

Wednesday, September 27, 2006

The Board met at its offices at 450 N Street, Sacramento, at 10:24 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

ELS Educational Services, Inc., 306326

8-28-97, \$630,615.97 Assessment

For Appellant:

Alistair Gatoff, Representative

Robert R. Rubin, Attorney

For Franchise Tax Board:

John Penfield, Tax Counsel

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

Issues: Whether respondent Franchise Tax Board correctly determined that appellant, by making an election under Internal Revenue Code section 338(h)(10), was precluded by Revenue and Taxation Code (R&TC) section 23806 from making a non-conforming separate election under R&TC section 23051.5.

Whether Franchise Tax Board correctly determined that appellant's election under R&TC section 23051.5 was not made timely.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 9.6)

Respondent's Exhibit: Miscellaneous Documents (Exhibit 9.7)

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

Exhibits to these minutes are incorporated by reference.

PUBLIC HEARING

Proposed Adoption of Property Tax Rule 474, *Petroleum Refining Properties*

Robert Lambert, Acting Assistant Chief Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the adoption of Property Tax Rule 474, *Petroleum Refining Properties*. Rule 474 clarifies the requirements under Article XIII, section 1, and Article XIII A, section 2, of the California Constitution for the valuation of real property, personal property, and fixtures used to refine petroleum. (Exhibit 9.8.)

Speakers:

Wayne Lewoizko, Tax Agent, Exxon Mobil

Teresa Casazza, California Taxpayers' Association

Cris K. O'Neill, Attorney, Western States Petroleum Association

Richard Ayoob, Attorney, Ajalat, Polley & Ayoob

Erika Frank, Attorney, California Chamber of Commerce

Gus Kramer, Contra Costa County Assessor

Rick Auerbach, Los Angeles County Assessor

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Matt Sutton, California Manufacturers & Technology Association
 Thomas R. Parker, Deputy County Counsel, Sacramento County / California
 Assessors' Association
 Elizabeth Maeng, Conoco Phillips Company

Action: Upon motion of Mr. Parrish, seconded by Ms. Yee and duly carried, Mr. Chiang, Mr. Parrish and Ms. Yee voting yes, Mr. Leonard and Ms. Mandel voting no, the Board adopted amendments to Property Tax Rule 474, as published.

SALES AND USE TAX APPEALS HEARING

PeoplePC, Inc., 300402 (BH)
 7-1-99 to 6-30-02, \$199,276.28 Tax

For Petitioner:

Martin Eisenstein, Representative
 Mike Shaw, Witness

For Sales and Use Tax Department:

Robert Stipe, Tax Counsel

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

Issue: Whether petitioner's purchase and use of CD's qualify for the printed sales message exemption under Revenue and Taxation Code section 6379.5.

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

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD SEPTEMBER 27, 2006

ELS Educational Services, Inc., 306326

Final Action: Mr. Leonard moved to reverse the action of the Franchise Tax Board. The motion was seconded by Mr. Parrish but failed to carry, Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no, Mr. Parrish abstaining.

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 abstaining, the Board sustained the action of the Franchise Tax Board.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD SEPTEMBER 27, 2006

PeoplePC, Inc., 300402 (BH)

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

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

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The Board recessed at 12:00 p.m. and reconvened at 1:33 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard present, Mr. Chivaro present on behalf of Mr. Westly in accordance with Government Code section 7.9.

SALES AND USE TAX APPEALS HEARING

Daimler Chrysler Corporation, 297523 (CHA)
10-1-94 to 1-10-05, \$2,000,000.00 Claim for Refund

For Claimant: Peter O. Larsen, Attorney
Jon D. Universal, Attorney

For Sales and Use Tax Department: Sharon Jarvis, Tax Counsel

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

Issues: Whether the subject claim for refund is valid for the full period identified *and* for periods after the date the claim was filed.

Whether Civil Code section 1793.25 authorizes the Board to refund to claimant the use tax claimant included as part of its Lemon Law restitution payments.

Whether claimant is entitled to any refund or credit for defective merchandise.

Whether claimant is entitled to any refund or credit for returned merchandise.

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

Mr. Chivaro left the Boardroom and Ms. Mandel entered on behalf of Mr. Westly in accordance with Government Code section 7.9.

SPECIAL TAXES APPEALS HEARING

Greyhound Lines, Inc., 281179, 327799 (MT)
8-1-01 to 12-31-03, \$195,213.78 Claim for Refund
1-1-04 to 6-30-05, \$100,369.26 Claim for Refund

For Claimant: Richard G. Lock, Representative
William D. Taylor, Attorney

For Property and Special Taxes Department: Randy Ferris, Tax Counsel

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

Issue: Whether belt-driven air conditioning units on claimant's buses qualify as Power Take Off equipment, so that claimant is entitled to a refund of the diesel fuel tax it paid for the diesel fuel used as a result of the air conditioning units.

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

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LEGAL APPEALS MATTERS, CONSENT

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

James George Wagemann, 269022 (UT)

8-19-02, \$4,857.50 Tax

Action: Redetermine as recommended by the Appeals Division.

Diem Thuy Thi Nguyen, 358172 (ET)

April 20, 2006, \$371.90 Approximate Value

Action: Determined that staff properly seized the tobacco products.

J and N Bakshi Enterprises, LLC, 358171 (ET)

April 6, 2006, \$3,641.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Chong Choul Kim and Myung Soon Kim, 357784 (ET)

May 9, 2006, \$75.34 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Setrak Agop Najarian, 357234 (ET)

March 7, 2006, \$87.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matter: *Gregory Brunt, 261437*; and, *Joseph Melendez and Rosemary Persico, 330293*.

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

Gregory Brunt, 261437

Action: The Board took no action.

Bruce P. Jensen, 330643

1995, \$4,617.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Wayne E. Kean, 346182

2002, \$1,212.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Song B. Lee and Hae K. Lee, 332190

2001, \$9,512.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Maytag Corporation, 265542

1994, \$100,156.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Joseph Melendez and Rosemary Persico, 330293

Action: The Board took no action.

Rhonda Talbot, 330386

2003, \$1,090.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Nathalie S. Zimmerman, 325824

2002, \$1,712.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Steve A. Dent, 306354

2001, \$232.00 Tax, \$64.60 Penalty

Action: Deny the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

The Board deferred consideration of the following matter: *Henderson Wallace Calloway, 332647.*

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

Karen Ahumada, 339272

2004, \$187.50

Action: Sustain the action of the Franchise Tax Board.

Henderson Wallace Calloway, 332647

Action: The Board took no action.

Helen M. Crane, 333483

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

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Ronald D. David, 332887

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Jo Ann Galle, 329965

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Linda Gheshmi, 333241

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Richard Green, 336324

2005, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Patricia M. Hall, 336698

2005, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Doreene Kay Hanks, 339848

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Doris Hester, 336599

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Yuriy Ilyasov, 329958

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Otis Johnson, 339295

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Chung Soon Kim, 331706

2005, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Richard Mandell, 331487

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Martha J. Martin, 335126

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Raisa Meyerovich, 330358

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Earl Mohorne, 333199

2004, \$400.00

Action: Sustain the action of the Franchise Tax Board.

Scott A. Morris, 335143

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Nam Thi Nguyen, 335147

2005, \$367.00

Action: Sustain the action of the Franchise Tax Board.

Mikhail Shmain, 330290

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Helen L. Sunday, 336416

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Kheng E. Ung, 333304

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Joseph J. Ward, 336368

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Donell Wear, 331527

2005, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Vardanush Zanazanian, 331535

2005, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

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

The Board deferred consideration of the following matters: *Corona Networks, Inc.*, 317698 (GH); and, *Bericap, LLC*, 294804 (EH).

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

Sylvan Learning Systems, Inc., 296115 (OHB)

10-1-00 to 6-30-03, \$77,116.60

Action: Approve the redetermination as recommended by staff.

Corona Networks, Inc., 317698 (GH)

Action: The Board took no action.

Bericap, LLC, 294804 (EH)

Action: The Board took no action.

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

The Board deferred consideration of the following matters: *Dowd & Guild, Inc.*, 348911; *Husky Injection Molding System, Inc.*, 346221; *Merillat Corporation*, 357435; and, *Long Beach Acceptance Corporation*, 198737.

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in *The Vons Companies, Inc.*, 354078; *Best Buy Store, L P*, 335806; and, *Universal City Studios, LLLP, L.P.*, 344771; Ms. Mandel not participating in accordance with Government Code section 87105 in *Mercedes-Benz USA, LLC*, 350110; and, *Best Buy Store, L P*, 335806; the Board made the following orders:

Stewart & Stevenson Services, Inc., 358823 (OHC)

10-1-04 to 6-30-05, \$332,638.76

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

2000 Copiers & Fax, Inc., 357335 (EA)

7-1-99 to 12-31-01, \$76,957.62

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

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Little Company of Mary Hospital, 357436 (AS)

4-1-01 to 12-31-04, \$263,638.69

Action: Approve the refund as recommended by staff.

MSC Software Corporation, 295934 (EA)

1-1-02 to 9-30-04, \$133,009.62

Action: Approve the refund as recommended by staff.

Dowd & Guild, Inc., 348911 (CH)

Action: The Board took no action.

San Jose Mercury News, Inc., 308261 (GH)

10-1-03 to 9-30-04, \$137,582.06

Action: Approve the refund as recommended by staff.

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

Action: The Board took no action.

Bizmart, Inc., 357905 (OHA)

1-1-01 to 9-30-04, \$70,191.09

Action: Approve the refund as recommended by staff.

Merillat Corporation, 357435 (OHA)

Action: The Board took no action.

Mercedes-Benz USA, LLC, 350110 (KH)

4-25-06 to 5-11-06, \$274,984.00

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

The Vons Companies, Inc., 354078 (AA)

4-1-04 to 6-30-04, \$78,520.33

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

The Dow Chemical Company, 316142 (OHA)

1-1-01 to 12-31-04, \$686,016.20

Action: Approve the refund as recommended by staff.

M.A.C. Cosmetics, Inc., 357432 (OHB)

1-1-02 to 6-30-05, \$155,149.53

Action: Approve the refund as recommended by staff.

The Dow Chemical Company, 357544 (OHA)

7-1-99 to 9-30-00, \$97,748.19

Action: Approve the refund as recommended by staff.

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Best Buy Store, L P, 335806 (OHA)

1-1-09 to 12-31-02, \$6,710,346.10

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

Universal City Studios, LLLP, L.P., 344771 (AC)

10-1-05 to 12-31-05, \$123,164.45

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

Long Beach Acceptance Corporation, 198737 (EA)

Action: The Board took no action.

SPECIAL TAXES MATTERS, RELIEF OF PENALTIES, CONSENT

With respect to the Special Taxes Matters, Relief of Penalties, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Unigard Insurance Company, 354590 (ET)

1-1-05 to 3-31-06, \$67,431.50

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

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

Robert Eugene Wesley, 317301

2000, \$3,833.00 Tax, \$958.25 Late Filing Penalty, \$958.50 Notice and Demand Penalty

Considered by the Board: August 29, 2006

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

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

SALES AND USE TAX MATTERS, REFUNDS, ADJUDICATORY

Mitsubishi Electric Power Products, Inc., 289311

4-1-04 to 9-30-04, \$69,218.42

Considered by the Board: June 27, 2006

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

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

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Board Roll Changes

2004, 2005 and 2006 State-Assessed Property Rolls

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board approved corrections to the 2004, 2005 and 2006 Board Rolls of State-Assessed Property as recommended by staff (Exhibit 9.9).

CHIEF COUNSEL MATTERS

RULEMAKING

Request to publish *Board of Equalization Rules for Tax Appeals*

Robert Lambert, Acting Assistant Chief Counsel, Tax and Fee Program Division, Legal Department, made introductory remarks regarding the Board of Equalization Rules for Tax Appeals, which provide more clarity and comprehensive guidance regarding the administrative and appellate review processes for all of the tax and fee programs administered by the Board, including Taxpayer Bill of Rights Reimbursement Claims (Exhibit 9.10).

Speakers: Teresa Casazza, California Taxpayers' Association
Lenny Goldberg, California Tax Reform Association
Joshua Golka, Government Relations Advocate, SEIU Local 1000
Mary Hernandez, Government Relations Advocate, State Counsel of Service Employees

Action: Mr. Parrish moved to publish all five chapters of the Board of Equalization Rules for Tax Appeals as recommended by staff. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered staff to conduct one interested parties meeting and return this matter to the Board in November.

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ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

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

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 9.11).

Francis E. Coryell, Supervising Tax Auditor II, Santa Rosa District Office
Allegretta N. Barnes, Office Technician, Culver City District Office

Action: Approve retirement resolutions honoring the following county assessors, extending its best wishes on their respective retirements and its appreciation for their service to their counties and the State of California (Exhibit 9.12).

Honorable E. Dan O'Connell, Colusa County Assessor
Honorable Gerald D. Cochran, Del Norte County Assessor
Honorable Robert Lowrimore, Mariposa County Assessor/Recorder
Honorable David A. Cardella, Merced County Assessor
Honorable Josephine Johnson, Modoc County Assessor
Honorable Cris Andrews, Shasta County Assessor/Recorder
Honorable William G. Copren, Sierra County Assessor
Honorable Eeve T. Lewis, Sonoma County Assessor/Recorder/Clerk
Honorable David W. Wynne, Tuolumne County Assessor/Recorder
Honorable Dick Fisher, Yolo County Assessor

Action: Approve the Board Meeting Minutes of June 13-14, 2006.

Action: Approve the corrected Board Meeting Minutes of April 18, 2006 (Exhibit 9.13).

Action: Adopt the 2007 Diesel Fuel Tax Rate for Interstate Users (AB 1269) as recommended by staff (Exhibit 9.14).

Action: Adopt the 2007 Hazardous Waste Fees and Occupational Lead Poisoning Prevention Fee as recommended by staff (Exhibit 9.15).

Action: Approve summons to annual meeting of the Board and county assessors (Exhibit 9.16).

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

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Action: Approve the 2007 Board Workload Plan, Option B, for January through June only (Exhibit 9.17).

BOARD COMMITTEE REPORTS

Business Taxes Committee

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 approved the Business Taxes Committee report (Exhibit 9.18).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Ramon Hirsig, Executive Director, provided an update regarding the curtain wall project.

Ms. Mandel left the Boardroom and Mr. Chivaro entered on behalf of Mr. Westly in accordance with Government Code section 7.9.

FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD SEPTEMBER 27, 2006

Daimler Chrysler Corporation, 297523 (CHA)

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

Mr. Chivaro left the Boardroom and Ms. Mandel entered on behalf of Mr. Westly in accordance with Government Code section 7.9.

FINAL ACTION ON SPECIAL TAXES APPEALS HEARING HELD SEPTEMBER 27, 2006

Greyhound Lines, Inc., 281179, 327799 (MT)

Final Action: Mr. Leonard moved that the claims be granted. The motion failed for lack of a second.

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 ordered that the claims be denied as recommended by the Appeals Division.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 3:16 p.m. and reconvened immediately in closed session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Wednesday, September 27, 2006

CLOSED SESSION

The Board met to discuss settlements (R&T Code §§ 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 3:27 p.m. and reconvened immediately in open session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

The Board adjourned at 3:28 p.m.

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

Note: The following matters were removed from the calendar prior to the meeting: *Granite Construction, Inc., 301578; Estate of Harold A. Small and Muriel T. Small, 310311; Jack M. Gautreaux and Michelle C. Gautreaux, 309716; R.E.M. Concepts, Inc., 332323; Terry L. Moreland and Peggy J. Moreland, 286425; Mark Crumpacker, 313396; and, Approval of Interagency Agreements Over \$1 Million.*