

WEDNESDAY, AUGUST 1, 2001

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m. Chairman Parrish, Vice Chairman Chiang, Mr. Klehs and Mr. Andal present, Ms. Mandel present on behalf of Dr. Connell in accordance with Government Code Section 7.9.

#### **ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed in closed session with Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel present.

#### **CLOSED SESSION**

The Board met to discuss pending litigation, Revenue and Taxation codes 7093.5, 7093.5(b)(3), 30459.1 and 50156.11, settlements and personnel matters.

The Board recessed at 9:35 a.m. and reconvened at 9:40 a.m. in open session with Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel present.

#### **PUBLIC COMMENT**

Ernest J. Dronenburg, Jr. expressed his sadness in hearing of the passing of former Board Member, Richard "Dick" Nevins. Mr. Dronenburg stated "He was a friend and advisor." He wishes to extend his deepest sympathy to his wife, Mary Lois, and family. Mr. Nevins passed away on July 29, 2001 after a bodysurfing accident.

#### **EQUAL EMPLOYMENT OFFICE FUNCTION**

James Speed, Executive Director, made introductory remarks regarding the Equal Employment Office Function.

Mr. Andal moved to adopt alternative 1, Taxpayer Rights Advocate as EEO officer and EEO Office reporting to the Advocate. No vote was taken.

Mr. Klehs offered a substitute motion that the Board adopt alternative 2, EEO Office and EEO Officer reporting directly to the Executive Director. The motion was seconded by Mr. Chiang but failed to carry, Mr. Chiang and Mr. Klehs voting yes, Mr. Parrish, Mr. Andal and Ms. Mandel voting no.

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Upon motion of Mr. Andal, seconded by Ms. Mandel and duly carried, Mr. Parrish, Mr. Andal and Ms. Mandel voting yes, Mr. Chiang and Mr. Klehs voting no, the Board ordered that alternative 1 be adopted, EEO Office and EEO Officer reporting directly to the Taxpayer Rights Advocate.

### **ADMINISTRATIVE MATTERS, CONSENT**

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

Action: Adopt the following resolution 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 8.1).

Joycelyn P. Lunsdaine, Associate Tax Auditor, Laguna Hills Branch Office  
Robert S. Liley, Business Taxes Administrator I, Rancho Mirage Branch Office  
Roger G. Schwarting, Senior Tax Representative, Sacramento District Office  
Laurie E. O'Neal, Tax Technician III, San Diego District Office  
Verne F. Ferreira, Supervising Tax Auditor I, Oakland District Office  
Richard C. Johnson, Deputy Director, Property Taxes Department, Headquarters  
Robert L. Heaussler, Business taxes Administrator II, Laguna Hills Branch Office

Action: Adopt the Board Meeting Minutes of: May 8-10, 2001, May 30-31, 2001 and June 20-21, 2001.

Action: Adopt correction of Board Meeting Minutes of: April 6, 2000.

Action : Approve extensions of time to complete and submit 2001-2002 Local Assessment Rolls pursuant to Revenue and Taxation Code section 155 to Alpine, Amador, Modoc, Napa and Shasta counties.

Exhibits to these Minutes are incorporated by reference.

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### **LEGISLATIVE COMMITTEE**

Margaret Shedd, Legislative Counsel, Legislative Division, made introductory remarks regarding the Legislative Committee Report.

Upon motion of Mr. Andal, seconded by Mr. Chiang and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board approved the Legislative Committee Report.

### **CUSTOMER SERVICES AND ADMINISTRATIVE EFFICIENCY COMMITTEE**

Bob Austin, Chief, Technology Services Division, made introductory remarks regarding the Customer Services and Administrative Efficiency Committee report.

Upon motion of Mr. Klehs, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Chiang and Mr. Klehs voting yes, Mr. Andal voting no, Ms. Mandel abstaining, the Board approved the Customer Services and Administrative Efficiency Committee report.

### **BUSINESS TAXES COMMITTEE**

Ramon Hirsig, Deputy Director, Sales and Use Tax Department, made introductory remarks regarding the Business Taxes Committee report.

Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board approved the Business Taxes Committee report.

### **PROPERTY TAX COMMITTEE**

Richard Johnson, Deputy Director, Property Taxes Department, made introductory remarks regarding the Property Tax Committee report.

Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board approved the Property Tax Committee report.

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**LEGAL APPEALS MATTERS, ADJUDICATORY**

Cheryl Torres, Executor of Estate, SN AA 52-004708; 89000964940

3-31-96 to 12-31-96, \$2,272.16 Tax, \$00.00 Penalty, Negligence

Considered by the Board: Hearing Notice Sent – No Response

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

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

Damirus Corporation, SC OHB 97-563736; 52049

10-1-94 to 9-30-97, \$11,440.63 Tax, \$1,144.08 Penalty, Failure to File

Considered by the Board: Hearing Notice Sent – No Response

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

Action: Mr. Klehs moved that the petition be redetermined as recommended by the appeals Section. No vote was taken.

Mr. Andal offered a substitute motion to grant the petition. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Andal voting yes, Mr. Chiang, Mr. Klehs and Ms. Mandel voting no.

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

Pacific Foto Supply, Co., SR OH 99-544773; 55777

7-1-95 to 9-30-98, \$19,319.85 Tax, \$587.13 Penalty, Negligence

Considered by the Board: Hearing Notice Sent – No Response

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

Action: Upon motion of Mr. Klehs, seconded by Mr. Chiang and duly carried, Mr. Chiang, Mr. Klehs and Ms. Mandel voting yes, Mr. Andal voting no, Mr. Parrish abstaining, the Board ordered that the petition be redetermined as recommended by Appeals Section.

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J.G. Boswell Company, SY AP 98-034163; 89002091030  
1-1-95 to 12-31-97

Considered by the Board: Memorandum Opinion

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

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Andal and Ms. Mandel voting yes, Mr. Klehs not participating, the Board adopted the Memorandum Opinion.

United States Sales Corporation, SY AC 11-6069294; 89000010340  
7-1-93 to 9-30-98

Considered by the Board: Memorandum Opinion

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

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board adopted the revised Memorandum Opinion as recommend by Mr. Klehs.

Holiday World, Inc., SY EH 23-879641; 8900043460  
1-1-95 to 9-30-96

Considered by the Board: Memorandum of Opinion

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

Action: Upon motion of Mr. Andal, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, Mr. Chiang not participating, the Board adopted the Memorandum Opinion.

Bernard Gregory Ross & Ronald Eric McMillan, SR AS 11-813619; 89000035410  
10-1-94 to 12-31-96, \$43,985.62 Tax, \$00.00 Penalty, Negligence

Considered by the Board: Cases Heard But Not Decided

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

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

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The Gary's Companies, SY AC 13-115395; 48280; 890000578470

10-1-95 to 10-4-97, \$139,372.04 Tax

Considered by the Board: Cases Heard But Not Decided

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

Action: Mr. Klehs moved that the petition and the claim for refund be denied as recommended by Appeals Section. The motion was seconded by Mr. Chiang but no vote was taken.

Mr. Andal offered a substitute motion that the petition be granted. The motion was seconded by Mr. Parrish but the motion failed to carry, Mr. Parrish and Mr. Andal voting yes, Mr. Klehs, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Mr. Klehs, seconded by Mr. Chiang and duly carried, Mr. Chiang, Mr. Klehs and Ms. Mandel voting yes, Mr. Parrish and Mr. Andal voting no, the Board ordered that petition and claim for refund be denied as recommended by the Appeals Section.

The Staff of Life, Inc., SN OH 53-000555; 89000970830

1-1-95 to 6-30-97, \$243,096.28 Tax, \$00.00 Penalties

Donald Lewis Smyth, SC OH 99-226088; 89002156260

10-1-94 to 6-30-97, \$259,786.74 Tax, \$00.00 Penalty

Considered by the Board: Case Heard But Not Decided

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

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Chiang, Mr. Andal and Ms. Mandel voting yes, Mr. Klehs voting no, the Board ordered that the petition of *The Staff of Life, Inc.*, 89000970830, be redetermined as recommended by the Appeals Section.

Upon motion of Mr. Andal, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Andal and Ms. Mandel voting yes, Mr. Klehs voting no, Mr. Chiang not participating, the Board ordered that the petition of *Donald Lewis Smyth*, 8900215620, be granted.

Olympia Investments, Inc., SP UT 82-588361; 89001091550

2-28-95, \$00.00 Tax

Considered by the Board: Case Heard But Not Decided

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

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Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Andal voting yes, Mr. Klehs and Ms. Mandel not participating, the Board ordered that the petition be redetermined as recommended by Appeals Section.

Michael Keith Easley, SR EH 97-303820; 89002083430

1-1-95 to 6-30-98, \$19,640.59 Tax, \$0.00 Penalty, Failure to File

Considered by the Board: Case Heard But Not Decided

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

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

Michael Alan Morales, SR DHH 99-208531; 89002148370

10-1-94 to 12-31-97, \$3,282.82 Tax

Considered by the Board: Case Heard But Not Decided

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

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

Tekadi Corporation, SR EA 99-757112; 50064

1-1-96 to 12-31-98, \$12,985.91 Tax, \$00.00 Penalties, Negligence & Failure to Pay  
Timely

Considered by the Board: Case Heard But Not Decided

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

Action: Mr. Andal moved that the petition be granted. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Andal voting yes, Mr. Klehs, Mr. Chiang and Ms. Mandel voting no.

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

The Board recessed at 10:10 a.m. and reconvened at 10:15 a.m. with Mr. Parrish, Mr. Chiang, Mr. Andal, Mr. Klehs and Ms. Mandel present.

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Blue Shaw, Inc., SR AC 13-829801; 89000085530

4-1-93 to 3-31-96, \$22,958.45 Tax, \$2,295.87 Penalty, Negligence

Considered by the Board: Petition for Rehearing

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

Action: Upon motion of Mr. Andal, seconded by Mr. Klehs and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board ordered the petition for rehearing be denied.

Datatype Incorporated, SR AP 17-714674; 89000204590

10-1-97 to 12-31-97, \$227,392.00 Tax

Considered by the Board: Petition for Rehearing

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

Action: Upon motion of Mr. Andal, seconded by Mr. Klehs and unanimously carried, Mr. Parrish, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, Mr. Chiang not participating, the Board ordered the petition for rehearing be denied and redetermined as recommended by the Appeals Section.

Androanik Sogoyan, SR ARF 53-000057; 89000969520

4-1-90 to 6-30-92, \$213,970.35

Androanik Sogoyan, FR ARF 53-000426; 89000970540

4-1-90 to 4-30-92, \$475,055.08

Considered by the Board: Petition for Rehearing

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

Action: Upon motion of Mr. Andal, seconded by Mr. Klehs and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board ordered the petition for rehearing be denied.

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

Irwin & Shirley Lachman, 32939

1991, \$182,781 Assessment, \$36,556.20 Penalty, Accuracy-related

Considered by the Board: March 7, 2001

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

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

Michael W. & Dawn L. Cook, 92487

1985, \$126.94 Claim for Refund

1986, \$719.83 Claim for Refund

1989, \$270.24 Claim for Refund

Considered by the Board: April 18, 2001

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

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

Yamaha Motor Corporation, 99A-0226; 89002467500

1989, \$ 3,593.00 Assessment

1990, \$229,623.00 Assessment

1991, \$ 9,038.00 Assessment

Considered by the Board: Petition for Rehearing

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

Action: Mr. Klehs moved to expunge the record with regards to the original vote and to grant the petition for rehearing. The motion was seconded by Mr. Andal but failed to carry, Mr. Klehs and Mr. Andal voting yes, Mr. Chiang and Mr. Parrish voting no, Ms. Mandel abstaining.

Mr. Klehs moved to expunge the record with regards to the original vote and to grant the petition for rehearing. The motion was seconded by Mr. Andal but failed to carry, Mr. Klehs and Mr. Andal voting yes, Mr. Chiang and Mr. Parrish voting no, Ms. Mandel abstaining.

The Board ordered the petition for rehearing be submitted for decision.

Pentel of America Ltd., 99A-0014; 89002464880

1989, \$177,126.00 Assessment

Considered by the Board: Petition for Rehearing

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

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Action: Mr. Klehs moved to expunge the record with regards to the original vote and to grant the petition for rehearing. The motion was seconded by Mr. Chiang but failed to carry, Mr. Klehs and Mr. Andal voting yes, Mr. Chiang and Mr. Parrish voting no, Ms. Mandel abstaining.

The Board ordered the petition for rehearing be submitted for decision.

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

Rents et al Inc., SR JHJ 027-833543; 127973

6-1-92 to 3-31-95, \$113,471.73

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

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board approved the credit and cancellations recommended by staff.

Toyota Central Ltd., SR AA 011-635070; 112615

7-1-97 to 9-30-00, \$71,232.36

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

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board approved the refund as recommended by Staff.

Mediamark Research, Inc., SC OHB 099-158041; 36471

1-1-98 to 9-30-99, \$87,574.04

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

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

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

Proven Designs Inc., SC OHB 097-668417; 63102  
1-1-92 to 6-30-97, \$64,690.98

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

Action: Upon motion of Mr. Klehs, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board approved the redetermination as recommended by Staff.

National Cement Company of California, SR Y AC 022-786469; 101448  
7-1-99 to 9-30-00, \$250,000.00

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

Action: Upon motion of Mr. Klehs, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Klehs and Ms. Mandel voting yes, Mr. Andal and Mr. Chiang not participating, the Board approved the denial of claim for refund as recommended by Staff.

**PROPERTY TAX MATTERS, ADJUDICATORY**

**Timber Yield Tax Claim for Refund**

Sierra Pacific Industries, YT 100211, 129687  
7-1-97 to 6-30-00, \$454,226.90

Action : Mr. Klehs moved to adopt the staff recommendation. The motion was seconded by Mr. Chiang but no vote was taken.

Mr. Andal moved to adopt the staff recommendation. The motion failed for lack of a second. Mr. Andal withdrew his motion.

The Board deferred consideration of this matter.

**LEGAL APPEALS MATTERS, CONSENT**

The Board deferred consideration of the following matters: *Universal Semiconductor, Inc., SR GH 26-707743; 50993, and William Peter Bolotin, SR AP 97-203953; 18589.*

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

Universal Semiconductor, Inc., SR GH 26-707743; 50993  
7-1-95 to 12-31-97, \$3,369.70

Action: The Board deferred consideration of this matter.

William Peter Bolotin, SR AP 97-203953; 18589  
4-1-94 to 12-31-97, \$47,802.03 Tax, \$4,990.34 Penalty, Negligence

Action: The Board deferred consideration of this matter.

Satwant S. Dhillon, SR KH 99-255258; 59316  
7-1-96 to 6-30-99, \$2,227.00 Tax, \$00.00 Penalty, Negligence

Action: Redetermine as recommended by Appeals Section.

F. William Guerin, SR BH 53-000142; 89000969850  
10-1-92 to 6-15-94, \$81,035.62 Tax, \$8,288.97 Penalty, Negligence

Action: Redetermine as recommended by Appeals Section.

Horizon International, Ltd., SR ARF 99-922383; 30042  
7-1-95 to 9-30-98, \$00.00 Tax

Action: Redetermine as recommended by Appeals Section.

Hoshizaki America, Inc., SR OHC 14-677008; 89000112980  
7-1-94 to 6-30-97, \$00.00 Tax, \$00.00 Penalty, Negligence

Action: Redetermine as recommended by Appeals Section.

Leasing Service Corporation, SS OHB 30-620595; 89000813550  
7-1-82 to 9-30-86, \$00.00 Tax

ORIX Credit Alliance, Inc., SS OHB 30-676562; 89000854230

10-1-86 to 3-31-88, \$00.00 Tax

Action: Redetermine as recommended by Appeals Section.

W. H. B. T., Inc., SR AS 11-776438; 89000027980  
10-1-91 to 3-31-95, \$00.00 Tax, \$00.00 Penalty, Negligence

Action: Redetermine as recommended by Appeals Section.

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Prism Integrated Sanitation Management, Inc., SY OHC 30-691268-020; 89000872400  
7-1-93 to 9-30-97, \$00.00 Tax, \$00.00 Penalty, Negligence  
Action: Redetermine as recommended by Appeals Section.

Giben America, Inc., SC OHC 97-316092; 89002083770  
6-1-92 to 6-30-98, \$00.00 Tax, \$00.00 Penalty, Failure to File  
Action: Redetermine as recommended by Appeals Section.

Robert Riedel, Jeff Burkhart & Sam Hogin, SR JH 99-196987; 89002142930  
7-1-93 to 12-31-96, \$00.00 Tax, \$00.00 Penalty, Negligence  
Action: Redetermine as recommended by Appeals Section.

China House Enterprises, Inc., SR AC 13-889557; 89000101190  
4-1-93 to 3-31-96, \$57,256.64 Tax, \$5,725.69 Penalty, Negligence  
El Senda, Inc., SR AC 99-392174; 89002231360  
4-1-94 to 6-30-98, \$16,923.81 Tax, \$00.00 Penalty, Negligence  
Action: Deny the petition for rehearing.

Avery Petroleum Company, SR EA 99-370464; 89002221300  
7-1-94 to 6-30-97, \$28,949.48 Tax, \$00.00 Penalty, Negligence  
Action: Grant the petition for rehearing.

Mamood Namdar, SP UT 82-660643; 89001146190  
SP UT 82-656-557; 89001141560  
SP UT 82-663137; 89001148560  
7-31-97, 8-31-96 & 10-31-97; \$25,914.06 Tax, \$2,591.41 Penalty, Failure to File  
Action: Deny the petition for rehearing.

**FRANCHISE AND INCOME TAX MATTERS, CONSENT**

The Board deferred consideration of the following matter:  
*Gerald B. White, Jr., 99659.*

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

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Walter W. &amp; Susan D. Schroeder, 41849

1990, \$18,562.50 Assessment

Action: Sustain the action of the Franchise Tax Board.

Archie D. McPhee, 61405

1996, \$467.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Joseph P. Petrucci, 75814

1999, \$3,418.49 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Steve J. Woodrow, 76071

1996, \$3,003.00 Assessment, \$750.75 Penalty, Late Filing

\$750.75 Penalty, Failure to File

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Jerry Sadowski, 76285

1996, \$980.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Lloyd E. Boreham, 88345

1996, \$853.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Sik Wah Patrick Tsang, 88670

1998, \$3,239.00 Assessment, \$809.75 Penalty, Late Filing

\$809.75 Penalty, Demand

\$ 69.00 Filing Enforcement Fee

Action: Sustain the modified action of the Franchise Tax Board.

Charles B. King, 89996

1998, \$1,489.00 Assessment, \$372.50 Penalty, Late Filing

\$372.50 Penalty, Demand

\$ 69.00 Filing Enforcement Cost Recovery Fee

Action: Sustain the action of the Franchise Tax Board.

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Ross Entrada, 90739

1996, \$203.38 Assessment

Action: Sustain the action of the Franchise Tax Board.

William J. Colvin, 91333

1998, \$62.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Dennis M. Ziegler, 91728

1995, \$507.75 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gerald Baldrige, 91978

1997, \$1.00 or more Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Farieda P. Bey, 91980

1998, \$4,107.00 Assessment, \$1,042.50 Penalty, Late Filing

\$1,042.50 Penalty, Demand

\$ 69.00 Filing Enforcement Cost Recovery Fee

Action: Sustain the action of the Franchise Tax Board.

Alpha B. Shell, 92227

1997, \$3,933.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ron & Kristine Tokunaga, 92234

1999, \$58.86 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Elizabeth B. Armstrong, 92489

1996, \$3,256.50 Claim for Refund

1997, \$4,100.00 Claim for Refund

Action: Reverse the action of the Franchise Tax Board.

Harlan D. Lingo, 93407

1998, \$1,664.70 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Christopher Gabelich, 94356

1998, \$365.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gualberto Valladares, 94427

1996, \$223.84 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

William J. Herman, 94733

1996, \$2,600.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Kenneth R. Plymale, 97914

1998, \$495.56 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Leslie A. Cullinane, 98086

1997, \$1,804.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Gilles Hebert, 99205

1999, \$400.96 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

David R. Bosley, 99492

1996, \$482.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Wayne A. &amp; Orapin S. Bryant, 99544

1997, \$743.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Richard C. &amp; Judy K. Caldwell, 99576

1996, \$2,197.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Gerald B. White, Jr., 99659  
1998, \$378.00 Penalty, Demand  
Action: The Board took no action.

Ira P. Greenspon, 101415  
1994, \$6,860.90 Claim for Refund  
Action: Sustain the action of the Franchise Tax Board.

Hany & Helen Haddad, 102696  
1994, \$2,733.90 Claim for Refund  
Action: Sustain the action of the Franchise Tax Board.

Roberto C. Barrios, 109313  
1998, \$693.00 Assessment  
Action: Sustain the action of the Franchise Tax Board.

Wilbur Messinger & Betty Messinger (Deceased), 52423  
1998, \$148.23 Claim for Refund  
Action: Deny the petition for rehearing.

Jianhua Hu, 56616  
1998, \$1,185.00 Assessment  
Action: Deny the petition for rehearing.

Hector & Elvira Campos, 60039  
1996, \$1,446.00 Claim for Refund  
Action: Deny the petition for rehearing.

Taryn M. Gindt, 77950  
1998, \$1.00 or more Claim for Refund  
Action: Deny the petition for rehearing.

D & W LLC, 80325  
1997, \$267.00 Claim for Refund  
Action: Deny the petition for rehearing.

WEDNESDAY, AUGUST 1, 2001

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

Octavia Clark, 93556

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Maxine Holland, 94625

2000, \$1.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

V.M. Hynson, 94627

2000, \$240.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Kim Hen Huang, 99110

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Vera Johnson, 99838

2000, \$600.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Bobbie Lewis, 101682

2000, \$250.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Sandra McClintock, 101695

2000, \$61.58 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

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Adam Hernandez, 102777

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Margarit Isakhanian, 105069

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

**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. Chiang and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board made the following orders:

PTO Sales Corporation, SR Y AA 014-701516, 128664

7-1-99 to 9-30-99, \$56,583.91

Action: Approve credit and cancellation as recommended by staff.

Primus Automotive Financial Services, SR S OHA 021-782057; 128305

7-1-97 to 8-22-97, \$213,509.63

Action: Approve credit and cancellation as recommended by staff.

Bay and Delta Marine Services Inc., SB G UT 084-011361; 109779

6-18-99, \$672,277.14

Action: Approve credit and cancellation as recommended by staff.

Andy Engel Design Inc., SR AC 011-722311; 37110

7-1-96 to 6-30-00, \$127,660.93

Action: Approve refund as recommended by staff.

Hollywood Park Operating Company, SR AS 012-667509; 119028

4-1-97 to 8-31-99, \$138,690.71

Action: Approve refund as recommended by staff.

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Danmer Inc., SR S AC 013-806913; 109222

1-1-98 to 12-31-00, \$190,992.49

Action: Approve refund as recommended by staff.

Holmes-Hally Industries Inc., SR Z AA 014-019243; 101443

1-1-99 to 3-31-00, \$275,483.49

Action: Approve refund as recommended by staff.

Direct Color, Inc., SR AB 016-680313; 60388

10-1-96 to 12-31-96, \$51,924.54

Action: Approve refund as recommended by staff.

ESRI, Inc., SR EH 023-792254; 109036

10-1-97 to 12-31-00, \$66,567.55

Action: Approve refund as recommended by staff.

Toyota of Garden Grove, SR Y EA 024-868673; 119027

10-1-97 to 12-31-00, \$110,945.85

Action: Approve refund as recommended by staff.

Merant Inc., SR GH 026-718393; 113324

10-1-96 to 9-30-99, \$144,585.04

Action: Approve refund as recommended by staff.

EP Technologies, Inc., SR GH 026-793899; 59807

10-1-95 to 12-31-96, \$80,652.82

Action: Approve refund as recommended by staff.

Steiner Corporation, SC KH 029-062644; 94326

7-1-97 to 12-31-99, \$50,818.56

Action: Approve refund as recommended by staff.

Skycrest Enterprises, SR Y JHH 029-640384; 79079

1-1-97 to 12-31-99, \$74,540.96

Action: Approve refund as recommended by staff.

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Scholastic Book Clubs, Inc., SC OHB 030-644616; 89000827870  
4-1-93 to 6-30-99, \$431,636.35  
Action: Approve refund as recommended by staff.

Thomas Weisel Partners LLC, SR BH 052-011501; 127603  
1-1-99 to 3-31-01, \$176,384.88  
Action: Approve refund as recommended by staff.

Eclipsys Solutions Corporation, SC OHC 097-036865; 104746  
1-1-00 to 9-30-00, \$134,039.15  
Action: Approve refund as recommended by staff.

RH Cementery Corporation, SR Y AS 097-091862; 66482  
1-1-97 to 6-30-00, \$1,320,018.12  
Action: Approve refund as recommended by staff.

BCI Coca-Cola Bottling Company, L.A., SR Z AA 099-253492; 100006  
1-1-99 to 6-30-00, \$201,209.90  
Action: Approve refund as recommended by staff.

Software House International Inc., SR Y OHB 099-377422; 106624  
10-1-99 to 12-31-99, \$180,130.33  
Action: Approve refund as recommended by staff.

Lilien Systems, SR Y JHD 099-425944; 93583  
4-1-99 to 12-31-00, \$61,618.03  
Action: Approve refund as recommended by staff.

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

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

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BASF Corporation, SR Z OHB 030-635501; 83791

7-1-95 to 6-30-98, \$76,953.31

Action: Approve redetermination as recommended by staff.

Fisher Scientific Company, SR Z OHB 030-605789; 84582

10-1-95 to 1-20-98, \$202,281.54

Action: Approve redetermination as recommended by staff.

Potters Industries Inc., SR OHB 030-618260; 59502

10-1-95 to 9-30-98, \$65,398.95

Action: Approve redetermination as recommended by staff.

Airtouch Communications Inc., SP H UT 082-681023; 94449

4-25-98, \$952,875.00

Action: Approve redetermination as recommended by staff.

Chrysler Aviation Inc., SP H UT 084-014083; 113489

11-8-99, \$396,000.00

Action: Approve redetermination as recommended by staff.

Red White &amp; Blue Pictures, Inc., SP H UT 084-016553; 105422

11-23-99, \$170,156.25

Action: Approve redetermination as recommended by staff.

Easterbrook Revocable Trust, SB G UT 084-020870; 114917

12-29-99, \$82,884.31

Action: Approve redetermination as recommended by staff.

Hirsch International Corporation, SR Z OHB 097-109049; 84529

4-1-97 to 12-31-97, \$52,715.71

Action: Approve redetermination as recommended by staff.

Albertson's Inc., SR Y OH 030-611675; 126823

11-3-00 to 11-30-00, \$216,000.00

Action: Approve relief of penalty recommended by staff.

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Cal Quality Electronics Inc., SR EA 024-865983; 26962  
7-1-95 to 4-30-98, \$116,992.56

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

Action Cleaning Corporation, SR FH 052-011315; 127066  
10-1-96 to 12-31-99, \$100,000.00

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

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

Mr. Andal moved to grant the petition for rehearing in the appeal of *Pentel of America Ltd.*, 89002464880. The motion was seconded by Ms. Mandel but failed to carry for lack of votes, Mr. Andal and Ms. Mandel voting yes, Mr. Parrish, Mr. Klehs and Mr. Chiang voting no.

The Board deferred consideration of this matter.

Mr. Andal moved to grant the petition for rehearing in the appeal of *Yamaha Motor Corporation*, 89002467500. The motion was seconded by Ms. Mandel but failed to carry for lack of votes, Mr. Andal and Ms. Mandel voting yes, Mr. Parrish, Mr. Klehs and Mr. Chiang voting no.

The Board deferred consideration of this matter.

### **PROPERTY TAX MATTERS, CONSENT**

With respect to the Property Taxes Matter, Consent Agenda, upon a single motion of Mr. Andal, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following order:

#### **Timber Yield Tax Claim for Refund**

Sierra Pacific Industries, YT 100211, 129687  
7-1-97 to 6-30-00, \$454,226.90

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

Mr. Andal requested information from the staff on the timber yield tax audit programs such as a list of all audit cases, how long each has taken to date and if there were any cases operating under waivers, etc.

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**PROPERTY TAX MATTERS, NOT SUBJECT TO DISCLOSURE STATUTE**

With respect to the Property Taxes Matters, Not Subject to Contribution Disclosure Statute Agenda, upon a single motion of Mr. Andal, seconded by Mr. Klehs and unanimously carried, Mr. Parrish, Mr. Klehs and Mr. Andal voting yes, Mr. Chiang absent, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

**Private Railroad Care Refund Requests**

Mitsubishi Cement Corporation, 5776

2000, \$56.23 Duplicate Payment

Action: Grant refund as recommended by staff. Ms. Mandel not participating.

Dana Railcare Services, 6192

2000, \$1,727.45 Duplicate Payment

Action: Grant refund as recommended by staff. Ms. Mandel not participating.

National Starch & Chemical Company, 6312

2000, \$72.12 Duplicate Payment

Action: Grant refund as recommended by staff. Ms. Mandel not participating.

**BUSINESS TAXES APPEALS HEARINGS**

Wah C. Wong, SR BH 52-006842; 89000966230

7-3-95 to 6-27-96, \$5,388.25 Tax, \$538.82 Penalty, Negligence

Royal Jade House, Inc., SR BH 97-098026; 89002056090

4-1-94 to 3-31-97, \$30,388.22 Tax, \$3,038.81 Penalty, Negligence

For Petitioner: Waived Appearance

For Sales and Use Tax Department: Warren Astleford, Counsel

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

Issues: Whether the evidence shows that some bank deposits included amounts that were not gross receipts from sales.

Whether relief from the negligence penalty is warranted.

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Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Chiang and Mr. Andal voting yes, Mr. Klehs not participating, Ms. Mandel abstaining, the Board ordered that the negligence penalty be deleted; otherwise redetermined as recommended by the Appeals Section.

Route 66 Collector Car Showroom, SR GHC 97-273449; 89002081920  
7-1-95 to 6-30-98, \$45,503.77 Tax

For Petitioner: John Roberts

For Sales and Use Tax Department: Sharon Jarvis, Counsel

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

Issues: Whether the difference between recorded and reported sales relates to nontaxable gross receipts.

Whether the Department correctly imposed liability against petitioner for sales tax on petitioner's sales of collector cars that it claims to have shipped to points outside this state.

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board ordered that the petition be redetermined with adjustments. The Board directed the staff to work with taxpayer on a payment plan.

Harvey Select Cars, Inc., SR ARF 99-516380; 89002289380  
10-1-94 to 9-30-97, \$46,424.18 Tax, \$00.00 Penalty, Negligence

For Petitioner: Henry D. Nunez, Attorney  
Hank Setoodeh, Ph.D.

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

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

Issue: Whether documentation presented supports an additional allowance for bad debts.

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs, Mr. Andal and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision; granting the Department 30 days to review new documentation and provide written analysis, granting the taxpayer 30 days to review the written analysis and the Appeals Section 30 days thereafter to bring the matter back to the Board with a final recommendation.

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Trade Club Exchange, Inc., SR EA 99-467914; 49467

4-1-95 to 3-31-98, \$15,872.04 Tax

For Petitioner: Appearance Waived

For Sales and Use Tax Department: James M. Stillwell, Counsel

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

Issues: Whether the evidence shows that the measure of tax should be adjusted for nontaxable sales for resale.

Whether the evidence shows that the measure of tax should be adjusted for exempt sales in interstate commerce.

Whether the evidence shows that the measure of tax should be adjusted for exchange fees unrelated to the sale of tangible personal property.

Whether the evidence shows that the measure of tax should be adjusted for a deduction for tax-paid purchases resold which were not allowed.

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

Robert Cameron, Jr., SR KHJ 14-644714; 47221

1-1-95 to 12-31-97, \$9,943.81 Tax, \$1,154.93 Penalty, Negligence

For Petitioner: Robert A. Cameron

For Sales and Use Tax Department: Robert Tucker, Counsel

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

Issues: Whether petitioner has established that certain disallowed transactions are actually valid sales for resale.

Whether an unstated portion of the disallowed sales were actually charges for nontaxable repair labor.

Whether petitioner received and relied upon misinformation from the auditor in a prior audit, and thus, petitioner should be relieved of the tax liability.

Whether relief from the negligence penalty is warranted.

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Chiang, Mr. Klehs and Ms. Mandel voting yes, Mr. Andal absent, the Board ordered that the petition be submitted for decision; granting the Department 30 days to review and the Appeals section 30 days thereafter to bring the matter back to the Board with a final recommendation.

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Krupakar T. Reddy, Vanitha Buddam & Reddy J. Buddham, SR GH 97-111129; 89002058680; 16241  
Bushan Reddy Baddam, Krupakar T. Reddy & Reddy J. Buddham, SR GH 97-111149; 89002058690, -700  
Krippakar T. Reddy & Reddy J. Buddham, SR CH 99-207408; 89002147880, -890  
7-1-93 to 6-30-97, 12-1-93 to 6-30-97, 7-1-93 to 3-31-95  
\$216,547.36 Tax, \$21,654.84 Penalty, Negligence  
For Petitioner: Ratan Dev S. Dhaliwal, Attorney  
For Sales and Use Tax Department: Kevin Hanks, Hearing Representative  
Contribution Disclosures pursuant to Government Code Section 15626: No contributions were disclosed.

Issues: Whether the evidence shows that audited taxable sales were computed in accordance with the facts.

Whether relief from the penalties of negligence is warranted.

Whether relief from all or a portion of the interest liability is warranted.

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

The Board recessed at 11:45 a.m. and reconvened at 1:30 p.m. with Mr. Chiang, Mr. Andal and Ms. Mandel present.

## **PUBLIC HEARINGS**

### **PROPOSED AMENDMENT OF REGULATION 1598, MOTOR VEHICLE AND AIRCRAFT FUELS**

Mr. Chiang announced the public hearing of Sales and Use Tax Regulation 1598, Motor Vehicle and Aircraft Fuels.

Janice Thurston, Assistant Chief Counsel, Business Taxes, reported Regulation 1598 proposed amendments are to interpret, implement, and make specific Revenue and Taxation Code sections 6011, 6012, and 6245.5 and to correct formatting errors. These amendments are necessary to provide guidance to that portion of the public which is affected by this statute.

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

WEDNESDAY, AUGUST 1, 2001

Action: Upon motion of Mr. Andal, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Andal and Ms. Mandel voting yes, Mr. Parrish and Mr. Klehs absent, the Board adopted the amendments to Regulation 1598, Motor Vehicle and Aircraft Fuels, as published (Exhibit 8.2).

### **PROPOSED AMENDMENT OF REGULATION 1617, FEDERAL TAXES**

Mr. Chiang announced the public hearing of Sales and Use Tax Regulation 1617, Federal Taxes.

Janice Thurston, Assistant Chief Counsel, Business Taxes, reported Regulation 1617 amendments are to interpret, implement, and make specific Revenue and Taxation Code sections 6011, 6012, and 6245.5 and to correct formatting errors. These amendments are necessary to provide guidance to that portion of the public which is affected by this statute.

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

Action: Upon motion of Mr. Andal, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Andal and Ms. Mandel voting yes, Mr. Parrish and Mr. Klehs absent, the Board adopted Regulation 1617, Federal Taxes, as published (Exhibit 8.3).

### **PROPOSED ADOPTION AND AMENDMENT OF REGULATIONS 4011, DISTRIBUTORS NOT ENGAGED IN BUSINESS IN THIS STATE AND REGULATION 4061, UNUSED STAMPS 7 UNUSED METER SETTINGS**

Mr. Chiang announced the public hearing of Regulation 4011, Distributors not Engaged in Business in the State and Regulation 4061, Unused Stamps & Unused Meter Settings.

Janice Thurston, Assistant Chief Counsel, Business Taxes reported Regulation 4011 is a proposed new regulation to allow persons not engaged in business in this state to be licensed to collect and pay excise tax on cigarettes and tobacco products shipped into California. Regulation 4061 are proposed amendments to clarify and update the requirements for a distributor to obtain a refund of or credit for the denominated value of unused stamps or meter impressions returned to the Board.

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

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Action: Upon motion of Mr. Andal, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Andal and Ms. Mandel voting yes, Mr. Parrish and Mr. Klehs absent, the Board adopted Regulation 4011, Distributors not Engaged in Business in the State and 4061, Unused Stamps & Unused Meter Settings as published (Exhibit 8.4).

**PROPOSED AMENDMENT OF REGULATION 1642, BAD DEBTS**

Mr. Chiang announced the public hearing of Sales and Use Tax Regulation 1642, Bad Debts.

Janice Thurston, Assistant Chief Counsel, Business Taxes, reported the Regulation 1642 amendments are to interpret, implement, and make specific Revenue and Taxation Code sections 6055 and 6203.5, as amended by recent legislation, to promulgate in regulatory form current policies interpreting the above statutes, and to correct technical errors to conform the regulation to current regulatory formats. These amendments are necessary to provide guidance to that portion of the public which is affected by this statute. Ms. Thurston also reported there was a substantial change to Appendices 1 & 2 which would require submission to the 15-day file under the rule of the Office of Administrative Law.

Speakers: Bill McConnell, General Electric Company  
Peter Larson, Akerman Senterfitt & Eidson, P.A.  
Fred Powers, General Electric Company  
Al Koch, MBIA Muni Services Company  
Frances Medema, League of California Cities  
Bruce Young, California Retailers Association  
David Elder, Consultant

Action: Upon motion of Mr. Klehs, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Klehs and Mr. Andal voting yes, Mr. Chiang passing then voting yes, Ms. Mandel voting no the Board approved the change to Regulation 1642, Bad Debts, and ordered that the changed version be placed in the rulemaking file for 15 days (Exhibit 8.5).

WEDNESDAY, AUGUST 1, 2001

**FINAL ACTION ON PETITIONS HEARD AUGUST 1, 2001**

Upon motion of Mr. Klehs, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Chiang and Mr. Klehs voting yes, Ms. Mandel voting no, Mr. Andal not participating, the Board ordered that the petition of *Krupakar T. Reddy, Vanitha Buddam & Reddy J. Buddham, SR GH 97-111129; 89002058680; 16241; Bushan Reddy Baddam, Krupakar T. Reddy & Reddy J. Buddham, SR GH 97-111149; 89002058690, -700 and Krippakar T. Reddy & Reddy J. Buddham, SR CH 99-207408; 89002147880, -890*, be redetermined as recommended by the Appeals

**FINAL ACTION ON NON-APPEARANCE MATTERS HEARD ON AUGUST 1, 2001**

Mr. Klehs moved to expunge the original vote and grant a rehearing in the petition of *Yamaha Motor Corporation, 8900246750*. The motion was seconded by Mr. Andal but failed to carry, Mr. Klehs and Mr. Andal voting yes, Mr. Parrish and Mr. Chiang voting no, Ms. Mandel abstaining. The Board deferred consideration to the August 14, 2001 San Diego Board meeting.

Mr. Klehs moved to expunge the original vote and grant a rehearing in the petition of *Pentel of America Ltd., 89002464880*. The motion was seconded by Mr. Andal but failed to carry, Mr. Klehs and Mr. Andal voting yes, Mr. Parrish and Mr. Chiang voting no, Ms. Mandel abstaining. The Board deferred consideration to the August 14, 2001 San Diego Board meeting.

**SPECIAL ANNOUNCEMENT**

Mr. Parrish announced that there was cake in Ernie J. Dronenburg, Jr.'s Conference Room in celebration of Mr. Chiang's birthday and invited anyone who wished to attend.

The Board adjourned at 2:10 p. m.

*The foregoing minutes are adopted by the Board on October 25, 2001.*