OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:	) OTA Case No. 18011952
	) CDTFA Case ID: 857848
NATIONAL WOOD PRODUCTS, INC.	)
	)
	)
	)

OPINION

Representing the Parties:

For Appellant: Thomas H. Cadden, Attorney
S. Judy Hirahara, Attorney

For Respondent: Kevin Smith, Tax Counsel III
Stephen Smith, Tax Counsel IV
Randy Suazo, Hearing Representative

A. KWEE, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 55081, National Wood Products, Inc. (appellant) appeals an action by respondent California Department of Tax and Fee Administration (CDTFA)[1] denying, in part, appellant's petition of a Notice of Determination (NOD) dated January 20, 2015, for $46,515.79 in taxes and fees, plus applicable interest. The NOD reflects CDTFA's determination that appellant failed to report $18,749.77 in lumber products assessments (LPA) imposed pursuant to Public Resources Code section 4629.5, and underreported sales and use taxes by $27,766.02, for the period April 1, 2010, through March 31, 2013 (audit period).[2]

[1] The taxes and fees at issue were formerly administered and collected by the State Board of Equalization (board). On July 1, 2017, functions of the board relevant to this appeal were transferred to CDTFA. (Gov. Code, § 15570.22.) When this Opinion refers to acts or events that occurred before July 1, 2017, the term "CDTFA" shall refer to the board, and it shall refer to CDTFA for acts or events that occurred on or after July 1, 2017.

[2] Appellant specifically disputes the LPA. The LPA was first imposed on January 1, 2013. (Pub. Resources Code, § 4629.4.) As such, the period at issue is January 1, 2013, through March 31, 2013 (1Q13).

Office of Tax Appeals (OTA) Administrative Law Judges Andrew J. Kwee, Nguyen Dang, and Daniel K. Cho held an oral hearing for this matter on February 18, 2021.[3] At the conclusion of the hearing, the record was closed, and the matter was submitted for decision.

ISSUE

Whether appellant was required to charge and collect the LPA.

FACTUAL FINDINGS

1. Appellant is a distributor of lumber and flooring products. Appellant operated two retail store locations in California during the audit period. Appellant applied for a seller's permit for its selling activities with an effective start date of July 1, 1990.
2. Appellant did not collect the LPA during the portion of the audit period at issue (1Q13).
3. CDTFA audited appellant and examined the transactions at issue on an actual basis for 1Q13, all of which appellant claimed were exempt from the LPA. CDTFA disallowed transactions for which appellant failed to timely obtain resale certificates from its customers or failed to otherwise establish the sale was not at retail.
4. It is undisputed that the transactions CDTFA disallowed constitute sales of "lumber products"[4] or "engineered wood products,"[5] which, if sold at retail, would be subject to the LPA.
5. On December 15, 2014, CDTFA prepared an audit report identifying three deficiency items: (1) disallowed claimed nontaxable sales for resale of $317,517; (2) unreported purchases of $16,933 subject to use tax; and (3) unreported sales of $2,021,977 subject to the LPA.
6. On January 20, 2015, CDTFA issued the NOD to appellant for the deficiency disclosed in the audit report.
7. Appellant timely petitioned the NOD, disputing transactions involving 72 customers.

[3] The hearing was conducted via WebEx with the agreement of the parties due to COVID-19.

[4] A lumber product is a product in which wood or fiber is the principal component part, including, but not limited to, a solid wood product or an engineered wood product. (Pub. Resources Code, § 4629.3(b)(5).)

[5] An engineered wood product means a building product, including, but not limited to, veneer-based sheeting material, plywood, laminated veneer lumber, parallel-laminated veneer, laminated beams, I-joists, edge-glued material, or composite material such as cellulosic fiberboard, hardboard, decking, particleboard, waferboard, flakeboard, oriented strand board, or any other panel or composite product where wood is a component part and which is identified in CDTFA's regulations. (Pub. Resources Code, § 4629.3(b)(3).)

8. CDTFA performed a reaudit and reduced the measure of transactions subject to the LPA from $2,021,977 to $1,159,163. This represents $10,122 in unreported LPA.[6]
9. This timely appeal to OTA followed.
10. Appellant disputes transactions involving 55 customers. Appellant disputes the $10,122 in unreported LPA. To the extent that sales tax was paid on any disputed transactions, and OTA determines that the transactions qualify as nontaxable sales for resale, appellant is also asserting a claim that appellant be allowed to refund any resulting excess sales tax reimbursement to its customers.[7]

DISCUSSION

California imposes the LPA on a person who purchases a lumber product or an engineered wood product for storage, use, or other consumption in California measured by the sales price of the product. (Pub. Resources Code, § 4629.5(a)(1).) A retailer is required to collect the LPA from the purchaser. (Pub. Resources Code, § 4629.5(a)(3).) The LPA is reported with the Sales and Use Tax Return (SUTR) and the pertinent terms have the same meaning as those same terms are defined under the Sales and Use Tax Law. (Pub. Resources Code, § 4629.5(f), (g).) A retailer includes every seller who makes any retail sale or sales of tangible personal property. (R&TC, § 6015(a)(1).) A retail sale includes a sale for any purpose other than resale in the regular course of business in the form of tangible personal property. (R&TC, § 6007(a)(1).)

Applicability of the Sales and Use Tax Law

CDTFA contends that California Code of Regulations, title 18, (Regulation) section 1668 places the burden on appellant to establish that a sale was not at retail. (Cal. Code Regs., tit. 18, § 1668(a).) Appellant contends that this section interprets the Sales and Use Tax Law, including R&TC section 6091, and there is "no authority to support [the] application of Regulation

[6] The LPA is assessed at a rate of 1 percent, which in this case is $11,592. Pursuant to Public Resources Code section 4629.5(a)(3), CDTFA allowed per-location credits for initial startup costs associated with the collection of the LPA, which reduced the assessment to $10,122. (Cal. Code Regs., tit. 18, §§ 2000, 2001.)

[7] Excess tax reimbursement must be returned to the customer from whom it was collected, or paid to the state, plus applicable interest and penalty. (R&TC, § 6901.5; Cal. Code Regs., tit. 18, § 1700(b)(2).) CDTFA asserts that for transactions CDTFA allowed in the reaudit, the customers already claimed a tax-paid purchases resold deduction; thus, no adjustment is allowable for excess sales tax reimbursement. Appellant has not asserted a dollar amount of claimed excess sales tax reimbursement collected from the 55 customers at issue.

[section] 1668 to the LPA." In support, appellant cites the reference notes[8] of Regulation section 1668, and asserts that CDTFA "is applying regulations to the LPA that [CDTFA] enacted pursuant to statutory authority that does not concern the LPA."

The LPA provides that "[t]he retailer shall collect the assessment . . . at the time of sale." (Pub. Resources Code, § 4629.5(a)(3).) The LPA provides that the term "retailer" has the same meaning as defined in R&TC section 6015 of the Sales and Use Tax Law.[9] (Pub. Resources Code, § 4629.5(g)(2)(A).) R&TC section 6015 incorporates the term "retail sale" when it defines a retailer as a seller who makes a retail sale of tangible personal property. (R&TC, § 6015(a)(1).) Thus, we find that, absent an exemption or exclusion, a retailer is required to collect the LPA when there is a "retail sale" as that term is defined in the Sales and Use Tax Law, and is not required to collect the LPA when the sale is not at retail. In summary, a retailer, unless they qualify as a de minimis retailer, must report the LPA on any retail sale subject to the sales tax. (Pub. Resources Code, § 4629.5(a)(3), (g)(2)(B); R&TC, §§ 6007, 6015(a)(1).)

The LPA does not specifically incorporate burden of proof language; however, as discussed above, we found that the LPA is collected at the same time as the sales tax under the Sales and Use Tax Law.[10] Thus, by extension, application of the burden of proof is the same. Regulation section 1668 interprets the Sales and Use Tax Law, including the definition of retail sale and the application of the burden of proof, and provides that the burden of proving that a sale of tangible personal property is not at retail is upon the seller unless the seller timely takes in good faith a certificate from the purchaser that the property is purchased for resale (resale certificate). (Cal. Code Regs., tit. 18, § 1668(a).) This is also consistent with our Rules for Tax

[8] The reference notes cite sections 6007, 6009.2, 6012.8, 6012.9, 6072, 6091-6095, 6241-6245, 6484, 6485, and 7153 of the R&TC. They do not cite to the Public Resources Code.

[9] Appellant cites to a CDTFA publication stating that some retailers are not required to collect the LPA to support appellant's contention that the LPA does not apply to all retail sales. However, certain retailers with de minimis sales are statutorily excluded from the definition of the term retailer. (Pub. Resources Code, § 4629.5(g)(2)(B).) This exception is not relevant for this appeal. As such, we do not address this contention further.

[10] In the case of an appeal under the Sales and Use Tax Law, we have concluded that CDTFA has a minimal, initial burden of showing that its determination was reasonable and rational. (*Appeal of Talavera*, 2020-OTA-022P.) Here, appellant does not dispute the accuracy of CDTFA's determination, and appellant agrees that that it sold the products at issue. The LPA deficiency amount was established based on an actual basis review of the transactions, and both parties agree with the measure and number of transactions at issue. Hence, this appeal involves only the issue of whether appellant met its burden of establishing that any disallowed transactions involving the 55 customers qualified as nontaxable sales for resale. (See Cal. Code Regs., tit. 18, § 1668(a).) Therefore, we need not address CDTFA's minimal, initial burden under these facts.

Appeals, which provide that, unless otherwise provided by law, the burden of proof in an appeal before OTA is upon the appellant as to all issues of fact. (Cal. Code Regs., tit. 18, § 30219.) As such, we find that the provisions of Regulation section 1668 apply to appeals before OTA involving the LPA.

Exclusion for Nontaxable Sales for Resale

As previously stated, the burden of proving that a sale of tangible personal property is not at retail is upon the seller unless the seller timely and in good faith obtains a certificate from the purchaser stating that the property is purchased for resale. (Cal. Code Regs., tit. 18, § 1668(a).) A resale certificate is timely if it is taken at any time before the seller bills the purchaser for the property, within the seller's normal billing and payment cycle, or prior to delivery to the purchaser. (Cal. Code Regs., tit. 18, § 1668(a).) Regulation section 1668 provides, in pertinent part,[11] that if the seller fails to timely obtain a resale certificate, the seller will be relieved of liability for failing to collect the tax (here, the LPA) only if the seller shows that the property:

> Was in fact resold by the purchaser and was not used by the purchaser for any purpose other than retention, demonstration, or display while holding it for sale in the regular course of business [("sale for resale in fact")].

(Cal. Code Regs., tit. 18, § 1668(e)(1).) A seller may use any verifiable method of establishing that it should be relieved of liability for tax. (Cal. Code Regs., tit. 18, § 1668(f).) One method authorized to assist a seller in satisfying its burden to show that the sale was for resale is the use of XYZ letters. (Cal. Code Regs., tit. 18, § 1668(f).) XYZ letters may be sent to the purchasers to inquire as to the disposition of the property. (Cal. Code Regs., tit. 18, § 1668(f).)

A response to an XYZ letter is not the same as accepting a timely and valid resale certificate. (Cal. Code Regs., tit. 18, § 1668(f)(3).) Furthermore, CDTFA is not required to relieve a seller from liability for failing to collect tax based on a response to an XYZ letter. (Cal. Code Regs., tit. 18, § 1668(f)(3).) CDTFA may, in its discretion, verify the information provided in the response to the XYZ letter, including making additional contact with the purchaser. (Cal. Code Regs., tit. 18, § 1668(f)(3).)

[11] The seller is also relieved of liability if the purchaser paid the tax to CDTFA, or if the purchaser is still holding the property for resale. (See Cal. Code Regs., tit. 18, § 1668(e)(2)-(4).) First, CDTFA's audit schedules indicate that none of the purchasers reported the LPA directly to CDTFA. Second, the contention here is that the property has already been resold by all of the purchasers; there is no contention that it is still in resale inventory.

For the transactions at issue, it is undisputed that appellant failed to timely obtain a resale certificate. Therefore, we must examine the facts and determine whether the evidence submitted by appellant is sufficient to establish that appellant's sales were not at retail. Appellant submitted invoices for transactions with all 55 customers. The invoices indicate that appellant collected sales tax reimbursement from all 55 customers. Appellant also submitted XYZ letter responses from the customers stating that the lumber products and engineered wood products (collectively, lumber products) identified in the invoices were purchased for resale and resold prior to use. In addition, appellant submitted declarations from 20 customers, signed under penalty of perjury, and executed during the month of November 2020. All 20 of the declarants stated that they reviewed the XYZ letter responses (titled "Statement requesting information from purchaser related to the following invoices") and the referenced invoices, both of which were attached to the declaration, and affirmed that the responses were true and correct. Of the 20 customers with newly submitted declarations, four customers indicated that they held a California seller's permit.

Of the 55 customers, many involve similar facts and may be grouped into categories for ease of analysis. Thus, where appropriate, we group the customer transactions and address the categories as a whole.

It is undisputed that appellant charged a separately stated amount for "tax" that it reported and remitted to CDTFA for all 55 customers. Nevertheless, the law specifically contemplates that a seller may, for whatever reason, purchase property at retail and thereafter resell the property prior to use. (R&TC, § 6012(a)(1); Cal. Code Regs., tit. 18, § 1701.) In such circumstances, the seller's purchase of the property may still be considered a nontaxable sale for resale and, as such, the seller may thereafter claim a tax-paid purchases resold deduction for sales tax reimbursement collected by its vendor. (*Ibid*.) Therefore, we cannot conclusively find that a sale was in fact at retail solely on the basis that appellant reported it as a retail sale to CDTFA. Instead, it is also necessary to examine how the purchaser reported the transaction for tax purposes. Thus, for example, the fact that at least 28 customers did not even hold a seller's permit does tend to be a factor indicating that sales, at least to those 28 customers, were at retail.[12] We discuss those customers first.

[12] At the hearing, appellant contended that 24 of the 55 customers held seller's permits (which would leave 31 without seller's permits).

Transactions where the customer did not hold a seller's permit[13]

The first category is customers who did not hold a seller's permit at the time of the transaction. This includes customers who previously held a seller's permit but closed the permit prior to the transactions at issue, and customers who later obtained a permit with an effective start date after the transactions at issue. The available documentation indicates that these customers were construction contractors. Appellant has not provided evidence to indicate otherwise. Many of the customers were involved in furnishing and installing custom cabinetry. Regulation section 1521(b)(2) provides, in pertinent part, that construction contractors are consumers of materials, and retailers of fixtures, that they furnish and install in the performance of a construction contract. Construction contractors cannot avoid liability for sales or use tax on materials or fixtures that they furnish and install by taking a resale certificate from a prime contractor or others. (Cal. Code Regs., tit. 18, § 1521(b)(6)(A).) In other words, appellant's customers would generally owe tax at the time of purchase of materials (which would be how appellant reported the transactions for sales tax purposes) or they would have to report taxable retail sales at the time they furnish and install the fixtures. These customers did not hold seller's permits; therefore, the facts establish that they did not report any transactions as taxable retail sales. As such, we find appellant failed to establish that it made nontaxable sales for resale to its customers who did not hold a seller's permit.

Transactions where the customer reported no transactions on their returns[14]

The second category is customers who held a seller's permit, but did not report the transactions at issue on their returns. These customers reported $0.00 in total sales, and $0.00 in taxable sales for the period covered by the transactions. Again, the evidence indicates that the customers are construction contractors. We explained the application of tax to construction

[13] There are 28 customers in this category: Bogle Custom Cabinets & Construction; C&L Stair & Millwork; Cabinet Magic, Inc.; Coyne Stair, Inc.; Custom Décor Cabinetry & Millwork; Erickson Millworks; G Watson Design; Gutierrez Jr. dba Skinny's Custom & Door; Heritage Cabinets Co., Inc.; Imperial Wood Specialties, Inc.; Javier Rodriguez dba C-ROD; Kerez Wood Design; Nelms Construction; Kinross Woodworking; New Market Enterprises dba Boberg Hardwood Floors; North State Wood Designs; Paul S. Brooks; R.A. Nolan Construction; Sacramento Cabinet Specialties; San Francisco Millworks, Inc.; Scane Custom Cabinets, Inc.; Shawn Henry Cabinets; Sierra Casework, Inc.; Southeast Cabinet, Inc.; Sunsweet Cabinetry; Tamalpais Commercial Cabinetry; Universal Plastics, Inc.; and Valsa Custom Cabinets.

[14] There are six customers in this category: Armstrong Construction; Ballet Bros. Construction Corp.; Brilliant Furnishing Inc.; Halabi, dba Duracite; Lytle Construction, Inc.; and Mastercraft Enterprises.

contractors, above. Appellant has not provided evidence to indicate a different application of tax. Because these customers did not report any sales (taxable or nontaxable) of tangible personal property during the period at issue, we have no basis to conclude that any of their purchases of lumber products from appellant qualified as nontaxable sales for resale in fact.

Transactions where the customer reported no taxable transactions[15]

The third category is customers who held a seller's permit, and who reported total sales on their returns. These customers claimed all of their sales as exempt or nontaxable, and did not report any taxable transactions on their returns. These customers were also construction contractors. The invoices for one of the customers (Wood Classics) even included a notation to call the customer to verify whether or not the order was taxable.[16] As indicated above, a construction contractor would either owe tax at the time of purchase, or would be required to report tax at the time of sale. Because these customers did not report any taxable sales of tangible personal property during the period at issue, we have no basis to conclude any of their purchases of lumber products from appellant qualified as nontaxable sales for resale in fact.

Transactions where the customer claimed a tax-paid purchases resold deduction[17]

The fourth category is customers who held a seller's permit, and who reported total and taxable transactions on their returns for the period at issue. These customers also claimed a tax-paid purchases resold deduction on their returns for the period at issue. As explained previously, retail sales for purposes of the sales tax are also retail sales for purposes of the LPA. The fact that these customers claimed tax-paid purchases resold deductions indicates that they made purchases for purposes of resale, which were accepted by CDTFA. Furthermore, each of these customers provided XYZ letters confirming that the property was purchased for resale and resold prior to use. We also note that CDTFA accepted other transactions where the customers provided an XYZ response, held a seller's permit, and reported total and taxable sales for the

[15] There are five customers in the category: Camelia City Millworks; Expression in Wood; John Mitracos and Company; Muratore, Inc.; and Wood Classics.

[16] Invoice numbers 616483, 625832, 627137 included a notation "CALL COMP TO SEE IF ORDER IS TAXABLE OR NOT!" in the shipping address, and appellant ended up collecting sales tax reimbursement on these transactions. This indicates to us that the transaction was taxable.

[17] There are four customers in this category: Timberwood Custom Cabinets; Tomson Cabinetry; United Cabinets; and United Kitchen Doors.

period at issue. In response, CDTFA provided a generalized statement for all of these transactions that the "Evidence does not suggest that the customer was the Retailer on this transaction."[18] CDTFA has not otherwise explained why, specifically, sales to these four customers were disallowed whereas sales to other customers with comparable statistics and listed in CDTFA's audit work papers were accepted. We believe that appellant has provided all the information that, in its position, it can reasonably be expected to provide. These customers' treatment of the transactions, along with their sales and use tax reporting, also appears consistent with finding that the property was resold. Further, the disallowance of the claimed nontaxable sales to these four customers appears arbitrary and in conflict with CDTFA's treatment of similarly situated customers in the audit that were accepted. Sales to these four customers essentially look identical on paper to sales to other customers that CDTFA accepted during the audit. CDTFA has not offered any evidence to rebut the documentation provided by appellant, which tends to establish a sale for resale in fact. Based on the available evidence, we find that appellant met its burden to show that, more likely than not, these transactions qualified as nontaxable sales for resale in fact. As such, these are nontaxable transections for purposes of the LPA and the sales tax.[19]

Transactions where the customer reported total and taxable sales[20]

The final category involves sales to 12 customers who each held a seller's permit. These customers also reported total and taxable sales for the period at issue, and were construction contractors. Unlike the prior category of customers, these customers did not claim a tax-paid purchases resold deduction. CDTFA provided detailed information to explain why sales to several of these customers were disallowed; otherwise, the remaining customers all look identical on paper to other customers which CDTFA accepted during the audit. We will individually address customers for which CDTFA provided specific information.

[18] By Order dated July 8, 2019, we provided appellant 60 days to provide a list and supporting documentation for every customer at issue. Thereafter, we provided CDTFA an equal amount of time to respond to appellant's list and "to specifically identify, for each disputed transaction for which taxpayer provides supporting documentation, why CDTFA's re-audit disallowed the item."

[19] We note that an adjustment for excess sales tax reimbursement would not be applicable because the customers already claimed tax-paid purchases resold deductions.

[20] There are 12 customers in this category: California Cabinet & Store Fixture; Credence Corporation dba Hamilton Cabinet; Excel Cabinets; Interior Wood Specialties, Inc.; K&W Kitchens; L&U Granite & Cabinet; Mike Robinson dba Robinson Wildwood Cabinet Shop; Robert Perez; VSI Custom Cabinets, Inc.; WL Rubottom Co.; Weber Company; and Woodcrafters Custom Cabinets.

1. California Cabinet & Store Fixture.

Appellant made 15 sales to this customer totaling $16,573 during 1Q13. Nevertheless, this customer's reported total sales for 1Q13 were significantly less than the 15 invoiced purchases just from appellant. Considering the underreporting of total sales, and that we have no way to confirm to what extent, if any, reported taxable sales are allocable to purchases from appellant, we find that appellant failed to establish that sales to this customer qualified as nontaxable sales for resale in fact.

2. Excel Cabinets.

Appellant made 25 sales to this customer totaling more than $200,000. Nevertheless, this customer's reported total sales to CDTFA for 1Q13 was less than 1 percent of its invoiced purchases just from appellant. For the same reason as discussed under #1 (prior paragraph), we again find that appellant failed to establish that any sales to this customer were nontaxable sales for resale in fact.

3. Interior Wood Specialties, Inc.

Appellant made four sales to this customer. As with the prior two customers, this customer's reported total sales to CDTFA for 1Q13 is less than the invoiced purchases just from appellant. For the same reasons, we find appellant failed to meet its burden here, too.

4. L&U Granite & Cabinet.

CDTFA accepted sales to this customer. As such, this item is moot, and we have no basis to order further adjustments.

5. The remaining eight customers.[21]

The remaining eight customers look identical on paper to each other, and similar to customers that CDTFA conceded made nontaxable purchases for resale (e.g., L&U Granite & Cabinet). In response, CDTFA only provided a generalized copy-and-paste statement for why it disallowed sales to all 53 of the disallowed customers: "Evidence does not suggest that the

[21] The eight customers are: Credence Corporation dba Hamilton Cabinet; K&W Kitchens; Mike Robinson dba Robinson Wildwood Cabinet Shop; Robert Perez; VSI Custom Cabinets; WL Rubottom Co.; Weber Company; and Woodcrafters Custom Cabinets.

customer was the Retailer on this transaction." In addition, CDTFA provided the following boilerplate statement for all 53 customers (including those who did not have a seller's permit):

> The transactions that were not removed from the lumber assessment appear to be construction contractors who reported Sales and Use Tax Returns in a manner consistent with a consumer and not a retailer. In a construction contract, a construction contractor is primarily the consumer of materials and retailer of fixtures. The auditor looked for sufficient evidence e [(sic)] to support that the transactions were incorporated into a fixture thus reported on the return as fixture per Regulation 1521. At the minimum, the auditor would expect to see sales reported on line 1 that exceed the purchases from National Wood Products. Moreover, you would expect to see taxable sales on line 12 and tax paid purchase resold deduction on section B line 3. of the customers return. The auditor looked [at] all relevant information and was unable to remove the remaining transactions using XYZ's or written declaration as the alternative auditing methods disclosed information that was not consistent with customer acting as a retailer.

CDTFA has not otherwise explained why, specifically, sales to these eight customers were disallowed whereas sales to other customers with comparable statistics and listed in CDTFA's audit work papers were accepted. Nevertheless, the burden is on appellant to establish that the sale was not at retail. Unlike the sales to the four customers that we determined more likely than not qualified as nontaxable sales for resale in fact, these customers did not claim a tax-paid purchases resold deduction. This demonstrates that neither appellant, nor these eight customers, treated these transactions as nontaxable sales for resale on their respective SUTRs. Based on the evidence currently in the record, we find that appellant's documentation is not sufficient for OTA to accept that sales to these eight customers were not at retail. As such, these are taxable transactions for purposes of the LPA and the sales tax.

HOLDING

Appellant established that an adjustment to the LPA is warranted for sales to 4 of the 55 disputed customers. No adjustment is warranted for excess sales tax reimbursement.

DISPOSITION

An adjustment for the LPA, to be calculated by CDTFA, shall be made for sales to 4 customers (identified in footnote 17). CDTFA's action is otherwise sustained without further adjustment.

DocuSigned by:
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Andrew J. Kwee
Administrative Law Judge

We concur:

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Nguyen Dang
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Nguyen Dang
Administrative Law Judge

DocuSigned by:
Daniel Cho
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Daniel K. Cho
Administrative Law Judge

Date Issued: 4/28/2021