Claim for Credit
Action: Sustain the action of the Franchise Tax Board.

Aerisina George, 191404
2002, \$347.50 Claim for Credit
Action: Sustain the action of the Franchise Tax Board.

Marcus Grisby, 192164
2002, \$1.00 or more Claim for Credit
Action: Sustain the action of the Franchise Tax Board.

Ren Harris, 196169
2002, \$1.00 or more Claim for Credit
Action: Sustain the action of the Franchise Tax Board.

Sharon Howard, 196180
2002, \$1.00 or more Claim for Credit
Action: Sustain the action of the Franchise Tax Board.

J. B. Jacobs, 194392
2002, \$1.00 or more Claim for Credit
Action: Sustain the action of the Franchise Tax Board.

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Ghanem Jajoo, 204096

2002, \$1.00 or more Claim for Credit

Action: Reverse the action of the Franchise Tax Board.

Philip Jevanian, 203083

1999, \$340.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Philip Jevanian, 204050

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Sherrie A. Jones, 196714

2002, \$347.00 Claim for Credit

Action: Reverse the action of the Franchise Tax Board.

Cheryl Kelly, 204057

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Maria Kogan, 203277

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Polina Krapivskaya, 198661

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Wesley Levy, 191357

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Mary C. Marlowe, 188146

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Folisha Murphy, 191441

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Feliciano M. Nagac, Sr., 208078

2002, \$340.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

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Angie Porras, 198570

2002, \$1.00 or more Claim for Credit

Action: Reverse the action of the Franchise Tax Board.

Martin R. Ramirez, 208525

2001, \$240.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Sandra Garcia Ramon, 188143

2001, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Calvin Smith, 201713

2000, \$586.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Elizabeth J. Taylor, 165085

2001, \$600.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Raymon E. Taylor, 199153

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Pramruedee Whitmore, 204052

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Yevgenya Shevtsov, 151096

2001, \$348.00 Claim for Credit

Action: Reverse the Board's decision dated November 12, 2002 and reverse the action of the Franchise Tax Board with direction to issue assistance in the amount of \$235.00.

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

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, except *Summit Technology, Inc.*, 116260, upon a single motion of Mr. Leonard, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Chiang and Mr. Leonard voting yes, Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105, the Board made the following orders:

The Gap Stores, Inc., 57849

1-1-95 to 12-31-97, \$962,004.32

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Wednesday, July 9, 2003

D.L. Peterson Trust, 186470

10-1-96 to 12-31-99, \$1,911,961.09

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Olympus America, Inc., 113008

4-1-96 to 3-31-99, \$272,852.22

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Philadelphia Gear Corporation, 186762

7-1-97 to 9-30-00, \$86,324.46

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Big Birdie Aviation, LLC, 204723

7-2-01, \$133,200.00

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Garthorpe, Inc., 212210

10-10-01, \$3,032,964.00

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Solunet, Inc., 152304

7-1-97 to 6-30-00, \$64,920.55

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Paintball, Inc., 195303

10-1-98 to 12-31-01, \$123,079.44

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Minntech Corporation, 194376

4-1-93 to 6-30-01, \$241,359.83

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Prestone Products Corporation, 194026

4-1-98 to 6-30-01, \$596,702.07

Action: Approve the redetermination as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

Wednesday, July 9, 2003

Cox Satellite, Inc., 220131
4-1-96 to 3-31-98, \$77,092.99

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

General Electric Company, 216145
10-1-88 to 3-31-93, \$180,000.00

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish and Ms. Mandel not participating in accordance with Government Code section 870105.

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, *Summit Technology, Inc., 116260*, only, upon a single motion of Mr. Parrish, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 870105, the Board made the following orders:

Summit Technology, Inc., 116260
10-1-96 to 9-30-99, \$415,135.02

Action: Approve the redetermination as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 870105.

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. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel not participating in accordance with Government Code section 87105, the Board made the following orders:

Quest Advertising, LLC, 220090
1-1-00 to 12-31-00, \$166,808.58

Action: Approve the credit and cancellation as recommended by staff. Mr. Chiang and Ms. Mandel not participating in accordance with Government Code section 87105.

Owens & Minor West, Inc., 94279
1-1-97 to 6-30-01, \$631,822.45

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

Imagic, 89000030790
10-1-95 to 12-31-98, \$439,967.83

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

Wednesday, July 9, 2003

Telamon Corporation, 151633

7-1-99 to 6-30-02, \$147,652.86

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

Regents of the University of California, 215844

1-1-97 to 12-31-99, \$1,237,553.75

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

Fireside Thrift Company, 212795

1-1-00 to 12-31-01, \$2,045,225.70

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

House of Imports, Inc., 219337

7-1-99 to 6-30-02, \$178,268.51

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

Pacific Coast Steel, Inc., 216135

10-1-98 to 9-30-02, \$69,310.28

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

Salomon Smith Barney, Inc., 203736

7-1-00 to 3-31-02, \$171,355.75

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

Cox Satellite, Inc., 89000880960

4-1-96 to 3-31-98, \$140,663.91

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

Chevrolet Motor Division, 219523

7-1-02 to 10-31-02, \$329,168.61

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

OTG Software, Inc., 110524

7-1-96 to 12-31-00, \$125,063.62

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

Wednesday, July 9, 2003

Hewlett-Packard Company, 184606

4-1-99 to 3-31-01, \$51,735.01

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

Kia Motors America, Inc., 183922

4-1-97 to 6-30-01, \$179,979.27

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

First Entertainment Credit Union, 218405

4-1-99 to 9-30-02, \$103,830.18

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

CHIEF COUNSEL MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Consideration of Findings and Decision

East Bay Municipal Utility District acting by and through the Garamendi Family Trust and the Raymond V. Garamendi Exemption Trust, 194594

Action: Upon motion of Mr. Leonard, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Chiang and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the Findings and Decision as recommended by staff.

ADMINISTRATIVE SESSION

PROPOSED 2003 BOARD MEETING DATE CANCELLATION

Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board canceled the October 2003 Culver City Meeting (Exhibit 7.12).

ADMINISTRATIVE MATTERS, CONSENT

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

Wednesday, July 9, 2003

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 7.13).

Rachel M. Aragon, Tax Counsel III, Appeals Division, Legal Department,
Headquarters
Michael Schwander, Warehouse Manager I, Supply Unit, Headquarters

Action: Approve extensions of time to complete and submit 2003-04 Local Assessment Rolls pursuant to Revenue and Taxation Code section 155 granted to Alpine, Colusa and Monterey Counties (Exhibit 7.14).

Mr. Leonard expressed his sincere and grateful appreciation to Bob Austin, Chief, Technology Services Division, for his dedicated service to his staff and the State Board of Equalization. He wished Mr. Austin the best in his new position.

Mr. Chiang acknowledged the excellent work that Mr. Austin accomplished while at the Board.

BOARD COMMITTEE REPORTS

Business Taxes Committee

Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the Business Taxes Committee report (Exhibit 7.15).

FINAL ACTION ON APPEALS HEARD JULY 9, 2003

Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, in the appeal of *Mario Tejada, 162754*, the Board modified the action of the Franchise Tax Board, reducing the 1989 assessment by 86 percent and canceling the negligence penalty.

Upon motion of Ms. Migden, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, in the appeal of *Ram Narayan, 202132*, the Board sustained the action of the Franchise Tax Board.

FINAL ACTION ON PETITIONS HEARD JULY 9, 2003

Mr. Parrish moved to cancel the negligence penalty, otherwise redetermine as recommended by the Appeals Division in the petition of *William T. Rowlands, et al., 114639*. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Wednesday, July 9, 2003

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

Mr. Leonard moved to cancel the finality penalty, otherwise redetermine as recommended by the Appeals Division in the petition of *Bobby R. and Mary H. Boydston, 37254, 37252*. Mr. Parrish seconded the motion but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

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

Upon motion of Ms. Migden, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition of *Thomas Air Systems, Inc., 63099*, be denied and redetermined as recommended by the Appeals Division.

SALES AND USE TAX APPEALS HEARINGS

David Paul Posey, 140651

10-1-97 to 11-8-00, \$110,864.68 Tax, \$00.00 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.

Issue: Whether the evidence shows that the compiled amounts of recorded taxable sales are overstated.

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

FINAL ACTION ON PETITIONS HEARD JULY 9, 2003

Upon motion of Ms. Migden, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition of *Ali Ghafouri, et al., 112028*, be denied and redetermined as recommended by the Appeals Division.

Mr. Parrish moved to reduce the measure of tax from \$80,302.00 to \$55,952.00 in the petition of *Sam D'Ambrosio, 145476*. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Wednesday, July 9, 2003

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

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 2:25 p.m. and reconvened immediately in closed session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss personnel matters (Govt. Code § 11126(a)).

Debbie Pellegrini, Chief, Board Proceedings Division, announced that Closed Session had been suspended at 2:55 p.m. and would reconvene at 3:30 p.m.

The Board recessed at 3:55 p.m. and reconvened immediately in open session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

Ms. Pellegrini announced the Board had made a decision to meet on July 25, 2003 to discuss personnel matters.

The Board adjourned at 3:57 p.m.

The foregoing minutes are adopted by the Board on September 24, 2003.