

NEVADA TAX COMMISSION MEETING  
MEETING MINUTES

GAMING CONTROL BOARD  
1919 College Pkwy, Suite 100  
Carson City, Nevada

GAMING CONTROL BOARD  
Grant Sawyer State Office Building  
555 E Washington Avenue, Room 2450  
Las Vegas, Nevada

June 26, 2017  
9:00 a.m.

Members Present:

James DeVold, Chairman  
Craig Witt, Commissioner  
Ann Bersi, Commissioner - Via Telephone  
Francine Lipman, Commissioner  
Thom Sheets, Commissioner – Via Telephone  
Tony Wren, Commissioner

Members Absent:

George Kelesis, Commissioner  
John E. Marvel, Commissioner

Chairman DeVold called the meeting to order at 9:00 a.m.

Director Contine administered an oath to all meeting participants.

I. Public Comment.

There was no public comment.

II. Consideration for Approval of the May 8, 2017 Nevada Tax Commission Meeting Minutes.

Commissioner Wren moved to approve the Minutes of the May 8, 2017 Nevada Tax Commission meeting. Commissioner Witt seconds. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
  - a) Ruby Mountain Brewing Co.
  - b) Yousif Caroline
  - c) 2 8 LLC
  - d) Dai-Minh LLC

B. Standard Direct Sales Organization Agreements:

- a) Save the Day Seasonings
- b) Initial Outfitters Inc.

C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) Leidos Constructors LLC / SAIC Constructors LLC
- 2) Caterpillar Inc.
- 3) FAA Las Vegas H, Inc.
- 4) Hilton Resorts Corporation
- 5) NAV-LVH LLC
- 6) Nevada Property 1 LLC
- 7) Nevada Restaurant Venture 1 LLC
- 8) OLCC Nevada LLC
- 9) PHC Elko Inc.
- 10) UBM LLC
- 11) Nike Retail Services, Inc.
- 12) Mens Apparel Guild in California Inc.
- 13) Golden State Foods Corp.
- 14) Bayer HealthCare Pharmaceuticals, Inc.
- 15) ACS US Inc.
- 16) Walgreens Co.
- 17) Summit Canyon Resources LLC
- 18) LV Tower 52 LLC
- 19) T. Nickolas Co.
- 20) NCI Group Inc.
- 21) Christian Dior Perfumes LLC
- 22) 99 Cent Only Stores
- 23) Emanuel Industries, Inc.

D. Approval of Refund/Credit Request in Excess of \$250,000:

- 1) Health Care Service Corporation
- 2) Liberty Insurance Underwriters Inc.
- 3) Liberty Mutual Insurance Company
- 4) Mirage Resorts Incorporated
- 5) Amazon.com.kydc LLC

E. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax):

- 1) Peloton Interactive, Inc.
- 2) Process Displays, LLC
- 3) Sure Fit, Inc.
- 4) Corepak Medsystems, Inc.
- 5) Medacta USA
- 6) The Drone Store
- 7) Tronex International, Inc.
- 8) Vector Meara Transit Advertising Group, LLC

- F. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (sales/use and/or modified business tax)
  - 1) Show Off Las Vegas
  - 2) Clear Sky Holdings, LLC
  - 3) SWAT Motorsports
  - 4) S & D of NV, Inc.
  - 5) VSR Industries, Inc.
  
- G. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (civil penalties)
  - 1) ATS Traders LLC dba AA Hookah and Vape Store 2
  - 2) Edmond George dba City Smokes & Vapor
  
- H. Consideration for Approval of Payment Plan Request (Sales/Use and/or Modified Business Tax:
  - 1) Vision Holidays Inc.

Commissioner Lipman moved to approve the consent portion of the agenda. Commissioner Witt seconds. All in favor. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

- A. Consideration for Approval of Appointment to the Appraiser Certification Board
  - 1) Sorin Popa

Heather Drake, Deputy Director, and Sorin Popa were present.

Commissioner Sheets moved to approve the appointment of Sorin Popa to the Appraiser Certification Board. Commissioner Bersi seconds. All in favor. Motion carries.

Local Government Finance Section:

- B. Certification of Ad Valorem Tax Rates for Fiscal Year 2017-2018 pursuant to NRS 361.4547

Kelly Langley, Budget Analyst III, presented the certification of Ad Valorem Tax Rates for Fiscal Year 2017-2018 to the Commission.

Commissioner Sheets moved to approve the Certification of Ad Valorem Tax Rates for Fiscal Year 2017 – 2018. Commissioner Wren seconds. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

- A. Taxpayer's Appeal of Administrative Law Judge Decision pursuant to NRS 360.297:
  - 1) Artiques Home Furnishings and Décor LLC

Louis Csoka, Deputy Attorney General, and Mary Patton, Tax Program Supervisor III, were present on behalf of the Department of Taxation. Mr. and Mrs. Page were present on behalf of Artiques Home Furnishings and Décor LLC.

Commissioner Lipman moved to uphold the decision of the Administrative Law Judge. Commissioner Witt seconds. All in favor. Motion carries.

B. Department's Recommendation to the Commission for Denial of an Offer-In-Compromise pursuant to NRS 360.263:

- 1) Tyronda Weinert and Jerry J. Weinert

Mary Patton, Tax Program Supervisor III, was present on behalf of the Department of Taxation. Tyronda Weinert was present.

Commissioner Lipman moved to deny the offer-in-compromise of Tyronda and Jerry Weinert. Commissioner Witt seconds. Commissioner Wren votes - No. Motion carries by majority.

C. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:

- 1) Allan Butler

Kathy Fey, Revenue Officer III, was present on behalf of the Department of Taxation. Allan Butler, Taxpayer, was present.

Commissioner Lipman moved to approve the offer-in-compromise of Allan Butler. Commissioner Witt seconds. All in favor. Motion carries.

- 2) Rosanne Britton

Kathy Fey, Revenue Officer III, was present on behalf of the Department of Taxation. The Taxpayer was not present.

Commissioner Witt made a motion to approve the offer-in-compromise of Rosanne Britton. Commissioner Wren seconds. All in favor. Motion carries.

- 3) George Petculescu

Mary Patton, Tax Program Supervisor III, was present on behalf of the Department of Taxation. Jason G. Weiner, Esq. was present on behalf of the Taxpayer. The Taxpayer was present.

Commissioner Wren moved to approve the offer-in-compromise of George Petculescu. Commissioner Witt seconds. Commissioner Sheets abstained from voting. Motion carries.

D. Consideration for Approval of Adoption of Emergency Regulations:

- 1) Adoption of Emergency Administrative Regulation to regulate the packaging, labeling and advertising of marijuana and marijuana products in relation to the sale of recreational marijuana as enacted in the 2016 Initiative Petition, Ballot Question No. 2; NRS 453D.

Director Contine presented the Emergency Administrative Regulation to the Commission. Senate Bill 344 addressed labeling, packaging, serving size and advertising. This bill amended NRS 453A and 453D. These provisions would not go into effect until 2020 because the initiative does not allow for legislative change until that time. As we go into adult use marijuana starting at the end of this week, we are using provisions in 453A. The changes made during the session will not be effective until October. We think it is important to adopt these regulations to address labeling, packaging, serving size and advertising so these rules are in place as we go into the regulation of marijuana. This emergency regulation will be in place for 120 days. We are working on the permanent regulations.

Chairman DeVolld asked to confirm that this emergency regulation is not in connection to the distribution of marijuana.

Director Contine stated there was an inaccuracy in the press and there is now a revised story. The emergency regulation is not in relation to the distribution of marijuana. This emergency regulation is to address labeling, packaging, serving size and advertising.

Public Comment (Item V. D.1.):

Mike Hagameyer asked if this regulation has any connection to the pending litigation.

Chairman DeVolld answered by stating the emergency regulation is not connected to the distribution of marijuana.

Commissioner Sheets moved to approve the Emergency Administrative Regulation. Commissioner Bersi seconds. All in favor. Motion carries.

- E. Request for Closed Hearing pursuant to NRS 360.247 (2-4); and Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
  - 1) Douglas B. Bennett

Josh Hicks, Esq. of McDonald Carano was present on behalf of the Taxpayer. Mary Patton, Tax Program Supervisor, was present on behalf of the Department of Taxation

Chairman DeVolld asked for a motion to go into a closed hearing.

Commissioner Sheets recused himself from this matter and stated the Taxpayer is associated with the law firm of McDonald Carano Wilson. Commissioner Sheets disconnected from the conference call.

Commissioner Wren made a motion to move into a closed hearing. Commissioner Witt seconds. All in favor. Motion carries.

Chairman DeVolld called the hearing into a closed session. Chairman DeVolld asked the commissioners on the telephone to call into a private conference call line at 10:10 a.m.

Chairman DeVold called the hearing into open session at 10:45 a.m.

Commissioner Lipman asked if Mr. Bennett is prepared to make the first payment to the Department of Taxation.

Mr. Hicks stated a payment is ready to be made.

Commissioner Lipman moved to approve the offer-in-compromise. Commissioner Wren seconds. All in favor. Motion carries.

VI. Informational Items:

Material was provided to the Commission for the following informational Items.

- 1) Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- 2) Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

VII. BRIEFING:

A. Briefing to/from the Commission and the Executive Director.

Director Contine stated the Department of Taxation is now going to be overseeing the medical marijuana establishment program. The responsibilities that were previously at the Department of Behavioral Health will now be at the Department of Taxation. The budget for the program has been moved to the Department of Taxation. The program staff will also move to the Department of Taxation. The Department of Behavior Health will still oversee the cardholder and patient processes.

The Governor's 10% tax ultimately did get voted on and approved by the Legislature. There will be an additional 10% retail tax on the adult use marijuana at the point of sale.

Chairman DeVold asked what the total tax is on marijuana.

Director Contine stated the cultivators of all marijuana will be subject to a 15% wholesale tax. This is based on the fair market value that is set by the Department of Taxation. The fair market value has been set for the first round. The 15% wholesale tax is distributed to the Department for the cost of implementing the program and to the distributive school account. The next tax event occurs on the retail transaction. For marijuana sold to medical cardholders, regular sales tax is charged. The 10% additional sales tax on adult use marijuana will go to the state's rainy day fund.

VIII. Next Meeting Date: August 14, 2017

IX. Public Comment.

Jim Hartman asked what the hurry is in Nevada for the July 1 early start. Colorado took a year. California will take a year. Alaska - a year. Washington - a year. Oregon - a year. Massachusetts – 18.5 months. Where did early start come from? It was never a subject of an agenda item for the Tax Commission. It was not debated by and never approved by the Tax Commission. Early start was never approved by a vote, discussion or action. This is a creation of the Executive Director. No hearings, no votes, no discussion, no action. The industry is very clear that they are not making any money in medical marijuana. They are crying out for recreational marijuana. There is pressure from the industry and from the government. This Commission is to be tough minded regulators. You are not enablers to bail out an industry that is in trouble. We have a task force that was appointed by the Governor. We are three months behind the task force pace in Colorado. In Colorado, it was nine and a half months before the first sale took place. In Nevada it is going to be one month. The report came out at the end of May and you are going to rush this program on July 1. How staffed up are you to do this process? Right now you have four people for the 1<sup>st</sup> of July. In Colorado, during their first year, they had over 50 people. Colorado now has 98 people. A huge piece of distribution has not been addressed or mentioned here. There is a lawsuit from the alcohol distributors. All of the commissioners should read the opinion, it is not praising the Department of Taxation. The Director went public in saying there was a lack of interest on the part of the alcohol wholesalers to be distributors. The judge has made it part of the record, there are 29 wholesale liquor distributors willing to be medical marijuana distributors. There is a lot that needs to be done before going forward. This Commission should look very closely at delaying this.

Grace Crosley stated she is concerned over an early start and the proper regulation of marijuana. Ms. Crosley stated she voted no on Question 2. Senate Bill 344 was passed by the Legislature to regulate the packaging, labeling, advertising and so forth, but it also limits local governments in regulating marijuana. The Department's regulations are all we get. Ms. Crosley is concerned the regulations do not protect the people. The Department was given one year to develop regulations, but they have not developed them, they have developed temporary regulations that are weaker than what the eventual regulations will be. There is no need for that. Instead of being the fastest state, we should be the best regulated state. It seems to be just about tax revenue. If you are concerned about the black market, it is already here. The black market is still thriving in Colorado, Oregon and Washington, and has in fact increased a bit. Rolling out recreational sales is not going to make it go away. We are relying on you. You are financial experts, not experts on marijuana or health. We need to be sure we protect non-users, children, adolescents, and people in apartments with poor ventilation.

Susan Morrison, a Washoe County resident, is particularly concerned with Judge Wilson's ruling that the Department is in violation of the actual initiative that was voted on by the constituents that authorized exclusive rights to the liquor distributors for the first 18 months. This is not happening at this point and the Department made a decision to go ahead on July 1 and to allow dispensaries to sell what they have on hand. Ms. Morrison asked, between now and Saturday, who from the Department will be going to all of the dispensaries to take inventory to ensure that they follow the rules. Who will determine what marijuana the distributors have on hand? Will we trust the dispensary that they will only sell the medical marijuana they have on hand as recreational on July 1?

Director Contine stated that the program was going to start on July 1. The Legislature determined that they would combine the programs and streamline the tax rate. The difference in the sales that will occur at the retail store that also is a dispensary is the people that purchase with a medical card

will be purchasing the medical product. There are also a few differences in the packaging rules because the bill that we made effective today is slightly different for the medical purchasers. That bill is not effective until October 1<sup>st</sup>. The difference will occur at the dual licensed facility. Nobody will be selling adult use marijuana that doesn't have a retail license. The programs are combined now, so we have the combined staff. By the time we hire all of the people that were given to us in this budget cycle, combined with the staff of the medical program, we will have about 50 people. That is how we will regulate them.

X. Items for Future Agendas.

No items were discussed.

XI. Meeting adjourned.