

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

August 14, 2024

Jorge Macias (Management)
William Spielberg (Labor)
Scott Fullerton (Labor)
Frank Milligan (Public)
Tyson Hollis (Public)
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 August 14, 2024 at 9:03 a.m. The meeting was duly noticed in compliance with the Nevada Open Meeting Law to take place at the Division of Industrial Relations, 3360 West Sahara Avenue, Suite 175, Las Vegas, Nevada, 89102. The Board convened at the Division of Industrial Relations offices located at 3360 West Sahara Avenue, Suite 175, 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.

1. Roll Call.

Board members present at the meeting were Board Chairman Jorge Macias, Board Secretary William Spielberg, and Board members Scott Fullerton, Tyson Hollis, in place of Frank Milligan, who was absent, and new Board member Gled Bautista. As five members of the Board were present for the meeting, including two members representing labor, one member representing the public at large and one member representing management, a quorum was present for all matters for the Board to conduct its business on this date.

Also present were 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 and Charles R. Zeh, Esq., the law offices of The Law Offices of Charles R. Zeh, Esq., Legal Counsel to the Board.

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.
50 West Liberty Street, Suite 950
Reno, Nevada 89501

Division of Industrial Relations
3360 West Sahara Ave., Suite 175
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.

There was no public comment offered during the course of the hearing and there was no public comment received at the office of the Board's Legal Counsel.

3. Contested Case Hearings.

As it turned out there was only one contested case left to be heard during the course of the meeting of August 14/15, 2024. That was Creative Printing, Inc. dba Creative Digital Printing, LV 23-2227. Chairman Macias called this matter to be heard. The State was represented in this matter by Salli Ortiz, Esq. The respondent, Creative Printing, was not represented by an attorney but was represented by Jeff Casey, who signed his firm's answer to the complaint in this case as president of Creativedigital Printing. He also refers to himself variously as problem solver/owner. The respondent is a printing company, as the name would obviously imply. The State brought Citation 1, Item 1, as a serious violation as follows:

29 CFR 1910.212(a)(1): Machine Guarding. Types of guarding. One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are-barrier guards, two-hand tripping devices, electronic safety devices, etc.

The State alleged that Creative Digital Printing did not ensure that machine guarding was practical to protect the machine operators from injury when utilizing the Original Heidelberg Cylinder windmill letterpress. This press had a belt pulley that was allegedly unguarded and positioned directly across the point of operation and by the passageway for other employees access.

During the course of the hearing it was established that Creative Printing had three printing presses, two of which were functional. The third was not functional. The evidence showed, it was being cannibalized for spare parts for repair of the two functioning printing presses or printers. These printing presses were ancient. Spare parts were unavailable, hence, the third printing press was cannibalized for spare parts to keep the other two printing presses operational.

There was testimony that the press being cannibalized would still operate when energized when plugged into an electrical socket. The cannibalized press was non functional but the parts would operate including a belt that was unguarded. It was first moved on this matter by Tyson Hollis, seconded by Scott Fullerton, to uphold Citation 1, Item 1, of the complaint. Further discussion ensued and Tyson Hollis withdrew the motion after the Board was reminded that the State has the burden of proof to show by a preponderance of the evidence the elements of a *prima facie* case and that conjecture and speculation about the facts or a certain condition are not evidence admissible at trial.

Mr. Casey's main defense in this case, however, was the fact that the State did not call for testimony or produce to be examined the COSHO who conducted the investigation and filed the charges against Creative Printing. Accordingly, it was moved by Scott Fullerton, seconded by Gled Bautista, to affirm Citation 1, Item 1, but to reduce the proposed fine of \$4,099 to \$2,000. The motion was adopted 4-1-0. (Macias voting against the motion). (Bautista, the new Board member voted in favor of the motion). Tyson Hollis, the public alternate member of the Board voted in favor of the motion [Frank Milligan was absent and Tyson Hollis was appearing in place of Frank Milligan].

As there were no other contested matters left on the Agenda for the August 14/15, 2024 meeting of the Board, the Board Chairman called the Administrative meeting portion of the Agenda to order.

4. Administrative Meeting:

- a. Approval of previous Review Board meeting minutes for July 10, 2024.

It was moved by Scott Fullerton, seconded by William Spielberg to approve the minutes for July 10, 2024. Motion adopted. Vote: 3-0-1 (Milligan absent; 1 vacant position on the Board as of July 10, 2024).

Chairman then called Item 4.b. on the Agenda to be considered.

- b. Review contested case settlements, withdrawals of citations, motions, draft decisions, or pending issues for approval, rejection or amendment and possible issuance of final orders.

- i. LV 22-2146, Specialty Contractors Northwest, LLC

This matter was removed from the Agenda to be rescheduled in September, if possible.

- ii. LV 23-2216, Complete Demo Services

Vacated from the Agenda, this matter will be considered in September.

- iii. LV 23-2184, Universal Consulting dba A-1 Concrete

The Board considered the Order granting summary judgment to two of the three causes of action of the complaint in this matter. The remaining cause of action will be rescheduled for disposition at a latter date. It was moved by Scott Fullerton, seconded by Tyson Hollis to approve the Order granting summary judgment, dismissing the two Citations the subject of the motion to dismiss filed by the respondent. Motion adopted. Vote: 3-0-2 (Spielberg absent, Bautista abstaining as he was new to the Board as of this date). No final order has been entered as one citation remains pending.

- iv. RNO 21-2106, Raine's Market, Inc.

Chairman Macias called this matter to be heard. It was moved by Scott Fullerton, seconded by Tyson Hollis, to approve the decision drafted by the Board. Motion adopted. Vote: 3-0-2 (Milligan absent, Bautista abstaining for the reason stated).

- v. LV 24-2230 - Americold Logistics, LLC

Chairman Macias called this matter to be heard. It was moved by Scott Fullerton, seconded by Tyson Hollis, to approve the settlement. Motion adopted. Vote: 5-0 (Milligan absent and Tyson Hollis participating in place of Frank Milligan).

- vi. LV 22-2149 - B&F Electric dba B&F Construction

Chairman Macias called this matter to be heard. It was moved by Scott Fullerton, seconded by Tyson Hollis, to approve the settlement. Motion adopted. Vote: 5-0.

- vii. RNO 23-2183, K.G. Walters Construction Co., Inc.

Chairman Macias called this matter to be heard. It was moved by Scott Fullerton, seconded by Tyson Hollis, to approve the settlement. Motion adopted. Vote: 5-0.

Perry Poff, Esq., counsel for K.G. Walters Construction Co., Inc., appeared to monitor the disposition of this matter.

viii. LV 21-2079, Turner Construction Company

Board Chairman Macias advised that he was recusing himself from hearing this matter because the firm he works for has business relations with Turner Construction and, therefore, out of an abundance of caution, he was not participating in the disposition of this matter. It was moved by Scott Fullerton, seconded by Tyson Hollis to approve the settlement. Motion adopted. Vote: 4-0-1 (Macias abstaining for the reason stated).

ix. RNO 23-2186, Brandsafway Services, LLC

Chairman called this matter to be heard. It was moved by Tyson Hollis, seconded Scott Fullerton to approve the disposition of this matter. Motion adopted. Vote: 5-0.

Chairman Macias called Item 4.c., to be heard.

c. General Administration and/or procedural issues.

i. General matters of import to Board members.

There was none.

ii. Old and New Business.

There was nothing discussed.

iii. Discussion of pending cases.

Board counsel previewed for the Board the Items on the Agenda for the September 2024 meeting of the Board.

d. Schedule of hearings on pending cases, calendar and status report. The Board has scheduled the following meetings

- * **September 11 and 12, 2024 - Las Vegas**
- * **October 9 and 10, 2024 - Reno**
- * **November 13 and 14, 2024 - to be determined**
- * **December 11 and 12, 2024 - to be determined**

5. Public Comment.

Board counsel advised that his office had not received any public comment during the course of the meeting and Chairman Macias advised the same, there was no public comment received at the site of the meeting.

6. Adjournment.

Chairman Macias called for adjournment of the meeting. It was moved by Scott Fullerton, seconded by William Spielberg, to adjourn the meeting. Motion adopted. Vote: 5-0.

Dated this 15th day of August, 2024.

/s/Charles R. Zeh, Esq.

Charles R. Zeh, Esq.

Board Legal Counsel