

Tuesday, October 23, 2007

The Board met at its offices at 450 N Street, Sacramento, at 9:40 a.m., Ms. Yee, Chairwoman, Ms. Chu, Vice Chair, Mr. Leonard and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

Ms. Steel expressed her deep appreciation for the hard work of the firefighters in her district and throughout the State of California, especially for their efforts in battling the fires that are currently displacing people in her district. Ms. Steel stated that her office will help the citizens of her district with this crisis in any way possible. In addition, she thanked staff for their quick response in working toward tax-relief solutions.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

Allen R. Yarborough and Donna M. Yarborough, 361479

1999, \$10,983.39 Assessment

2000, \$20,662.04 Assessment

For Appellant:

Lawrence A. Jacobson, Attorney

Allen R. Yarborough, Appellant

Donna M. Yarborough, Appellant

For Franchise Tax Board:

Jane Perez, Tax Counsel

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

Issues: Whether appellants have demonstrated that the late filings penalty for 1999 and 2000 should be abated.

Whether appellants have demonstrated that the estimated tax penalty for 1999 and 2000 should be abated.

Whether appellants have demonstrated the interest charges for 1999 and 2000 should be abated.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 10.19)

Grant S. Thompson, Tax Counsel, Legal Appeals Division, Legal Department, stated for the record that all parties are in agreement to abate the late filing penalty for 2000.

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

Exhibits to these minutes are incorporated by reference.

Dana B. Fisher (Deceased) and A. Elizabeth Fisher, 346236

1981, \$210,057.00 Claim for Refund

For Appellant:

Christie L. Fraser, Attorney

For Franchise Tax Board:

Diane Ewing, Tax Counsel

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

Issues: Whether respondent's assessment of additional tax for 1981 is barred by the statute of limitations.

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Whether respondent abused its discretion in refusing to abate interest for 1981.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 10.20)

Action: Upon motion of Mr. Leonard, seconded by Ms. Steel and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the appeal be submitted for decision, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the appellant's supporting documents, the Franchise Tax Board's response and provide its recommendation to the Board.

Mr. Leonard introduced his parents to the Board.

Dante S. De Torres, 383704

2003, \$3,292.00 Tax, \$823.00 Penalty

For Appellant:

Dante S. De Torres, Taxpayer

For Franchise Tax Board:

Dennis Haase, Tax Counsel

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

Issues: Whether appellant has met his burden to prove error in the proposed assessment.

Whether a frivolous appeal penalty should be imposed.

Appellant's Exhibit: Miscellaneous Document (Exhibit 10.21)

The Board approved the taxpayer's request to distribute a brief for consideration (Exhibit 10.22).

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

The Board recessed at 11:20 a.m. and reconvened at 1:30 p.m. with Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel present.

SALES AND USE TAX APPEALS HEARINGS

J.D. Schwartz, Inc., 333352 (KH)

01-01-02 to 12-31-04, \$3,966.30 Tax

For Petitioner:

William Schwartz, Taxpayer

For Sales and Use Tax Department:

Robert Stipe, Tax Counsel

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

Issue: Whether petitioner has established that three specific claimed sales for resale in the tested sample were nontaxable sales for resale.

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

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Hagop Vartanian, 255764 (KH)

10-1-99 to 9-30-02, \$40,038.00 Tax, \$0.00 Penalty

For Petitioner:

Thomas Nast, Attorney

Hagop Vartanian, Taxpayer

Sona Vartanian, Bookkeeper

For Sales and Use Tax Department:

Trecia Nienow, Tax Counsel

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

Issue: Whether petitioner has established that the disputed sales occurred outside California or were exempt sales in interstate commerce, and that petitioner was not responsible for collection and payment of use tax.

Whether petitioner withdrew a vehicle from resale inventory for personal use.

Mr. Nast announced concession of sales to Mr. Scarpino and Mr. Brain.

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

LEGAL APPEALS MATTERS, CONSENT

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

Jennifer L. Martin, 304790, 312733 (UT)

01-20-04, \$7,711.25 Tax

03-11-03, \$6,601.00 Tax, \$660.10 Penalty

Action: Redetermine as recommended by the Appeals Division.

Pines Manufacturing, Inc., 307995 (OHA)

01-01-96 to 12-31-03, \$113,536.44 Tax, \$11,353.74 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

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

Stephen R. Brook and Cheryl A. Brook, 353615

2002, \$2,560.00 Assessment

Action: Modify the action of the Franchise Tax Board.

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Diana Jane K. Gabriel, 374767

2004, \$176.75 Failure to Furnish Information Penalty

Action: Sustain the action of the Franchise Tax Board.

Juan J. Pulido and Maria G. Pulido, 377397

2005, \$430.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Tony Jibilian, 346087

2003, \$2,131.00 Tax, \$532.75 Late Filing Penalty, \$2,500.00 Frivolous Appeal Penalty

Action: Deny the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

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

Evangeline H. Araneta, 387899

2006, \$400.00

Action: Sustain the action of the Franchise Tax Board.

Shun Cheung, 380527

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Ruxanda S. Cosma, 387865

2006, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Felipa Curiel, 373095

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Lusik Dagliyan, 394368

2006, \$300.00

Action: Sustain the action of the Franchise Tax Board.

Delanya Davis, 339309

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Clifton C. Fredell, 383629

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Stephanie Christine Najera, 390547

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Margo Norman, 378584

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Millard Pete, 357349

2004, \$439.00

Action: Sustain the action of the Franchise Tax Board.

H. N. Son, 377236

2006, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Ruby Taylor, 374607

2006, \$347.00

Action: Reverse the action of the Franchise Tax Board.

Stacy Ugarte, 357396

2005, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Kham Vongrasamy, 377244

2006, \$347.00

Action: Sustain the action of the Franchise Tax Board.

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

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Nortel Networks USA, Inc., 244752*; and, *Alcatel USA Marketing, Inc., 397015*; the Board made the following orders:

Price Pfister, Inc., 396520 (EAA)

07-01-01 to 12-31-04, \$55,867.47

Action: Approve the redetermination as recommended by staff.

Anthony Seldon Brusa, 313010 (KH)

07-01-99 to 09-30-99, \$80,350.06

Action: Approve the redetermination as recommended by staff.

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Nortel Networks USA, Inc., 244752 (OHB)

01-01-99 to 12-31-00, \$104,546.79

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

Douglas Gabriel, 388639 (GH)

03-25-03 to 12-31-05, \$81,346.18

Action: Approve the redetermination as recommended by staff.

Alcatel USA Marketing, Inc., 397015 (OHC)

01-01-00 to 06-30-02, \$166,780.88

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

Journey Education Marketing, Inc., 393557 (OHC)

04-01-03 to 12-31-05, \$77,265.73

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

Neoplan USA Corporation, 413987 (OH)

10-01-05 to 12-31-05, \$51,209.00

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

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

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Nortel Networks, Inc., 392163*; the Board made the following orders:

Allen Karsy, 402442 (EAA)

04-01-99 to 09-03-01, \$68,717.53

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

Southern California Windows, Inc., 415064 (EH)

01-01-02 to 13-31-02, \$95,349.11

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

Ahmed Kamal Elhawary, 415376 (KHO)

07-01-93 to 09-30-96, \$191,139.56

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

Lagraphico.com, Inc., 334389 (AC)

01-01-04 to 09-30-05, \$288,828.37

Action: Approve the refund as recommended by staff.

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Tom Malloy Corporation, 401435 (AA)

10-01-06 to 12-31-06, \$58,062.45

Action: Approve the refund as recommended by staff.

Fireside Bank, 400448 (CH)

01-01-07 to 03-31-07, \$2,870,708.40

Action: Approve the refund as recommended by staff.

Nortel Networks, Inc., 392163 (OHB)

01-01-98 to 06-30-04, \$2,260,449.44

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

E I Industries, Inc., 416327 (GH)

01-01-07 to 03-31-07, \$115,385.30

Action: Approve the refund as recommended by staff.

The Golden 1 Credit Union, 404503 (KH)

10-01-06 to 03-31-07, \$693,439.17

Action: Approve the refund as recommended by staff.

Susan J. Fiscoe, 406646 (KH)

07-01-03 to 06-30-06, \$89,875.58

Action: Approve the refund as recommended by staff.

World Fuel Services, Inc., 341991 (OHA)

01-01-05 to 12-31-05, \$382,426.26

Action: Approve the refund as recommended by staff.

Neoplan USA Corporation, 413987 (OH)

10-01-05 to 12-31-05, \$183,781.60

Action: Approve the refund as recommended by staff.

Chalker Family Trust DTD 4-21-93, 346309 (UT)

11-05-00 to 11-05-00, \$90,698.56

Action: Approve the refund as recommended by staff.

Eclipse Advertising, Inc., 351110 (AC)

01-01-03 to 03-31-06, \$559,667.35

Action: Approve the refund as recommended by staff.

Rosenheim Automation Systems Corporation, 416343 (GH)

01-01-07 to 03-31-07, \$53,702.12

Action: Approve the refund as recommended by staff.

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U.S. Foodservice, Inc., 407010 (OHB)

10-01-01 to 12-31-04, \$245,738.97

Action: Approve the refund as recommended by staff.

Siemens Communications, Inc., 402807 (OHA)

10-01-06 to 12-31-06, \$199,478.08

Action: Approve the refund as recommended by staff.

Regal Cinemas, Inc., 398833 (OHA)

01-01-02 to 12-31-05, \$241,444.70

Action: Approve the refund as recommended by staff.

Americredit Financial Service, Inc., 404731(OHC)

01-01-07 to 03-31-07, \$1,160,030.42

Action: Approve the refund as recommended by staff.

Virgin Mobile USA, LLC, 397567 (OHB)

06-15-02 to 09-30-05, \$501,384.57

Action: Approve the refund as recommended by staff.

Strohl Systems Group, Inc., 389763 (OHB)

10-01-03 to 09-30-06, \$62,100.30

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTERS, RELIEF OF PENALTIES, CONSENT

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

John Hancock Variable Life Insurance Company, 414708 (ET)

04-01-07 to 06-30-07, \$69,906.30

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

John Hancock Life Insurance Company, 414709 (ET)

04-01-07 to 06-30-07, \$105,912.10

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

American Home Shield of CA, Inc., 415255 (ET)

04-01-07 to 06-30-07, \$53,746.30

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

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**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS,
CONSENT**

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board made the following orders:

Shell Oil Company, 416756 (MT)

02-01-96 to 06-30-98, \$297,252.15

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

Shell Oil Company, 344643 (MT)

02-01-96 to 06-30-98, \$159,038.51

Action: Approve the refund as recommended by staff.

LEGAL APPEALS MATTERS, ADJUDICATORY

Orna Amzaleg, Asher Fadlon, and Isack Fadlon, 171769 (AS)

01-01-97 to 12-31-99, \$195,825.06 Tax, \$19,582.55 Negligence Penalty

Considered by the Board: November 20, 2006

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

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

Kevin Moller, 286866 (AS)

04-01-00 to 06-30-01, \$0.00 Tax, \$0.00 Penalty

Martin Askgaard, 286870 (AS)

04-01-00 to 06-30-01, \$0.00 Tax, \$0.00 Penalty

Considered by the Board: Hearing Request Withdrawn

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

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petitions be granted as recommended by the Appeals Division.

Jalal Odish Zora, 203825 (FH)

07-01-98 to 06-30-01, \$21,246.04 Tax, \$2,124.63 Negligence Penalty

Jalal Odish Zora, 203824 (FHB)

05-01-99 to 06-30-01, \$10,744.76 Tax, \$1,074.46 Negligence Penalty

Considered by the Board: June 20, 2007

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

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Action: Ms. Chu moved to redetermine as recommended by the Appeals Division. Mr. Leonard made a substitute motion to delete the negligence penalty, otherwise redetermine as recommended by the Appeals Division. The substitute motion was seconded by Ms. Steel. Mr. Leonard withdrew his substitute motion and Ms. Chu withdrew her motion.
The Board deferred consideration of this matter to obtain additional information.

Robert Ingram, 260330 (EHC)

10-01-00 to 03-31-01, \$29,660.00 Tax, \$1,093.00 Failure to File Penalty

Considered by the Board: June 20, 2007

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

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

Thomas Vu, 309419 (AS)

04-01-00 to 03-31-03, \$64,841.28 Tax, \$6,484.15 Negligence Penalty

Considered by the Board: June 20, 2007

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

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

Codemagic, 309839 (AC)

04-01-01 to 03-31-04, \$69,786.14 Tax

Considered by the Board: June 21, 2007

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

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

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Taiheiyo Cement USA Inc., 332855

1998, \$1,668,152.00 Claim for Refund

1998, \$273,149.00 Claim for Refund

Considered by the Board: Formal Opinion

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

Action: Ms. Chu moved to approve the formal opinion. The motion was seconded by Ms. Yee. Ms. Chu withdrew her motion.

The Board deferred consideration of this matter to be decided in conjunction with Mr. Leonard's written dissent to the Formal Opinion.

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SALES AND USE TAX MATTERS, REDETERMINATIONS ADJUDICATORY

Mentor Corporation, 334785 (GH)

04-01-00 to 12-31-03, \$67,721.92

Considered by the Board: August 14, 2007

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

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the redetermination as recommended by staff.

SPECIAL TAXES MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES AND DENIALS OF CLAIMS FOR REFUND, ADJUDICATORY

Desert Grocers, Inc., 168288 (ET)

03-01-99 to 02-28-00, \$61,146.59

Considered by the Board: July 17, 2007

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

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the redetermination as recommended by staff.

Financial Indemnity Company, 238365 (ET)

01-01-02 to 03-31-03 \$203,763.90

Considered by the Board: June 19, 2007

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

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board approved the relief of penalty as recommended by staff.

Paramount Petroleum Corporation, 169046 (MT)

01-01-01 to 12-31-01, \$101,361.72

Considered by the Board: May 31, 2007

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

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and duly carried, Ms. Yee, Ms. Chu, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board approved the denial of claim for refund as recommended by staff.

Paramount Petroleum Corporation, 216272 (MT)

01-01-01 to 12-31-02, \$125,691.65

Considered by the Board: May 31, 2007

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

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and duly carried, Ms. Yee, Ms. Chu, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board approved the denial of claim for refund as recommended by staff.

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Paramount Petroleum Corporation, 303346 (MT)

01-01-03 to 12-31-03, \$114,265.13

Considered by the Board: May 31, 2007

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

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and duly carried, Ms. Yee, Ms. Chu, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board approved the denial of claim for refund as recommended by staff.

Paramount Petroleum Corporation, 307629 (MT)

01-01-04 to 12-31-04, \$116,543.92

Considered by the Board: May 31, 2007

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

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and duly carried, Ms. Yee, Ms. Chu, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board approved the denial of claim for refund as recommended by staff.

Paramount Petroleum Corporation, 349783 (MT)

01-01-05 to 12-31-05, \$120,625.01

Considered by the Board: May 31, 2007

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

Action: Upon motion of Ms. Chu, seconded by Ms. Yee and duly carried, Ms. Yee, Ms. Chu, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel voting no, the Board approved the denial of claim for refund as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

OFFERS-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Chu, seconded by Mr. Leonard and unanimously carried, Ms. Yee, Ms. Chu, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Amirali Rajabali*; *John W. Strobel*; and, *Kenneth Man Kim*; as recommended by staff.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD OCTOBER 23, 2007

Allen R. Yarborough and Donna M. Yarborough, 361479

Final Action: Ms. Steel moved to abate the penalty on 1999, otherwise sustain the action of the Franchise Tax Board. The motion was seconded by Mr. Leonard but failed to carry, Mr. Leonard and Ms. Steel voting yes, Ms. Yee, Ms. Steel and Ms. Mandel voting no.

Upon motion of Ms. Chu, seconded by Ms. Mandel and duly carried, Ms. Yee, Ms. Chu and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board abated the late filing penalty for 2000 as agreed by all parties, otherwise sustained the action of the Franchise Tax Board.

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Dante S. De Torres, 383704

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

SALES AND USE TAX APPEALS HEARING

George Jeffrey Yurtin, 289814 (KH)

07-01-01 to 06-30-04, \$4,751.63 Tax, \$00.00 Penalty

For Petitioner: No Appearance

For Sales and Use Tax Department: Cary Huxsoll, Tax Counsel

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.

Issue: Whether adjustments are warranted to the audited amount of disallowed claimed nontaxable handling charges.

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

FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD OCTOBER 23, 2007

J.D. Schwartz, Inc., 333352 (KH)

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

Hagop Vartanian, 255764 (KH)

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

The Board adjourned at 3:15 p.m.

The foregoing minutes are adopted by the Board on February 1, 2008.

Note: The following matters were removed from the calendar prior to the meeting: *Edward E. Campbell, Sr., 361525*; and, *Rochelle M. Dorfler, 306426*.