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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

JOSH SHAW, taxpayer and Executive Director of California Transit Association; and the **CALIFORNIA TRANSIT ASSOCIATION**, a nonprofit corporation, Petitioners,

vs.

JOHN CHIANG, California State Controller, and **MICHAEL C. GENEST**, California Director of Finance, in their official capacity, Respondents,

Case Number: 07CS01179

JUDGMENT AFTER REMITTITUR

Hon. Jack Sapunor

This matter having been heard and decided on appeal by the Court of Appeal of the State of California, Third Appellate District (Case No. CC58479), and the Court of Appeal having affirmed the portion of the judgment granting a declaratory judgment and writ of mandate regarding the budget year 2007-08 transfer of four hundred nine million dollars (\$409,000,000) from the Public Transportation Account to the General Fund to offset the cost of past debt service payments on public transportation-related general obligation bonds (Proposition 108 bonds), having reversed the portion of the judgment denying all other relief, and having directed the trial court to enter a new judgment granting declaratory relief and a writ of mandate consistent with the Court of Appeal's opinion,

1 IT IS HEREBY ORDERED and ADJUDGED that:

2 1. The amendment of California Revenue and Taxation Code section 7102,
3 subdivision (a)(1) to add subparts (G) and (H) is not consistent with and does not further
4 the purpose of section 7102, subdivision (a)(1) and therefore is invalid. Any funds
5 transferred pursuant to those subparts are Public Transportation Account spillover gas tax
6 revenue and are restricted in use to "transportation planning and mass transportation
7 purposes" pursuant to Public Utilities Code section 99310.5 (as amended by Proposition
8 116);

9 2. The term "mass transportation" in Public Utilities Code section 99310.5
10 means "public transportation" or "public transit;"

11 3. The budget year 2007-08 appropriation of \$144,332,489 from the Mass
12 Transportation Fund to the General Fund (via the Transportation Debt Service Fund) for
13 the payment of current debt service on Proposition 192 bonds does not serve a
14 transportation planning or mass transportation purpose and is invalid;

15 4. The budget year 2007-08 appropriation of \$99,120,000 from the Public
16 Transportation Account to the Department of Education to fund the Home-to-School
17 Transportation and Small School District transportation programs does not serve a
18 transportation planning or mass transportation purpose and is invalid;

19 5. The budget year 2007-08 appropriation of \$128,806,000 from the Public
20 Transportation Account to the State Department of Developmental Services to pay for
21 transportation of the developmentally disabled to regional centers does not serve a
22 transportation planning or mass transportation purpose and is invalid;

23 6. The budget year 2007-08 appropriation of \$200 million from the Mass
24 Transportation Fund to the General Fund (via the Transportation Debt Service Fund) to
25 offset the cost of past debt service on public transportation-related general obligation
26 bonds (Proposition 108 bonds) does not serve a transportation planning or mass
27 transportation purpose and is invalid;

28

1 7. The budget year 2007-08 appropriation of \$409 million from the Public
 2 Transportation Account to the General Fund to offset the cost of past debt service on
 3 public transportation-related general obligation bonds (Proposition 108 bonds) does not
 4 serve a transportation planning or mass transportation purpose and is invalid;

5 8. The budget year 2007-08 appropriation of \$82,678,000 from the Mass
 6 Transportation Fund to the General Fund for the purpose of making suspended transfer
 7 reimbursements required by California Constitution article XIX B, section 1, subdivision
 8 (f), does not serve a transportation planning or mass transportation purpose and is invalid;

9 9. The budget year 2007-08 appropriation of \$123,973,493 from the Mass
 10 Transportation Fund to the General Fund (via the Transportation Debt Service Fund) for
 11 the payment of current debt service on Proposition 116 bonds violates Public Utilities
 12 Code section 99611 and is invalid;

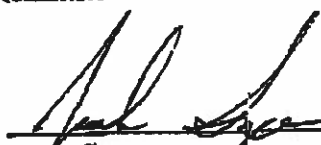
13 10. The peremptory writ of mandate applied for herein is granted. A writ of
 14 mandate shall issue under the seal of this Court commanding Respondents to take all steps
 15 necessary to restore/reimburse the above-described appropriations of spillover gas tax
 16 revenue to the Public Transportation Account. The writ shall further command
 17 Respondents to make and file a return on or before April 1, 2010, setting forth what they
 18 have done to comply.


19 11. Petitioners Josh Shaw and the California Transit Association shall recover
 20 their costs in the amount of \$ _____.

21 12. The Court retains jurisdiction to consider any motions for an award of
 22 attorneys' fees.

23 13. Petitioners are directed to prepare and submit a proposed writ of mandate
 24 consistent with this Judgment After Remittitur.

25
 26 Date: December 9, 2009


 Jack Sapunor
 Judge of the Superior Court of California
 County of Sacramento



CERTIFICATE OF SERVICE BY MAILING
(C.C.P. Sec. 1013a(4))

I, the undersigned deputy clerk of the Superior Court of California, County of Sacramento, do declare under penalty of perjury that I did this date place a copy of the Court's Ruling in envelopes addressed to each of the parties, or their counsel of record as stated below, with sufficient postage affixed thereto and deposited the same in the United States Post Office at Sacramento, California.

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Dated: December 11, 2009

Superior Court of California,
County of Sacramento

By:



Frank Temmerman,
Deputy Clerk

DEPT : 29
DATE : December 11, 2009
CASE NO. : 07CS001179
CASE TITLE : Shaw v. Chiang

Superior Court of California,
County of Sacramento

BY: F. Temmerman,
Deputy Clerk