

Tuesday, September 12, 2006

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:40 a.m., with Mr. Chiang, Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Maureen R. Blatt, 318202

1991, \$6,807.32 Claim for Refund

1997, \$153.00 Claim for Refund

1998, \$173.25 Claim for Refund

For Appellant:

Maureen R. Blatt, Taxpayer

Jeanne S. Blatt, Witness

For Franchise Tax Board:

Suzanne L. Small, Tax Counsel

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

Issue: Whether the statute of limitations on appellant's claims for refund may be tolled due to a financial disability.

Action: The Board continued the matter later in the day.

Angelina Mike and the Estate of Jorge G. Nunez, 262040

2000, \$31,856 Claim for Refund

For Appellant:

Keith A. Shibou, CPA

For Franchise Tax Board:

Natasha Page, Tax Counsel

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

Issue: Whether California may tax appellant's per-capita Indian gaming distribution.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 9.1)

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating, Mr. Parrish absent, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

Daniel Drommerhausen, 330470

1996, \$40,398.18 Claim for Refund

1997, \$23,768.55 Claim for Refund

For Appellant:

Daniel Drommerhausen, Taxpayer

For Franchise Tax Board:

Jozel Brunett, Tax Counsel

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

Issue: Whether appellant's refund claims for 1996 and 1997 were filed before the expiration of the statute of limitations.

Appellant's Exhibit: Invoice (Exhibit 9.2)

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

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Dawn B. Forbes, 305181

2002, \$333.00 Tax, \$83.25 Notice and Demand Penalty, \$100.00 Late Filing Penalty

For Appellant: Loran J. Forbes, Representative

For Franchise Tax Board: Mark McEvilly, Tax Counsel

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

Issues: Whether appellant has demonstrated any error in respondent's proposed assessment for 2002.

Whether a frivolous appeal penalty should be imposed.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 9.3)

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

John Laszloffy, 315489

2002, \$3,095.00, \$773.75 Late Filing Penalty, \$773.75 Notice and Demand Penalty

2003, \$3,647.00, \$911.75 Late Filing Penalty, \$911.75 Notice and Demand Penalty

For Appellant: John Laszloffy, Taxpayer

For Franchise Tax Board: Jozel Brunett, Tax Counsel

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

Issues: Whether appellant has demonstrated any error in the proposed assessments as revised for 2002 and 2003.

Whether the Board should impose a frivolous appeal penalty.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 9.4)

Respondent's Exhibit: Miscellaneous Documents (Exhibit 9.5)

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

Maureen R. Blatt, 318202

Continued from earlier in the day

For Appellant: Maureen R. Blatt, Taxpayer

Jeanne S. Blatt, Witness

For Franchise Tax Board: Suzanne L. Small, Tax Counsel

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, with the Franchise Tax Board's concession of \$278.26, the Board submitted the remainder of the appeal for decision.

The Board recessed at 11:30 a.m. and reconvened at 11:35 a.m. with Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel present.

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HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARING

Jack Newton, 331494

2005, \$340.00

For Appellant:

No Appearance

For Franchise Tax Board:

Suzanne L. Small, Tax Counsel

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

Issue: Whether claimant is eligible for Homeowners and Renters Property Tax

Assistance for the year claimed.

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

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD SEPTEMBER 12, 2006

Maureen R. Blatt, 318202

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board as to the remainder of the appeal.

Angelina Mike and the Estate of Jorge G. Nunez, 262040

Final Action: Ms. Yee moved to sustain the action of the Franchise Tax Board. Mr. Leonard made a substitute motion to reverse the action of the Franchise Tax Board. The substitute motion failed for lack of a second.

The Board deferred consideration of this matter to a later date.

Daniel Drommerhausen, 330470

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

Dawn B. Forbes, 305181

Final Action: Ms. Yee moved to sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty. The motion was seconded by Ms. Mandel but failed to carry, Ms. Yee and Ms. Mandel voting yes, Mr. Chiang and Mr. Leonard voting no, Mr. Parrish absent.

Upon motion of Mr. Chiang, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$250.00 frivolous appeal penalty.

John Laszloffy, 315489

Final Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$5,000.00 frivolous appeal penalty.

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LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Crystal Chrysler-Plymouth-Dodge, Inc., 283404.*

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

Craftsmen Steel Buildings, 293075 (FH)

10-1-00 to 9-30-03, \$29,086.81 Tax

Action: Redetermine as recommended by the Appeals Division.

Scotia Industrial, Inc., 242035, 306438 (EF)

1-1-97 12-31-00, \$2,747.00 Fee, \$00.00 Failure to File and Finality Penalties

Action: Redetermine as recommended by the Appeals Division.

Lenroy George Thompson, 326409 (AS)

7-1-01 to 6-30-04, \$10,154.04 Tax, \$1,276.41 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Crystal Chrysler-Plymouth-Dodge, Inc., 283404 (EH)

2-1-04 to 2-29-04, \$3,447.03 Claim for Refund

Action: The Board deferred consideration of this matter.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matter: *Yichi Gu, 318261.*

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

Angel Ambriz, 330174

2003, \$505.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Mark W. Athay, 330153

2003, \$961.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Bergman J. Beteta, 330177

2000, \$611.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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Gerald Blackie, 288487

1994, \$539,105.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

John S. Calderon, 289776

2000, \$431.00 Assessment

Action: Modify the action of the Franchise Tax Board.

James O. Delozier, 317251

1999, \$2,283.00 Assessment, \$570.75 Late Filing Penalty

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

Julius D. Dickson, 330094

2002, \$1,546.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

James F. Doak and Gladys K. Doak, 317235

2001, \$872.00 Assessment

Action: Modify the action of the Franchise Tax Board.

Martin Ford and Jeanne Anne Ford, 308245

1999, \$1,504.00 Assessment, \$308.80 Accuracy Related Penalty

Action: Modify the action of the Franchise Tax Board.

Michael E. Freshman and Monique M. Freshman, 299034

2002, \$12,670.81 Claim for Refund

Action: Reverse the action of the Franchise Tax Board denying appellants' request to abate the late filing penalty; however, sustain the action of the Franchise Tax Board denying appellants' request for interest abatement.

Timothy Gallagher, 325457

2002, \$22,404.00 Assessment, \$5,601.00 Late Filing Penalty

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

James L. Grainger, 309724

2003, \$1,118.00 Assessment, \$279.50 Late Filing Penalty

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

Yichi Gu, 318261

2002, \$394.79 Claim for Refund

2003, \$284.00 Claim for Refund

2004, \$219.59 Claim for Refund

Action: The Board took no action.

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Regina Hawkins, 327700

2004, \$437.50 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Michael E. Hodsdon, 313119

2000, \$1,630.00 Tax, \$407.50 Late Filing Penalty

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

Robert K. Kent, 287713

1995 to 1998, \$48,139.77 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jenny H. Lee, 333431

2003, \$6,995.00 Assessment, \$1,748.75 Failure to File Penalty

Action: Sustain the action of the Franchise Tax Board.

Parker G. Montgomery, 333233

1999, \$332,692.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Timothy P. Muzzi and Melissa N. Muzzi, 318190

2002, \$851.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

John Noyes, 311022

2002, \$606.00 Tax, \$151.50 Failure to File Penalty

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

River Garden Retirement Home, 297405

1999, \$2,666.08 Assessment

2000, \$2,704.18 Assessment

Action: Sustain the action of the Franchise Tax Board.

Kandiah Saravanabavanandhan, 315337

1994, \$13,942.05 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Daniel Tsui, 315127

1999, \$5,121.72 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

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HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

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

Sean Anderson, 330234
2004, \$162.00

Action: Sustain the action of the Franchise Tax Board.

Joseph Andrade, 335249
2005, \$305.00

Action: Sustain the action of the Franchise Tax Board.

Mitchell R. Bronson, Sr., 330824
2005, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Sydell Dublin, 328880
2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Nora R. Gonzalez, 339847
2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Rekkita Johnson, 341061
2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Charles T. Jones, 329971
2005, \$400.00

Action: Reverse the action of the Franchise Tax Board; appellant is to receive assistance in the total of \$15.00.

Aida Manokian, 335144
2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Robert E. Price, 331512
2000, \$347.00

Action: Sustain the action of the Franchise Tax Board.

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Marc A. Villegas, 328326

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Johnny Lee Wickes, 328413

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Frank A. Wrobel, 330019

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

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

With respect to the Sales and Use Tax Matters, Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in *US Telecom, Inc., 300643*; Mr. Parrish absent, the Board made the following orders:

Sunrise Manufacturing, Inc., 187550 (KH)

7-1-99 to 6-30-02, \$107,072.47

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

US Telecom, Inc., 300643 (OHA)

10-1-02 to 9-30-04, \$217,715.66

Action: Approve the denial of claim for refund as recommended by staff. Mr. Chiang not participating.

Flexics, Inc., 240393 (GH)

1-1-01 to 12-31-02, \$306,679.00

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

Coty, Inc., 356243 (OHB)

1-1-99 to 11-1-00, \$50,932.85

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

SALES AND USE TAX MATTERS, REFUNDS, CONSENT

The Board deferred consideration of the following matters: *Allergan Sales, Inc., 357255*; *Allergan Sales, LLC, 356791*; and, *Allergan Sales, LLC, 357254*.

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With respect to the Sales and Use Tax Matters, Refunds, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in *CIG Financial*, 352073; Ms. Mandel not participating in *Wyeth*, 356790; Mr. Parrish absent, the Board made the following orders:

Wyeth, 356790 (OHB)

1-1-02 to 12-31-02, \$68,423.06

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

Bent Elbow Productions, Inc., 289153 (AC)

7-1-01 to 6-30-05, \$87,164.26

Action: Approve the refund as recommended by staff.

Fireside Bank, 350296 (CH)

1-1-06 to 3-31-06, \$1,792,906.20

Action: Approve the refund as recommended by staff.

Ross Stores, Inc., 356445 (CH)

10-1-01 to 12-31-04, \$233,734.52

Action: Approve the refund as recommended by staff.

Allergan Sales, Inc., 357255 (EAA)

4-1-01 to 05-31-02, \$112,084.83

Action: The Board deferred consideration of this matter.

Team Post-op, Inc., 330516 (EA)

7-1-02 to 6-30-05, \$119,462.64

Action: Approve the refund as recommended by staff.

Ino Therapeutics, Inc., 334542 (OHA)

10-1-02 to 12-31-03, \$114,355.05

Action: Approve the refund as recommended by staff.

US Doors & Building Components, LLC, 344758 (OHC)

10-1-05 to 12-31-05, \$57,218.09

Action: Approve the refund as recommended by staff.

Reliant Pharmaceuticals, LLC, 356242 (OHB)

9-1-00 to 3-31-05, \$89,869.51

Action: Approve the refund as recommended by staff.

Kraft Foods Global, Inc., 311427 (OHA)

1-1-00 to 12-31-03, \$139,358.60

Action: Approve the refund as recommended by staff.

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American Airlines, Inc., 79475 (OHC)

4-1-97 to 12-31-00, \$2,850,010.98

Action: Approve the refund as recommended by staff.

Coty, Inc., 156010 (OHB)

1-1-99 to 1-1-00, \$59,537.56

Action: Approve the refund as recommended by staff.

Advanced Digital Services, Inc., 244202 (AS)

7-1-00 to 12-31-03, \$129,833.54

Action: Approve the refund as recommended by staff.

First Class Vending, Inc., 306521 (AA)

4-1-01 to 12-31-04, \$71,097.28

Action: Approve the refund as recommended by staff.

Lobel Financial Corporation, 317510 (EA)

1-1-05 to 12-31-05, \$158,499.81

Action: Approve the refund as recommended by staff.

Allergan Sales, LLC, 356791 (EAA)

4-1-04 to 12-31-05, \$78,532.69

Action: The Board deferred consideration of this matter.

Allergan Sales, LLC, 357254 (EAA)

6-1-02 to 3-31-04, \$239,693.89

Action: The Board deferred consideration of this matter.

The Marketing Arm, Inc., 350294 (OHC)

10-1-05 to 12-31-05, \$117,550.73

Action: Approve the refund as recommended by staff.

CIG Financial, 352073 (EAA)

4-1-05 to 6-30-05, \$73,220.85

Action: Approve the refund as recommended by staff. Mr. Chiang not participating.

SPECIAL TAXES MATTERS, REDETERMINATIONS, CONSENT

With respect to the Special Taxes Matters, Redeterminations, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating, Mr. Parrish absent, the Board made the following order:

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The Sherwin-Williams Company, 304477 (MT)

1-1-01 to 12-31-03, \$91,045.68

Action: Approve the redetermination as recommended by staff. Ms. Mandel not participating.

The Board recessed at 11:52 a.m. and reconvened at 1:30 p.m. with Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel present.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Robert Ho, 316751

2002, \$1,672.00 Tax, \$418.00 Late Filing Penalty, \$418.00 Notice and Demand Penalty

For Appellant: No Appearance

For Franchise Tax Board: Jane Perez, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2002.

Whether appellant has shown the late filing penalty and the notice and demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

David Claunch, 315648

2002, \$815.00 Tax, \$204.25 Notice and Demand Penalty, \$203.75 Late Filing Penalty

For Appellant: No Appearance

For Franchise Tax Board: Jane Perez, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2002.

Whether appellant has shown the late filing penalty and the notice and demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$2,500.00 frivolous appeal penalty.

Arturo A. Cueva, 315933

2002, \$668.00 Tax, \$167.00 Late Filing Penalty

For Appellant: No Appearance

For Franchise Tax Board: Jane Perez, Tax Counsel

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

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Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2002.

Whether appellant has shown the late filing penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

Janice Madrid, 317476

2002, \$1,031.00 Tax, \$389.75 Notice and Demand Penalty, \$257.75 Late Filing Penalty

For Appellant: No Appearance

For Franchise Tax Board: Mark McEvelly, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of her underlying tax for 2002.

Whether appellant has shown the late filing penalty and the notice and demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$2,500.00 frivolous appeal penalty.

Jimmie Cox, 314893

2002, \$1,279.00 Tax, \$319.75 Late Filing Penalty, \$319.75 Notice and Demand Penalty

For Appellant: No Appearance

For Franchise Tax Board: Mark McEvelly, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2002.

Whether appellant has shown the late filing penalty and the notice and demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

Bradley Kastle, 316304

2002, \$1,635.00 Tax, \$408.75 Late Filing Penalty, \$408.75 Notice and Demand Penalty

For Appellant: No Appearance

For Franchise Tax Board: Mark McEvelly, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2002.

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Whether appellant has shown the late filing penalty and the notice and demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

Leonard R. Magness, 314816

2002, \$3,030.00 Tax, \$757.50 Notice and Demand Penalty, \$757.50 Late Filing Penalty

For Appellant: No Appearance

For Franchise Tax Board: Suzanne L. Small, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2002.

Whether appellant has shown the late filing penalty and the notice and demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$2,500.00 frivolous appeal penalty.

Byron Reynolds, 307167

2002, \$5,987.00 Tax, \$1,496.75 Notice and Demand Penalty, \$1,496.75 Late Filing Penalty

For Appellant: No Appearance

For Franchise Tax Board: Jozel Brunett, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2002.

Whether appellant has shown the late filing penalty and the notice and demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$5,000.00 frivolous appeal penalty.

Steven R. Olmos, 311772

2002, \$5,522.00 Tax, \$1,380.50 Late Filing, \$1,380.50 Notice and Demand Penalty

For Appellant: No Appearance

For Franchise Tax Board: Suzanne L. Small, Tax Counsel

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

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 2002.

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Whether appellant has shown the late filing penalty and the notice and demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

The Board adjourned at 1:47 p.m.

The foregoing minutes are adopted by the Board on November 21, 2006.

Note: The following case was removed from the calendar prior to the meeting: *Dalton Y. Shin and Tilda L. Shin, 336912.*