

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

July 10, 2024

Jorge Macias (Management)
William Spielberg (Labor)
Scott Fullerton (Labor)
Frank Milligan (Public)

The meeting of the State of Nevada Occupational Safety and Health Review Board was called to order by Chairman Jorge Macias on July 10, 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, 4600 Kietzke Lane, Suite F-150, Reno, Nevada, 89502. The Board convened at the Division of Industrial Relations offices located at 4600 Kietzke Lane, Suite F-150, Reno, Nevada, 89502. 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 Frank Milligan and Scott Fullerton. Alternate public member Tyson Hollis appeared but as the Public Member Frank Milligan was present for the Board meeting Tyson Hollis appeared primarily as an observer. As four 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 firm 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
4900 Kietzke Lane, Suite F-150
Reno, Nevada, 89502

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.

Chairman Macias asked for any public comment. There was none originating from the site of the Board Meeting. Board Legal Counsel advised that his office had received no public comment either.

3. Contested Case Hearings.

Chairman Macias called the contested case item on the agenda to be heard. He advised that there was only one contested case left for the Board to dispose of at this meeting, namely the UHS of No. Nevada, LLC; Willow Springs LLC dba Willow Springs Center (UHS) - Docket No. RNO 23-2226. Salli Ortiz, Esq., was present and appeared as counsel to the complainant, State of Nevada. No one appeared at the outset of the meeting when this item was called to be heard on behalf of UHS. Board Counsel pointed out that UHS had been duly served with Notice of the Hearing on two occasions, but that it would be advisable to try to connect with the office of counsel for UHS to determine the posture of UHS regarding this matter. In addition, the Board was advised that UHS has submitted no exhibits for admission into evidence.

Counsel for UHS is Karl Kumli, Esq. Mr. Kumli was ultimately reached on his cell phone by Board Legal Counsel. Mr. Kumli said that he was not aware that there was a hearing on this date in this matter. He later indicated that his office had received notice but it went by email to his spam. Board Counsel advised him that Board Counsel's office had also served by email on July 3, 2024, a follow up notice of the hearing on this date in this matter. Mr. Kumli admitted he had received that notice but didn't realize that it was a notice of the hearing on July 10, 2024.

The Board took up the matter of this case. Mr. Kumli made the same representation to the Board that he had made by phone to Counsel for the Board. Board Counsel pointed out that two notices of hearing had been sent to Mr. Kumli. Also, Board Counsel's office had received notification by email that on July 3, 2024, the subsequent *Sua Sponte* notice of the hearing for July 10, 2024 had been, in fact, received and read by Mr. Kumli and or someone in his office. Mr. Kumli acknowledged, however, receiving and seeing the "*Sua Sponte*" notice.

Ms. Ortiz advised that her office had sent Mr. Kumli as required a copy of the State's proposed exhibits that were to be offered for admission into evidence. The cover letter to the exhibit packet of the State indicated the date and time of the hearing on this matter for July 10, 2024.

Mr. Kumli told the Board that he was not prepared to go forward with the hearing on this date and in light of the circumstances asked the Board for a continuance. Mr. Kumli informed the Board that he would make himself available at any time in the future to attend and participate in the hearing on this matter.

Given the foregoing, it was moved by Frank Milligan, seconded by Scott Fullerton, to deny the motion of Mr. Kumli to continue this matter and to proceed with the hearing as noticed on this date on the merits of this case. The motion was adopted denying the request for a continuance and directing the parties to proceed to hear the case on its merits as noticed on this date. The vote was 4-0-1 (vacancy).

The hearing then commenced briefly at which point Mr. Kumli asked for a brief recess so that he and legal counsel for the State could confer. Board Chairman Macias gave the parties 15 minutes to meet, confer and get back to the Board.

Upon the expiration of the 15 minutes recess Mr. Kumli and Ms. Ortiz advised the Board that during the recess they settled the matter, with settlement documents to follow.

An Order will memorialize this status and also advise that parties that if they do not have the settlement documents lodged with Board Legal Counsel within 30 days of the date of the Order to be issued memorializing the settlement, the matter will go back on the contested calendar for disposition.

This concluded the contested case portion of the Agenda on this date and Board Chairman convened the Administrative portion of the meeting of the Board with Item 4, a. Approval of previous Review Board meeting minutes for June 12, 2024.

It was moved by Frank Milligan, seconded by Scott Fullerton to approve the minutes of the June 12, 2024 meeting as read. Motion adopted. Vote: 4-0-1 (the vacant slot on the Board).

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

Chairman then called Item 4. b., to be heard, a review of contested case settlements, motions, draft decisions, etc.

- i. LV 23-2198, D&L Roofing, Inc.

Chairman Macias then called this matter to be heard, the decision in LV 23-2198, D&L Roofing. It was moved by Scott Fullerton, seconded by William Spielberg, to approve the draft decision in D&L Roofing, Inc. Motion adopted. Vote: 4-0 (vacant Board Member).

- ii. RNO 20-2023, State Roofing Systems, Inc.

Chairman Macias then called this matter to be heard, the decision in RNO 20-2023, State Roofing Systems, Inc. It was moved Scott Fullerton, seconded by Frank Milligan, to approve the draft decision as written. Motion adopted. Vote 4-0 (one vacant position).

In each case the Board authorized the Board Chairman to execute the decisions and to make any corrections of a non-material nature, *i.e.*, typographical errors when executing the decisions.

- iii. LV 22-2146, Specialty Contractors Northwest

This matter was not heard.

- iv. RNO 20-2020 - Herc Rentals, Inc. - For Possible Action.

The Board Chairman called this matter to be heard. It was moved by Frank Milligan, seconded by Scott Fullerton, to approve this settlement agreement of the parties. The motion was adopted on a vote of 4-0.

- v. LV 21-2093 - Nevada Wine Cellars, Inc. dba Pahrump Valley Winery

The Board Chairman called this matter to be heard. It was moved by Scott Fullerton, seconded by Frank Milligan, to approve the withdrawal of the citation and notification of penalty, rendering moot the Complaint in this matter. The dismissal was with prejudice. The motion was adopted on an vote of 4-0.

- vi. LV 23-2208, Caliber Holdings, LLC dba Caliber Collision Centers

The Board Chairman called this matter to be heard. It was moved by Frank Milligan, seconded by Scott Fullerton, to approve the settlement agreement of the parties. The motion was adopted on a vote of 4-0.

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

This matter was not heard.

viii. LV 23-2204 - We All Scream, LLC

The Board Chairman called this matter to be heard. It was moved by Frank Milligan, seconded by Scott Fullerton, to approve the settlement agreement of the parties. The motion was adopted on a vote of 4-0.

ix. RNO 23-2188 - Freedom Crane Service Corporation

The Board Chairman called this matter to be heard. It was moved by Scott Fullerton, seconded by Frank Milligan, to approve the settlement agreement of the parties. The motion was adopted on a vote of 4-0.

x. RNO 22-2180 - Mt. Rose Heating and Air Conditioning, Inc.

The Board Chairman called this matter to be heard. It was moved by Frank Milligan, seconded by Scott Fullerton, to approve the settlement agreement of the parties. The motion was adopted on a vote of 4-0.

xi. LV 20-2014 - Bliss Exhibit Services, LLC

The Board Chairman called this matter to be heard. It was moved by Frank Milligan, seconded by Scott Fullerton, to approve the settlement agreement of the parties. The motion was adopted on a vote of 4-0.

xii. LV 21-2103 - Integrity Sports Officiating LLC dba Integrity Sports Officiating

The Board Chairman called this matter to be heard. It was moved by Frank Milligan, seconded by Scott Fullerton, to approve the settlement agreement of the parties. The motion was adopted on a vote of 4-0.

xiii. LV 21-2058 - Assured Development Inc.

The Board Chairman called this matter to be heard. It was moved by Scott Fullerton, seconded by Frank Milligan, to approve the settlement agreement of the parties. The motion was adopted on a vote of 4-0.

After Assured Development, Inc. was heard the Chairman called Item 4. c.

c. General Administration and/or procedural issues.

i. General Matters of Import to Board members.

The Chairman then called this matter for hearing and brought up the fact that a replacement for Chairman Weber had not been appointed. The Board was advised that the Governor makes the appointments to the Board not Ms. Carreon. She could, however, be contacted and reminded of the need for an appointment. The Governor's office could also be

contacted. As this was not listed as an action item, no formal action on the need to appoint a replacement for Chairman Weber could be taken.

ii. Old and New Business.

Board legal counsel had nothing to report and no Board member had anything to report.

iii. Discussion of pending cases.

Ms. Ortiz advised that she would like more than two weeks notice of a hearing date on matters that appear before the Board to give her office more time to prepare for the hearing. Board Counsel pointed out that his office is moving cases at warp speed to get them before the Board.

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

- * August 14 and 15, 2024 - Las Vegas
- * 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

Jimmy Andrews advised that it now appears that the State will be relocating offices in October and would, therefore, remain in place for the August and September meeting. He affirmed that holding the meetings in Las Vegas in August and September at the current State offices could be held and that the Board would be informed if and when the State relocates offices.

Scott Fullerton advised that he would not be available for the meeting of the Board in October 2024.

5. Public Comment.

Chairman Macias then called Item 5, Public Comment to be heard. There was no public comment originating from the offices of the State and Board Counsel advised that his office received no public comment.

6. Adjournment.

Board Chairman then called for adjournment to be heard. It was moved by Frank Milligan, seconded by Scott Fullerton, to adjourn the meeting. The motion was adopted on a vote of 4-0 in favor and none against the motion to adjourn.

Dated this 14th day of August, 2024.

/s/Charles R. Zeh, Esq.
Charles R. Zeh, Esq., Board Legal Counsel