

STATE OF NEVADA
Minutes for the
Nevada Occupational Safety and Health Review Board
Las Vegas, Nevada

February 12, 2025

Jorge Macias (Management)
William Spielberg (Labor)
Scott Fullerton (Labor)
Tyson Hollis (Public at Large)
Gled Bautista (Management)

The meeting of the State of Nevada Occupational Safety and Health Review Board was called to order by Chairman Jorge Macias on February 12, 2025.

The meeting was duly noticed in compliance with the Nevada Open Meeting Law to take place at the Division of Industrial Relations, 2300 West Sahara Avenue, Suite 750, Las Vegas, Nevada, 89102. In accordance with the Nevada Open Meeting law, each Board member participating in the meeting either had before him all written materials to be considered during the deliberations or was obliged to refrain from voting if not in possession of the materials.

The Chairman of the Board, Jorge Macias, called the Board meeting to order at approximately 9:04, a.m.

1. Roll Call.

The Board Chairman called the roll of the Board after convening the Board for the meeting to conduct its business. Board members present for the meeting were Board Chairman Jorge Macias, Secretary William Spielberg, and Board members Scott Fullerton, Tyson Hollis and Gled Bautista. As all five members of the Board were present, a quorum of the Board was present enabling the Board to conduct its business.

Also present were Charles R. Zeh, Esq., the law offices of The Law Offices of Charles R. Zeh, Esq., Legal Counsel to the Review Board and Salli Ortiz, Esq., Counsel to the Chief Administrative Officer of the Occupational Safety and Health Administration of the Division of Industrial Relations of the Department of Business and Industry, State of Nevada. John Bull, a non-lawyer, was also present on behalf of John Bull Builders, LLC, a case to be heard by the Board on this date.

The Notice of Meeting was duly provided under Chapter 618 of the Nevada Revised Statutes and in accordance with NRS Chapter 241 of the Nevada Open Meeting Law. A copy of the Notice is attached to these Minutes and made a part hereof as though fully set forth herein.

Notice of the meeting was posted or published, electronically or otherwise, consistent with the requirements of the Nevada Open Meeting Law as amended by AB 253.

Notice was posted at the following locations:

The Law Offices of Charles R. Zeh, Esq.
6900 South McCarran Blvd., Suite 2040
Reno, Nevada 89509

Division of Industrial Relations
2300 West Sahara Street, Suite 300
Las Vegas, NV 89102

This Notice was also timely posted at the following website addresses:

State of Nevada, Department of Business and Industry, Industrial Relations (DIR) website at <https://dir.nv.gov/Meetings/Meetings>

Nevada Public Notices at <https://notice.nv.gov>

2. Public Comment.

The Board Chairman called for public comment. There was none offered at site of the meeting. Board Legal Counsel advised that his office had received no public comment, either.

3. Contested Case Hearings.

The Board Chairman then called the Item 3 to be heard. Board counsel advised the Board that with the exception of John Bull Builders, LLC, LV 24-2278, the remaining matters remaining matters on the contested case hearing Agenda for the Board meeting of this date had either been settled or otherwise had their matters vacated and continued.

John Bull Builders, LLC, LV 24-2278 was the only matter left to be heard on the contested docket for this date. The Chairman, therefore, called John Bull Builders, LLC, matter for hearing.

Appearing on behalf of the complainant, the Chief Administrative Officer of the Occupational Safety and Health Administration of the Division of Industrial Relations of the Department of Business and Industry, State of Nevada, was Salli Ortiz, Esq. John Bull the owner of John Bull Builders, LLC, appeared on behalf of John Bull Builders, LLC. Mr. Bull is a lay person and not a lawyer, but is, as indicated, the owner of the company.

The State offered exhibits 1 through 3, consisting of pages C-1 through C-426 for admission into evidence. Mr. Bull objected to the admission of all of the exhibits. Board Chairman, Macias, admitted the three exhibits in their entirety offered by the State, subject to any specific objection that the respondent might have when an exhibit was specifically referenced or discussed as part of the evidence in the case. Mr. Bull offered no exhibits on behalf of the respondent other than payroll records.

Those payroll records had not been forward to counsel for the complainant for review in advance of the hearing in this matter. Counsel for the complainant, therefore, objected to the admission of any exhibit offered on behalf of the respondent. The Board Chairman deferred ruling on any of the respondent's exhibits, reserving a ruling at the time a specific exhibit might be offered for admission into evidence by the respondent.

At the commencement of the hearing, the State indicated that it would call three witnesses to testify as a part of the State's case in chief. Mr. Bull indicated that other than himself, he would be calling no other witnesses to testify on behalf of John Bull Builders, LLC.

The parties waived opening statements. The State called three witnesses, Steve Anderson, CSHO, who investigated the complaint in this case, and two others, namely, Pedio Ruelas and Adrienne Zacarias. John Bull called no witnesses and when offered the opportunity to testify himself on behalf of John Bull Builders, LLC, he declined. Mr. Bull was given the opportunity to cross-examine the State's witnesses, an opportunity he chose to exercise.

Both parties waived opening statements. They presented their case in chief and were given the opportunity for and took advantage the opportunity to offer closing arguments.

The State relied primarily upon the testimony of Steve Anderson, the CSHO, that investigated the case and determined there were violations requiring the issuances of citations. Mr. Bull offered no witnesses and declined the opportunity to testify on behalf of John Bull Builders, LLC. Mr. Bull was given the opportunity to cross-examine the State's witnesses, an opportunity he choose to exercise.

The State brought five citations consisting of ten items ranging from serious, repeat-serious and other than serious. The total amount of fines sought to be levied by the State consisted of \$126,743. At the conclusion of the hearing on the merits, the Board chose to immediately deliberate. At the conclusion of the deliberation, it was moved by Tyson Hollis, seconded by Scott Fullerton, to uphold each of the citation items. As follows:

- Citation 1, Item 1: Serious, with a fine of \$14,195;
- Citation 1, Item 2: Repeat-Serious, with a fine of \$10,141;
- Citation 1, Item 3: Repeat-Serious, with a fine of \$10,141;
- Citation 2, Item 1: Repeat-Other, with a fine of \$2,028;
- Citation 3, Item 1: Repeat Regulatory, with a fine of \$70,976;
- Citation 3, Item 2: Repeat Regulatory, with a fine of \$400;
- Citation 4, Item 1: Serious, with a fine of \$6,084;
- Citation 4, Item 2: Serious, with a fine of \$5,071;
- Citation 4, Item 3: Serious, with a fine of \$7,098; and
- Citation 5, Item 1: Other-Than-Serious, with a fine of \$569.

As indicated the sum total of these fines levied and assessed by the action of the Board here amounted to \$126,743. The motion was adopted, with an unanimous vote of 5 in favor and 0 against.

Chairman Macias then called the Board to convene on the administrative portion of the Agenda for the meeting of this date.

4. Administrative Meeting.

- a. Approval of previous Review Board meeting minutes for January 8, 2025.

Board counsel advised that these minutes will be submitted for Board review during the March 2025 meeting of the Board.

The Chairman then called 4.b., to be heard, the review of status conferences. Under this heading, there were six items to be considered. They are:

- i. RNO 21-2104, Bradley Owens dba Carlin Ace Hardware dba Owens Market & Ace Hardware

The Chairman called this matter to be heard. The complaint in this matter was filed on December 29, 2020. An answer was filed to the complaint on February 2, 2021. The matter was noticed for a hearing August 15, 2023. There was an order vacating and continuing the hearing on September 5, 2023. Nothing in the Board's file shows further action. Ms. Ortiz advised that this matter has been settled. The Board directed that the settlement documents be submitted to the Board prior to the March 2025 meeting of the Board.

- ii. LV 21-2107, Unique Upholstery, LLC

The Chairman then called this matter to be heard. The complaint in this case was filed on January 21, 2021. No answer to the complaint has ever been filed. The matter laid dormant since the complaint was filed. Daniel Huerta, the owner of the business, appeared by phone. Ms. Ortiz appeared on behalf of the State.

Just prior to the commencement of the discussion of this matter by status conference, Gled Bautista departed the meeting because of a family emergency. His departure, however, still left a quorum of the Board as four members remained to hear the rest of the matters on the Agenda.

The Board directed that the parties proceed with the litigation on this case in the next 45 days or suffer the prospect of a default or other appropriate action. This matter will not be allowed to languish any longer.

- iii. LV 21-2132, Counts Kustoms, LLC

The Chairman then called this matter to be heard. This matter was actually heard out of order. While the State was working to resolve an audio equipment problem, Steven Mack, Esq., tapped into the meeting and advised that he could not remain on the line to await this matter being called because of a health problem requiring medical attention during the afternoon. He asked that the matter be continued. Ms. Ortiz was present for this exchange of discussion before the Board. Ms. Ortiz and Mr. Mack stipulated that the matter could be vacated on this date and

placed on the agenda for March 2025, for a status conference at that time. It was so Ordered by Chairman Macias that the matter be vacated and continued to be placed on the administrative docket for the parties to be heard in a status conference on March 12, 2025.

iv. LV 22-2137, Gladstone Industries Corporation.

Board Chairman then called this matter to be heard for a status conference. The complaint in this case was filed on August 3, 2021. The answer was filed on August 10, 2021. On February 24, 2022, the Board was notified that a settlement had been reached obviating the necessity of a contested hearing. Unfortunately, no settlement documents have been produced since February 24, 2022 when notification of settlement was given to the Board. The case has been languishing and no further action has been taken according to the record before the Board on this matter. According to Ms. Ortiz, the administrative side of the complainant elected to withdraw the case but failed to advise the enforcement/litigation side of the State's administrative agency withdrawal. The right and left hand were not speaking to each other. The parties are to provide proof to the Board by the March 12-13, 2025 meeting of the Board that the matter has been withdrawn or the matter will be set on the contested docket at the earliest possible time based upon the stacked docket confronting the Board.

v. RNO 22-2171, Asia Union Electronic

Board Chairman called this matter to be heard. The complaint in this case was filed on May 10, 2022. No answer had been filed in this matter. No Notice of Intent to Enter Default had been filed in this matter. The case has languished since May 10, 2022. The State is to submit a withdrawal by the March 2025 meeting of the Board.

vi. LV 14-1703, Dillards

The Chairman called this matter to be heard. The complaint was filed on January 8, 2014. The matter was handled at that time for respondent by Tim Rowe, Esq., who passed away unexpectedly. The case was heard, it was appealed, no one has submitted the matter to the Board for disposition on appeal. The Board concluded that this will be put on the calendar of the administrative docket for each month until resolved or if the Board comes up with another method for dispensing with this matter.

This concluded the status conference portion of the Agenda for the February 2025 meeting of the Board.

The Board Chairman then called Item 4, c, to be heard. General administration and/or procedural issues.

i. General Matters of Import to Board Members.

Board counsel advised that the State had appealed two cases of matters decided by the Board, namely the Chief Administrative Officer of the Occupational Safety and Health Administration of the Division of Industrial Relations of the Department of Business and Industry, State of Nevada, petitioner vs. The Nevada Occupational Safety and Health Review

Board vs. Sierra Concepts Construction, Inc., respondents, Case No. CV24-02541. The State also appealed the Chief Administrative Officer of the Occupational Safety and Health Administration of the Division of Industrial Relations of the Department of Business and Industry, State of Nevada, petitioner vs. Olson Precaset Co., Nevada Occupational Safety & Health Review Board, respondents, Case No A-25-909166-J, before the District Court, Clark County, Nevada. The Nevada Occupational Safety and Health Review Board appeal was before the Second Judicial District Court of the State of Nevada in and for the County of Washoe. Board counsel was pleased to report that the State has withdrawn by Notice of Voluntary Dismissal the appeals in both cases. They are no longer docketed for disposition. The matters are concluded as the Board decided them.

ii. Old and New Business.

The Chairman then called this matter for hearing, namely discussion of SB 78. Board Chairman reported that this bill as originally drafted provides for the dissolution of all or most Boards and Commissions including the Board of Review. The Board Chairman advised that it is his understanding from information he was provided that SB 78 has been rewritten and that it will not include a provision for dissolving the State of Nevada OSH Board of Review. William Spielberg said, however, that the Board needs to be vigilant until the State of Nevada Senate and Assembly are no longer in session. As the matter stands, however, now, it appears that the Board will not be dissolved by the Legislature either through SB 78 or by some other means.

iii. Discussion of Pending Cases.

The Board Chairman then called this matter to be heard. There was no discussion of pending cases.

d. Schedule of Hearings on Pending Cases, Calendar and Status Report.

The Chairman then called this matter to be heard. None of the Board members have problems with the schedule of cases through October 2025 as listed.

5. Board Chairman called Item 5 to be heard, Public Comment.

The Chairman then called this item to be heard. He advised that the Board had received no public comment during the course of the hearing on this date. Board Counsel advised that his office received no request for or indication of public comment during the course of the meeting.

6. Adjournment.

The Chairman then called for this matter to be heard. It was moved by Scott Fullerton, seconded by William Spielberg, to adjourn the meeting. The motion was adopted by a Vote of 4-0-1 (Bautista absent for this vote only).

The meeting was adjourned.

Dated this ____ day of February, 2025

Charles R. Zeh, Esq., Board Legal Counsel

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