

NEVADA TAX COMMISSION MEETING
MINUTES

Nevada Legislative Building
401 S. Carson Street, Room 2135
Carson City, Nevada 89701

Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E. Washington Ave., Room 4412
Las Vegas, Nevada 89101

October 7, 2019
9:00 a.m.

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

Members Present:

James DeVold, Chairman
Randy Brown, Commissioner
Craig Witt, Commissioner
Sharon Rigby, Commissioner
Tony Wren, Commissioner
Ann Bersi, Commissioner
Francine Lipman, Commissioner
George Kelesis, Commissioner

I. Public Comment.

There was no public comment.

Director Young administered an oath to all meeting participants.

II. Meeting Minutes:

- A. Consideration for Approval of the August 12, 2019 and September 9, 2019 Nevada Tax Commission Meeting Minutes.

Commissioner Witt made a motion to approve the meeting minutes of the August 12, 2019 and September 9, 2019 Nevada Tax Commission meetings. Commissioner Wren seconds the motion. All in favor. Motion carries.

III. CONSENT CALENDAR:

- A. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax, Modified Business Tax and/or Commerce Tax):
- 1) BSO First LLC
 - 2) Linear Technology LLC
 - 3) Pulte Mortgage LLC
 - 4) Schmueser & Associates LLC
 - 5) Sun Mountain Inc.
 - 6) Syneco Systems Inc.
 - 7) TIBA LLC
 - 8) URBAN-GRO Inc.

- 9) Nicholas R. Miller
 - 10) Alere Home Monitoring Inc.
 - 11) Wild Goose Canning Technologies Inc.
 - 12) Robert G. Goldstein
- B. Consideration for Approval of Payment Plan Request (Sales/Use Tax, Modified Business Tax and/or Commerce Tax):
- 1) Elite Auto Dealer Inc.
 - 2) Toy Shack LLC
- C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:
- 1) Deep Roots Medical, LLC dba Deep Roots Harvest
- D. Approval of Refund/Credit Request in Excess of \$250,000:
- 1) Aurora Diagnostics LLC dba Laboratory Medicine Consultants and Western Pathology
 - 2) Las Vegas Monorail Company
 - 3) Home Depot USA Inc.
- E. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (Sales/Use Tax, Modified Business Tax and/or Commerce Tax)
- 1) Sharp Transmissions Inc.
 - 2) RKS Associates, Inc.
 - 3) Radler Inc., dba Fones Gone Wild
 - 4) Heyvun, Inc. dba Stacks and Yolks
 - 5) Vegas Balloon Rides 2015, LLC
- F. Consideration to Appoint Assemblywoman Dina Neal and Shellie Hughes, Chief Deputy Executive Director, as Delegates to Streamlined Sales Tax pursuant to NRS 360B.110(5).

Commissioner Brown requested that items III. B. 1) Elite Auto Dealer Inc., III. B. 2) Toy Shack LLC, III. D. 1) Aurora Diagnostics LLC dba Laboratory Medicine Consultants and Western Pathology, and item F. be pulled for further discussion.

Commissioner Witt requested that item III. A. 12) Robert G. Goldstein be pulled for further discussion.

Commissioner Kelesis moved to approve the Consent Calendar excluding items III. B. 1), III. B. 2), III. D. 1), item III. F. and item III. A. 12). Commissioner Lipman seconds the motion. All in favor. Motion carries.

Commissioner Witt moved to approve item A. 12), the voluntary disclosure of Robert Goldstein. Commissioner Kelesis seconds the motion. All in favor. Motion carries.

Commissioner Brown stated that neither taxpayer, III. B. 1) Elite Auto Dealer Inc. or III. B. 2) Toy Shack LLC are paying in accordance with the payment plan.

Leticia Baltazar, Revenue Officer III, was present on behalf of the Department of Taxation. Ms. Baltazar stated Elite Auto Dealer is paying in accordance with the payment plan. The taxpayer did miss their February and March payments, but in May the payments were brought back to current and have been current ever since.

Diedra Armstrong, Revenue Officer III, was present on behalf of the Department of Taxation. Ms. Armstrong stated Toy Shack LLC has made late payments but the they are now current.

Commissioner Rigby made a motion to approve items III. B. 1) Elite Auto Dealer Inc. or III. B. 2) Toy Shack LLC. Commissioner Kelesis seconds the motion. All in favor. Motion carries.

Commissioner Brown mentioned there is a letter from the Department in the packet for Item III. D. 1) Aurora Diagnostics LLC dba Laboratory Medicine Consultants and Western Pathology that states their refund is approved. Commissioner Brown mentioned that the approval is to be by the Commission and asked that future letters state the same.

Commissioner Kelesis motioned to approve item III. D. 1) Aurora Diagnostics LLC dba Laboratory Medicine Consultants and Western Pathology. Commissioner Bersi seconds the motion. All in favor. Motion carries.

Item III. F. - Commissioner Brown disclosed that his employer works with Assemblywoman Dina Neal. Commissioner Brown recused himself from voting on this matter.

Commissioner Rigby moved to approve Item III. F. Commissioner Lipman seconds the motion. Commissioner Brown abstained from voting. All in favor. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

A. LOCAL GOVERNMENT SERVICES:

- 1) Consideration for Approval of Addendum to Previously Adopted 2020-2021 Bulletin 209, Assessment Instruction for Agricultural Land, to include Tables relating to the valuation of open-space golf course land and improvements.

Cheryl Erskine, Coordinator of Assessment Standards for Local Government Services, was present on behalf of the Department of Taxation.

Commissioner Witt moved to approve the Addendum to the previously adopted 2020-2021 Bulletin 209. Commissioners Rigby and Commissioner Lipman second the motion. Motion carries unanimously.

- 2) Determination and Allocation of Certification of Centrally Assessed 2020-2021 Secured and 2019-2020 Unsecured Unitary Property Valuations and Assessments pursuant to NRS 361.320, NRS 361.321 and 361.323.

Sorin G. Popa, Supervisor of the Centrally Assessed Division, was present on behalf of the Department of Taxation.

Jeffrey Mitchell, Deputy Director, provided an erratum to the previously provided material.

Mr. Popa stated the numbers changed due to receiving reports and information late.

Commissioner Rigby asked about the car lines and interstate transporting. The report states there was no reporting this year. Is there a way to check who is still operating and traveling through Nevada?

Mr. Popa stated Nevada is a self-reporting state and relies on what is reported.

Jeff Mitchell, Deputy Executive Director, added that the Department does send the reporting forms to all previous reporting companies.

Commissioner Lipman made a motion to approve the Certification of Centrally Assessed 2020-2021 Secured and 2019-2020 Unsecured Unitary Property Valuations and Assessments pursuant to NRS 361.320, NRS 361.321 and 361.323, including the corrections from the document received today. Commissioner Rigby seconds the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

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

1) Adam Schwartz

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation.

Adam Schwartz was present.

Commissioner Kelesis made a motion to approve the offer-in-compromise of Adam Schwartz. Commissioner Lipman seconds the motion.

Adam Schwartz stated he does not agree with the method of the Department.

Commissioner Kelesis withdrew his motion to approve.

Lizette Arceo, Tax Manager for the Department, stated it has been difficult to work with Mr. Schwartz. We have not collected from him in ten (10) years.

Commissioner Rigby moved to deny the offer-in-compromise of Adam Schwartz. Commissioner Wren seconds the motion. Commissioner Bersi stated she is opposed.

Chairman DeVold called a roll call vote: Commissioner Lipman – Aye; Commissioner Wren – Aye; Commissioner Rigby – Aye; Commissioner Witt – Aye; Commissioner Brown – Aye; Commissioner Kelesis – Aye; Commissioner Bersi – Aye; Commissioner DeVold – Aye. The offer-in-compromise of Adam Schwartz is denied.

2) Karen Borra

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation.

Derek Hatch was present on behalf of the Taxpayer.

Commissioner Lipman recused herself due to Mr. Hatch being a past student.

Commissioner Kelesis moved to approve the offer-in-compromise of Karen Borra. Commissioner Bersi seconds the motion. Commissioner Lipman abstained. All in favor. Motion carries.

3) Donald Kasdon

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation.

Kory Kaplan was present on behalf of the Taxpayer. Donald Kasdon was present.

Commissioner Brown mentioned a date of a field office visit listed in the documents and stated the year may be incorrect.

Adriane Roberts-Larson stated the year was 2007 and apologized for the error.

Commissioner Kelesis moved to approve the offer-in-compromise of Donald Kasdon. Commissioner Bersi seconds the motion. Commissioner Witt opposed the motion. The motion carries by majority.

4) Ellen Oipari

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation.

Ellen Oipari was present.

Commissioner Lipman moved to approve the offer-in-compromise of Ellen Oipari. Commissioner Kelesis seconds the motion. All in favor. Motion carries.

5) Michael Signorelli

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation.

Stephen Stein was present on behalf of Michael Signorelli.

Commissioner Bersi moved to approve the offer-in-compromise of Michael Signorelli. Commissioner Rigby seconds the motion. All in favor. Motion carries.

6) Gina Siripak

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation.

The Taxpayer was not present.

Commissioner Wren stated he believes the Taxpayer has paid their debt. Commissioner Wren made a motion to accept what has been paid to date as the final payment. Commissioner Brown seconds the motion. All in favor. Motion carries.

7) Steve and Alexandria Raeder

Diedra Armstrong, Revenue Officer III, was present on behalf of the Department of Taxation.

Steve and Alexandria Raeder were present.

Commissioner Brown made a motion to accept the offer-in-compromise of Steve and Alexandria Raeder. Commissioner Lipman seconds the motion. All in favor. Motion carries.

8) Daniel and Veronica Topchi

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

Daniel and Veronica Topchi were present.

Commissioner Kelesis moved to approve the offer-in-compromise of Daniel and Veronica Topchi. Commissioner Wren seconds the motion. All in favor. Motion carries.

9) Angelo A. Sosa

Richard Hilliard, Revenue Officer III, was present on behalf of the Department.

Richard Cunningham, Esq. was present on behalf of the Taxpayer.

Commissioner Kelesis made a motion to accept the offer-in-compromise of Angelo A. Sosa. Commissioner Bersi seconds the motion. All in favor. Motion carries.

10) Serena McEldowney

Richard Hilliard, Revenue Officer III, was present on behalf of the Department.

Serena McEldowney was present.

Commissioner Kelesis made a motion to accept the offer-in-compromise of Serena McEldowney. Commissioner Lipman seconds the motion. 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) Sia Amiri

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation.

Sia Amiri was present.

Commissioner Kelesis moved to accept the offer-in-compromise of Sia Amiri. Commissioner Bersi seconds the motion. Commissioner Lipman opposes the motion. Motion carries by majority.

2) Arnold L. Hylar

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department of Taxation.

The Taxpayer was not present.

Commissioner Rigby moved to approve the denial of the offer-in-compromise. Commissioner Wren seconds the motion. All in favor. Motion carries.

C. Continuation from the Nevada Tax Commission meeting held on May 6, 2019. The Taxpayer's Appeal of the Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:

1) Bob Kingston Productions, Inc. dba Saddle N Spurs Saloon

Louis Csoka, Deputy Attorney General, was present on behalf of the Department.

Jennifer Hampton, Auditor, was present on behalf of the Department of Taxation.

Bill Steves, Audit Manager, was present on behalf of the Department of Taxation.

Robert and Melissa Kingston were present.

Commissioner Kelesis made a motion to uphold the Administrative Law Judge's Decision and encouraged the Taxpayer work with the Department on submitting an offer-in-compromise. Commissioner Bersi seconds the motion. All in favor. Motion carries.

D. Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:

1) LV Park and Sell

Robert Werbicky, Deputy Attorney General, was present on behalf of the Department of Taxation.

Preston Howard, Esq. was present on behalf of the Taxpayer.

Michael Schwartz was present on behalf of the Taxpayer.

Commissioner Rigby made a motion to uphold the Taxpayer's appeal of the Administrative Law Judge's decision. Commissioner Kelesis seconds the motion. Commissioner Lipman opposes the motion. Motion carries by majority.

2) Living Ecology, Inc.

Robert Werbicky, Deputy Attorney General, was present on behalf of the Department.

Robert Rosenthal, Esq. was present on behalf of Living Ecology Inc.

Commissioner Kelesis made a motion to uphold the Administrative Law Judge's decision. Commissioner Witt and Commissioner Lipman second the motion. All in favor. Motion carries.

3) Beanners, LLC dba Viva Mercados Mexican Bar & Grill
Peter Keegan, Deputy Attorney General, was present on behalf of the Department of Taxation.

Raymond Dyer with Omni Financial was present telephonically on behalf of the Taxpayer.

Ray Solomon and Carolina Huey were present on behalf of the Taxpayer.

Mary Patton, Tax Program Supervisor, was present on behalf of the Department.

Commissioner Kelesis moved to uphold the Administrative Law Judge's decision and to suspend the revocation for twelve (12) months. The matter should be Reviewed by the Commission in twelve (12) months, in which time the Taxpayer must stay current with payments to the Department. Commissioner Wren seconds the motion. All in favor. Motion carries.

4) Hwang Corporation Inc. dba Juns Korean Restaurant
Louis Csoka, Deputy Attorney General, was present on behalf of the Department.

The Taxpayer was not present.

Commissioner Kelesis moved to uphold the Administrative Law Judge's decision. Commissioner Bersi seconds the motion. All in favor. Motion carries.

5) HotSpring Spas LTD.
Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Department.

Jennifer Lewis, Audit Tax Manager, was present on behalf of the Department.

Geoffrey Giles, Esq., was present on behalf of the Taxpayer.

Commissioner Lipman made a motion to uphold the Administrative Law Judge's decision, to abate the rest of the penalties, and to request that the Taxpayer pay the interest. Commissioner Wren seconds the motion. All in favor. Motion carries.

E. Department's Request for the Reconsideration of the Nevada Tax Commission's Order affirming the Administrative Law Judge's Order to Cease Business Operations:

1) Enterprise Eighty-Eight, Inc. dba BoHo Furniture Gallery
Peter Keegan, Deputy Attorney General, was present on behalf of the Department.

Stephanie Allen was present on behalf of the Taxpayer.

Commissioner Kelesis moved to grant the Department's request for reconsideration. Commissioner Bersi seconds the motion. All in favor. Motion carries.

F. Consideration for Adoption of Permanent Regulation LCB File No. R002-17:

- 1) Adoption of a Regulation relating to taxation; revising provisions governing the application of sales and use taxes to charges for postage or the transportation or shipping of tangible personal property in connection with a sale of that property; and providing other matters relating thereto.

Shellie Hughes, Chief Deputy Executive Director, was present on behalf of the Department.

Vivienne Rakowsky, Deputy Attorney General, was present on behalf of the Department.

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Department.

Paulina Oliver, Deputy Director, was present on behalf of the Department.

Commissioner Rigby recused herself from this topic due to being on the board of directors of the Nevada Taxpayers Association. Commissioner Rigby stated she participated in the discussion and the decision to submit the comments that were submitted.

Commissioner Brown recused himself from this matter. The Retail Association of Nevada placed a brief on this item and Commissioner Brown will be joining their board of directors next month.

Commissioner Kelesis made a motion to send this regulation back for a minimum of one (1) workshop, resubmit the regulation, and to get it done within a two (2) year window. Commissioner Witt seconds the motion. Commissioner Bersi and Commissioner Lipman were opposed. Commissioner Rigby and Commissioner Brown abstained from voting.

Chairman DeVold called a roll call vote. Commissioner Lipman – Nay; Commissioner Wren – Aye; Commissioner Rigby – Abstain; Commissioner Witt – Aye; Commissioner Brown – Abstain; Commissioner Kelesis – Aye; Commissioner Bersi – Nay; Chairman DeVold – Nay; (3 to 3 – deadlock). Chairman DeVold changed his vote to Aye and asked that the regulation be sent back to the Legislative Counsel Bureau. Motion carries by majority.

- G. Consideration as to whether to Appeal the Decision Issued by First Judicial District Court in Case No. 18OC002381B, Granting the Petition for Judicial Review filed by Angelica Textile Services, Inc. (reversing the Decision of the Nevada Tax Commission dated August 30, 2018 which affirmed the Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge dated May 16, 2018).

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Department of Taxation.

Commissioner Bersi disclosed that Angelica was her client in private practice twenty-five (25) years ago. Commissioner Bersi stated she will vote on this matter.

Senior Deputy Attorney General, Andrea Nichols, stated she is recommending against appealing this matter to the Supreme Court.

Commissioner Kelesis made a motion not to appeal this matter. Commissioner Lipman seconds the motion. All in favor. Motion carries.

VI. INFORMATIONAL ITEMS:

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

There were no questions.

VII. BRIEFING:

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

Director Young: The Department is working on the implementation of AB445, which is the marketplace facilitator bill. We are also working on a contract for the feasibility study for the replacement of the tax modernization system or TAS system. The Department is implementing a cannabis case management system software process for the marijuana enforcement division.

The Department is working on an office expansion in the Reno office to add additional space for the Marijuana Enforcement Division and to create dedicated meeting rooms for public meetings. We are reorganizing space in Carson City to accommodate staffing increases and adding space in Henderson for additional dedicated meeting space.

The Department is also currently working on a transition plan for the Marijuana Enforcement Division to become the Cannabis Compliance Board. A team has been created.

On a sad note, Paulina Oliver will be retiring on December 3, 2019. In a report from Human Resources, twenty-five percent (25%) of the Department's staff can retire within the next five (5) years.

Deputy Director Jorge Pupo is no longer with the Department. Tyler Klimas has been appointed by the Governor as the Executive Director of the Cannabis Compliance Board in a transitory role with the Marijuana Enforcement Division.

Tyler Klimas was present and stated we have a tall task ahead of us. He has met the staff and we have a great team. Mr. Klimas thinks the staff is ready, and the industry is also ready for this transition.

Commissioner Bersi stated that working with Paulina Oliver for the last twelve (12) years has been a pleasure and she is sorry to see her go.

Chairman DeVolld stated that Paulina is smart, professional, knowledgeable and we are losing a terrific resource. Chairman DeVolld thanked Paulina for all her time and dedication to the State of Nevada and wished her the very best in retirement. Thank you, Paulina.

Paulina Oliver thanked everyone for the kind words.

B. Presentation on Net Proceeds of Minerals.

Jeff Mitchell, Deputy Director, was present and gave an overview of the Net Proceeds of Minerals.

VIII. Next Meeting Date: December 9, 2019.

IX. Public Comment.

Peter Krueger mentioned a point of possible clarification to Chairman DeVolld regarding R002-17 (Item V. F. 1). The vote was to return to the item to the Legislative Commission, do you mean to the Department of Taxation.

Chairman DeVolld stated the regulation will go back to the Legislative Council Bureau for reconsideration, public workshop and comment. It should go back to the start.

X. Items for Future Agendas.

No items were discussed.

XI. Meeting adjourned at 1:47 p.m.