

NEVADA TAX COMMISSION MEETING

MEETING MINUTES

Gaming Control Board
1919 College Pkwy, Room 100
Carson City, Nevada

Gaming Control Board
Grant Sawyer State Office Building
555 E Washington Avenue, Room 2450
Las Vegas, Nevada

February 8, 2016
9:00 a.m.

Commission Members Present:

Joan Lambert, Chairman
Robert R. Barengo, Commissioner (via telephone)
Ann Bersi, Commissioner
Thom Sheets, Commissioner
John E. Marvel, Commissioner
Craig Witt, Commissioner
James DeVold, Commissioner

Commission Members Absent:

George Kelesis, Commissioner

Chairman Lambert called the meeting to order at: 9:01 a.m.

Director Contine administered an oath to all parties testifying at today's meeting.

I. **Public Comment.

Chairman Lambert brought attention to the retirement of Carole Vilardo of the Nevada Taxpayers Association.

Director Contine introduced and welcomed Anne Thornley as the new President of the Nevada Taxpayers Association.

II. Consideration for Approval of the December 7, 2015 Nevada Tax
Commission Meeting Minutes.

Commissioner DeVold made a motion to approve the December 7, 2015 Nevada Tax Commission Meeting Minutes. Commissioner Witt seconded the motion. All in favor. Motion carried.

III. CONSENT CALENDAR¹:

A. Matters of General Concern:

1) Bonds Administratively Waived (Sales/Use Tax):

- a) Bazan Capital Venture LLC
- b) Three Deserts of Nevada LLC
- c) High Country Commercial Refrigeration Inc.
- d) Knockout Sports Bar & Grill LLC
- e) Nutrishop Reno LLC
- f) Silver Screen East Inc.
- g) David A Floyd
- h) PLS Restaurants Inc.
- i) Hair Studio Inc.
- j) SPB Ventures LLC, dba Zest Bistro & Bar
- k) SA Smoke Shop LV LLC
- l) Spotlight LV LLC, The

B. Consideration for Approval of Payment Plan Request: New Payment Plans (Sales/Use and/or Modified Business Tax):

- 1) Ready Golf Inc.

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

- 1) Anna's Linens, Inc.
- 2) Chocolate Magic Las Vegas LLC dba Hersheys Chocolate World Attraction Las Vegas
- 3) Summerlin Vision Center
- 4) Black Star 88 LLC
- 5) Brady Linen Services LLC
- 6) PAE Applied Technologies LLC
- 7) Master Tech Auto LLC
- 8) Antonio's Auto Glass
- 9) Border Construction Specialties, LLC
- 10) Bridgestone Americas Tire Operations LLC
- 11) Carter's Retail Inc.
- 12) Disney Store USA LLC
- 13) E & H Distributing
- 14) Eldorado Resorts Corp.
- 15) Family Music Centers Inc.
- 16) Kahunaville at Las Vegas Inc.
- 17) Las Americas
- 18) New Castle Corp.
- 19) Ralph's Grocery Company
- 20) Ramparts Inc.
- 21) URS Federal Support Services
- 22) US Composite Pipe South, LLC
- 23) West Wind Aviation, Inc.

24) Pete Findlay Automotive Inc.

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

- 1) Clear Wireless LLC
- 2) Solar City Corporation

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

- 1) Exsel Exhibits
- 2) RTC Industries, Inc.
- 3) Novocure, Inc.
- 4) Rohde & Schwarz USA Inc.
- 5) Lacquer Craft Hospitality, Inc.
- 6) Santa Maria Advertising Corp.
- 7) VitalSmarts, LLC
- 8) Restoration Hardware, Inc.
- 9) Design Within Reach, Inc.
- 10) MSCI, Inc.

F. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (Sales/Use and/or Modified Business Tax)

- 1) S. Thomas Peters for Beale Street Blues Company dba BB King Blues Club

West Wind Aviation, Inc., Solar City Corporation and S. Thomas Peters for Beale Street Blues Company dba BB King Blues Club were pulled from the Consent Calendar for further discussion.

Commissioner Barengo made a motion to approve the Consent Calendar as a whole, excluding West Wind Aviation, Inc., Solar City Corporation and S. Thomas Peters for Beale Street Blues Company dba BB King Blues Club. Commissioner Sheets seconded the motion. Motion carried unanimously.

Item III. C. 23) West Wind Aviation, Inc.

Brenda Rubacalva, Revenue Officer III, appeared on behalf of the Department of Taxation. Ms. Rubacalva informed the Commission that the penalty was previously waived, and after further review, the Department is now requesting interest also be waived.

Commissioner DeVold made a motion to approve the waiver for West Wind Aviation, Inc. Commissioner Witt seconded the motion. Motion carried unanimously.

Item III. D. 2) Solar City Corporation

Leslie Helget, Auditor III, appeared on behalf of the Department of Taxation.

Commissioner Sheets brought attention to the recent news regarding layoffs with rooftop solar power companies and asked if the Taxpayer will succeed in providing 269 new primary jobs for a period of 4 years.

Leslie Helget stated that the company hired 870 employees originally and they have had some layoffs. The Department received an e-mail from the Taxpayer stating they will continue to employ 269 primary jobs at the average hourly rate of \$20.10.

Director Contine stated that she has had assurance from the Taxpayer and from GOED that they will succeed with their contract. The Taxpayer will be monitored.

Commissioner Marvel made a motion to approve the requested credit. Commissioner Bersi seconded the motion. All in favor. Motion carried.

Item III. F. 1) S. Thomas Peters for Beale Street Blues Company dba BB King Blues Club Vivienne Rakowsky, Deputy Attorney General, and Mary Patton, Tax Program Supervisor III, appeared on behalf of the Department of Taxation.

A pending decision from a Nevada Supreme Court case involving the Mirage Hotel and Casino allegedly owing money for meals that were charged to rooms was discussed.

Mary Patton stated that the only potential responsible person identified was S. Thomas Peters.

Commissioner Sheets made a motion to approve the Settlement Agreement. Commissioner Bersi seconded the motion. Motion carried unanimously.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

- A. Taxpayer's Appeal of Treasurer's Denial of Relief from Penalty and Interest on Property Taxes Per NRS 361.4835:
1) Las Vegas Golf Club

Terry Rubald, Deputy Director, appeared on behalf of the Department of Taxation.

Tina Poff appeared on behalf of the Clark County Assessor.

Jennifer Treadway, Petitioner, was present via telephone on behalf of the Taxpayer.

Commissioner DeVold made a motion to uphold the Department of Taxation's denial of the request. Commissioner Witt seconded the motion. All in favor. Motion carried.

V. COMPLIANCE DIVISION:

- A. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
1) Prapa Benpard

Lizette Arceo, Revenue Officer III, appeared on behalf of the Department of Taxation. Ms. Arceo reviewed the material that was submitted to the Commission.

Prapa Benpard, Taxpayer, was present.

There were no questions from the Commission.

Commissioner Witt made a motion to approve the Offer-In-Compromise. Commissioner DeVold seconded the motion. All in favor. Motion carried.

2) Antonina Tillman

Lizette Arceo, Revenue Officer III, appeared on behalf of the Department of Taxation. Ms. Arceo reviewed the material that was submitted to the Commission.

Antonina Tillman, Taxpayer, was present.

There were no questions from the Commission.

Commissioner Marvel made a motion to approve the Offer-In-Compromise. Commissioner Sheets seconded the motion. All in favor. Motion carried.

3) Manouchehr Dezfooli

Lizette Arceo, Revenue Officer III, appeared on behalf of the Department of Taxation. Ms. Arceo reviewed the material that was submitted to the Commission.

There were no questions from the Commission.

Commissioner Sheets made a motion to approve the Offer-In-Compromise. Commissioner Bersi seconded the motion. All in favor. Motion carried.

4) Van Lee

Lizette Arceo, Revenue Officer III, appeared on behalf of the Department of Taxation. Ms. Arceo reviewed the material that was submitted to the Commission.

Van Lee, Taxpayer, was present.

There were no questions from the Commission.

Commissioner Bersi made a motion to approve the Offer-In-Compromise. Commissioner Sheets seconded the motion. All in favor. Motion carried.

5) Gina Rapisura

Dalia Andrade, Revenue Officer III, appeared on behalf of the Department of Taxation. Ms. Andrade reviewed the material that was submitted to the Commission.

Gina Rapisura, Taxpayer, and John Bartlett, Esq. were present.

Commissioner DeVolld made a motion to approve the Offer-In-Compromise. Commissioner Marvel seconded the motion. All in favor. Motion carried.

B. Petition for Reconsideration of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes (Sales/Use Tax):

- 1) Hela Bima World, Nevada N/P Corp.

Melissa Flatley, Deputy Attorney General, appeared on behalf of the Department of Taxation.

Rich McGuffin, Esq. appeared on behalf of the Taxpayer.

Ms. Flatley reviewed the material that was submitted to the Commission.

Mr. McGuffin stated Hela Bima World is a Nevada Non-Profit organization and is fully operational in Nevada.

Ms. Flatley stated that the reason for denial is that the Company has not provided proof of charitable services and asked that the Commission uphold the decision to deny the exemption.

Mr. McGuffin stated the workshops and seminars that Hela Bima performs in Nevada raise money for Sri Lanka.

Commissioner Marvel made a motion to uphold the denial with the understanding that the Taxpayer can re-apply for the exemption. Commissioner Barengo seconded the motion. All in favor. Motion carried.

- C. Pursuant to NRS 360.265, consideration for approval of the removal of the names of certain debtors, including the amount of tax, penalty and interest, from the records of the Department for debts exceeding 5 years due and collection being impossible or impracticable

Kathy Williams, Tax Program Supervisor II, appeared on behalf of the Department of Taxation. Ms. Williams reviewed the request of removal of the account debts.

Commissioner Barengo thanked Ms. Williams for addressing the questions made on these accounts.

Commissioner DeVolld asked what happens to the accounts after these debts are removed.

Kathy Williams stated these debts are not referred to a collection agency. Liens are filed either on the business or the person, depending on the type of business.

Sumiko Maser, Chief Deputy Director, stated smaller debts are sent to the Controller's Office for collection on a quarterly basis.

Commissioner Barengo made a motion to approve the removal of debtors. Commissioner Witt seconded the motion. All in favor. Motion carried.

Chairman Lambert took a moment to recognize the retirement of Carole Vilardo from the Nevada Taxpayer's Association. Chairman Lambert reviewed Ms. Vilardo's many accomplishments and thanked Ms. Vilardo for her work.

Director Contine thanked Ms. Vilardo for her support and knowledge.

VI. COMPLIANCE DIVISION:

A. 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).
- 3) Annual Report for Delinquency Payments (dates as indicated)

There were no questions from the Commission with regard to the informational items.

VII. BRIEFING:

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

Director Contine brought attention to a current issue relating to Burning Man. The Director informed the Commission that a letter was sent to Burning Man from the Department of Taxation last week.

With regard to the Live Entertainment Tax and Passenger Transportation Tax, LCB will be releasing their draft regulations soon.

A regulation workshop on the Commerce Tax is scheduled on February 23, 2016 at 1:00 p.m. A draft regulation is expected to be available for review before the scheduled workshop.

Dena Smith, Chief Administrative Law Judge, and Director Contine have interviewed additional candidates for the Administrative Law Judge position. The interviews are complete and a meeting will be scheduled with the Administrative Law Judge Subcommittee or with the Tax Commission.

Several industry groups have contacted the Department of Taxation for Commerce Tax review and/or training.

There were no questions from the Commission.

VIII. Discussion and Consideration of Draft Commerce Tax Return (for possible action)

Director Contine stated that the only change to the draft Commerce Tax Return was the addition of a checkbox. Currently the draft shows a \$2 million threshold.

Paulina Oliver reviewed the reasons for the changes to the Tax Return and for the \$2 million threshold.

Chairman Lambert asked what happens when the regulation comes back and they do not match the form.

Director Contine stated that the only real issue may be the requirement to provide information if you have gross revenue under \$4 million.

Commissioner Marvel is concerned about the \$2 million threshold. This is 50% of the total.

Commissioner DeVold is also concerned. The number should be closer to \$4 million.

Chairman Lambert asked for public comment.

Carole Vilardo, of the Nevada Taxpayer's Association, suggested adding "I declare under the penalty of perjury" to the form. In reference to the instructions, Ms. Vilardo suggested that if a taxpayer checks the box, the taxpayer should not need to go any further. Ms. Vilardo also suggested changing the language under the second bullet to preserve records for four years from the date of filing, payment or litigation, whichever is later. In Section III, Ms. Vilardo would like to be sure it does refer to the NAICS code.

Carole Vilardo expressed what a pleasure it has been working with everyone.

Director Contine stated the statement of "Penalty of Perjury" will be included on the form.

Commissioner Barengo suggested raising the threshold on the form to \$3 million. Commissioner Barengo stated that \$3 million would possibly encompass another 5%.

Commissioner Sheets suggested increasing the number on the form to \$4 million. This would not limit the Department's ability to audit. People are burdened enough with tax information and forms.

Commissioners Bersi, Marvel, Lambert and Barengo agreed with Commissioner Sheets.

Commissioner Sheets also suggested seeing a stop sign on the form rather than on the instructions.

Director Contine stated that the suggestions will be incorporated and can be discussed further at the March meeting.

There were no further comments.

IX. Next Meeting Dates.

- March 10, 2016 at 2:00 p.m. (Telephonic)
- April 4, 2016 at 9:00 a.m.

X. **Public Comment.

There was no public comment.

XI. Items for Future Agendas.

No items were discussed.

XII. Adjourn. 11:00 a.m.