

NEVADA TAX COMMISSION MEETING
MINUTES

July 26, 2022
3:30 p.m.

Nevada Department of Taxation
1550 E. College Parkway
Carson City, Nevada 89706

Chairman Wren called the meeting to order at 3:30 p.m.

Members Present (via Zoom):

Tony Wren, Chairman
Ann Bersi, Commissioner
Francine Lipman, Commissioner
Jeff Rodefer, Commissioner
Randy Brown, Commissioner
H. Stan Johnson, Commissioner
Sharon Byram, Commissioner
Craig Witt, Commissioner

I. Public Comment.

There was no public comment.

Director Hughes administers an oath to all parties testifying.

II. CONSENT CALENDAR:

A. Consideration for Approval of the Recommended Settlement Agreements and Stipulations

- 1) Settlement Agreement resolving the following matters: ACC Enterprises, LLC v. State of Nevada, Department of Taxation (District Court Case No. A-19-786888-J, pending in the 8th Judicial District); ACC Enterprises, LLC v. Department of Taxation (Case No. 512940 - petitioned audit deficiency); and Cannabis Compliance Board vs. ACC Enterprises (C130, RC130), CCB Case No. 2022-97 (CCB regulatory matter).

David Pope, Chief Deputy Attorney General, Natasha Gebrael, Deputy Attorney General and L. Kris Rath, Senior Deputy Attorney General, were present on behalf of the Nevada Department of Taxation.

Commissioner Lipman asked that the agreement be reviewed by the Attorney General's Office for the Commission.

Deputy Gebrael reviewed the agreement for the Commission.

Commissioner Rodefer asked for a brief summary of the plan of correction to be sure there will be a plan of compliance going forward.

L. Kris Rath, Senior Deputy Attorney General, stated that every time a case is settled, a plan of correction is required to be submitted to the Cannabis Compliance Board (CCB). For the CCB

violations specific to cannabis, they have redone their standard operating procedures and updated their policies and procedures. As for the payment of taxes, a new bookkeeper was obtained. They have policies and procedures in place to be sure the bookkeeper and manager will jointly be responsible. The General Manager is to update the accounts payable account weekly regarding monthly sales to be sure that funds are available to pay taxes. Regulations of the CCB allow for progressive discipline.

Steven Mack, Esq., on behalf of Strata Growth, LLC, was present. Mr. Mack stated Strata Growth, LLC is a new entity and new owner of the business. Strata Growth, LLC purchased the assets and the liability of the business.

John Savage, Esq., Counsel for the Receiver and appointed over ACC Enterprises, LLC (ACC), was present. Mr. Savage stated Howard Misle was the only individual licensee and he passed away in July 2021. The original payment plan went into effect on August 5, 2020. Once Mr. Misle passed away, the CCB held an emergency meeting because there was not another individual licensed to be responsible for these licenses. The CCB approved Mr. Leonard's qualifications to be appointed as the Receiver. The Eighth Judicial District Court subsequently appointed Mr. Leonard as Receiver, per Court's Order in August 2021. It was confirmed that Mr. Misle was the sole manager of the operations of the business. Mr. Kessler was not involved in any of the prior management of the business. All tax liabilities and other violations happened while Mr. Misle was the sole manager. Since the Receiver was appointed, we have been able to maintain current status on the payment plan, thanks to Strata Growth, LLC taking over as manager and taking over some of the shortfalls. We have been working with the CCB and the Department of Taxation in getting the issues resolved. The disputed tax liability that is subject to challenge in the administrative action were related to raw cannabis that ACC provided to other licensed manufacturers pursuant to a joint venture agreement whereby they did not receive payment for the product at the time of the transfer and were supposed to be paid at the time of the sale of the final product. ACC did not receive full payment, and in some cases, no payment, for that cannabis, which is why there was not money available to pay a large portion of the disputed tax liability. With regard to the civil litigation, Adam Fulton, Esq., Litigation Counsel for Respondent, ACC Enterprises LLC, is on the call. The civil case is related to the ACC's lost opportunity to obtain a retail cannabis license at the time that the Department of Taxation was enforcing the licenses.

Commissioner Byram asked if the disputed tax amount will continue to be disputed.

Mr. Savage stated the settlement will resolve that tax dispute and the \$450,000 payment plan will include part of that disputed tax liability. Strata Growth, LLC will be assuming that tax liability and making payments going forward.

Commissioner Lipman asked about litigation between ACC and the Department of Taxation regarding a license dispute. Is this dismissed with prejudice as well.

Ms. Gebrael answered that it will be dismissed with prejudice.

Commissioner Rodefer asked if between the new payment plan, the personal guarantees and the liens, do we feel comfortable that the tax liability is secure.

Ms. Gebrael stated that Strata Growth, LLC does understand and agrees that they will execute guarantees and they will submit financials for the \$12,500 per month payment plan. This is the largest employer in Nye County, and this was considered when looking at the possibility of closing the business.

Mr. Savage stated that the Receiver filed a motion with the Receivership Court to cease operations of ACC because it was discovered that the business was insolvent after a period of time. Internal ownership disputes were being resolved and we realized there was more debt than the Receiver knew. In order to keep the business operating, Strata Growth LLC agreed to cover the shortfall pending this asset sale and transfer. Strata Growth LLC is paying State tax liability and Federal tax liability.

Commissioner Byram made a motion to approve the Settlement Agreement. Commissioner Lipman seconded the motion. All in favor. Motion carries.

III. Next Meeting Date: August 15, 2022

IV. Public Comment.

There was no public comment.

V. Meeting adjourned.