

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

June 4, 2021
Via teleconferencing and audio conferencing (WebEx)

Rodd Weber (Management)
Frank Milligan (Public at Large)
William Spielberg (Labor)
Jorge Macias (Management)

On June 4, 2021, a meeting of the Nevada Occupational Safety and Health Review Board was convened. The meeting was duly noticed in compliance with the Nevada Open Meeting Law as modified by Governor Sisolak's Emergency Directive 006, permitting meetings to be conducted by Teleconferencing and Audio conferencing (WebEx) and providing for a refined publication process for posting of the publication of Agendas or Notices of the Meeting. This meeting took place by Teleconferencing. 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 meeting was called to order by Acting Board Chairman Rodd Weber in the absence of Board Chairman Steve Ingersoll. The meeting was called to order at 9:17 a.m.

1. Roll Call.

Board members present were Rodd Weber, Secretary and Acting Chairman, Frank Milligan and William Spielberg. Also present was new Board Member Jorge Macias, a management representative on the Board. Acting Board Chairman Weber welcomed Mr. Macias to the Board and congratulated him on his appointment as a new member of the Board of Review. As Mr. Macias appointment was so recent, the documents and records from the case before the Board on this date had not been provided to him. Thus, while present at the meeting and observing, Mr. Macias would not be able to participate in the disposition of the Pole Fitness matter, the one contested case under consideration on this date.

Also present during the course of the meeting were Salli Ortiz, Esq., counsel to the Administrator, Lindsay Dibler, Esq., counsel to the Respondent, Pole Fitness Studio, LLC, and Charles R. Zeh, Esq., counsel to the Board of Review. Chairman Steve Ingersoll was absent from the meeting. The hearing on this date was reported by Court Reporter Christy Joyce.

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, as modified through the Governor Sisolak's Emergency Directives. 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 further modified by the Governor's Emergency Directives 006.

2. Public Comment.

Acting Chairman Weber called this item to be heard. There was no public comment expressed during this portion of the meeting. Board Counsel advised the Board that his office received no written comment under the heading of Public Comment prior to the commencement of this meeting.

3. Contested Case Hearings.

Acting Board Chairman Weber called this item to be heard, the continuation of LV 21-2060, Pole Fitness Studio, LLC. He asked Board counsel to set the case for the Board. Board counsel advised that this matter had been continued to this date in order to conclude the evidentiary hearing and hear closing arguments. The matter was continued with the understanding that no additional evidence would be offered. The parties would have the opportunity, however, to raise questions, if any they have, regarding the podcast video, the business license decision and a video made by Fawn Monney, the three items admitted into evidence during the last portion of the prior hearing on this matter. No questions were raised at this hearing. Mr. Dibler sought to introduce three additional videos. Acting Board Chairman Weber denied the application to submit these documents and the parties proceeded to closing argument.

Ms. Ortiz went first, followed by Mr. Dibler on behalf of Pole Fitness Studio, LLC. When each concluded, Ms. Ortiz argued briefly in rebuttal to Mr. Dibler. Mr. Dibler was given an additional round, also. Oral argument was then concluded. The Board took the matter under advisement and commenced to deliberate on the decision. The disposition of the case was simplified by the reason of the respondent's stipulation to, in effect, confess judgment as to Citation 2, Item 1, Citation 2, Item 2 (a) and Citation 2, Item 2 (b). Citation 2, Item 1, had no fine. Citation 2, Item 2 (b), had no fine. Citation 2, Item 2 (a), carried a fine of \$390.

The Board then took up Citation 1, Item 1. It was moved by Frank Milligan, seconded by William Spielberg, to affirm the allegations of Citation 1, Item 1, including the fine in the amount of \$ 4,858. The motion was adopted.

Vote: 3 in favor, 0 against and 1 abstention, member Macias.

The Board next took up Citation 2, Item 1, Citation 2, Item 2 (a) and Citation 2, Item 2 (b). These were lumped in one motion. It was moved by Rodd Weber, seconded by Frank Milligan to affirm this Citation. The motion was adopted, including the \$390 assessment.

Vote: 3 in favor, 0 against and 1 abstention, member Macias.

4. Administrative Meeting:

- a. Approval of the previous Review Board minutes of April 14/15, 2021 and May 12/13, 2021.

Acting Board Chairman Weber then called the minutes to be heard for the meetings of April 14/15, 2021 and May 12/13, 2021.

It was moved by Frank Milligan, seconded by William Speilberg, to approve both sets of minutes as read and without any corrections. The motion was adopted.

Vote: 3-0-1, with Mr. Macias abstaining.

- b. General administration and/or procedural issues.

Acting Board Chairman called item to be heard.

- i. General matters of import to Board members.

The Board first took up Item i, General Matters of Import to Board Members. Frank Milligan expressed frustration about the fact that cases are taking too long and then because they take so long, they have to be continued. This requires preparing twice or more for these cases. As the length of time between postponements or continuances is so long, it requires a review of the entire record, once again. The Board concurred generally in these sentiments and wants agendaized for the next meeting to discuss how to expedite, if possible, the disposition of cases. The Board would also like at that time to be provided with a list of cases that have been commenced, or are currently pending, but have not yet closed. The Board would also like to have list of cases that have been docketed out into the future to get a sense of the workload.

- ii. Old and New Business.

This matter was discussed during 4 b. 1.

- iii. Conduct of June 9, 2021 and June 10, 2021 hybrid meeting.

No action was taken on this item but the Board discussed briefly the prospect of avoiding in the future the necessity of having a hybrid hearing where part of the Board or some of the cases are presented virtually and some of the Board and cases appear in person. Frank Milligan indicated that in July he will be able to attend the July meeting in Reno and believe that his travel restrictions would be lifted. The prospects then of avoiding hybrid hearings seem to be reasonably on the horizon.

- iv. Elections of Officers.

It was noted that at the meeting of June 9 and 10, 2021, Board members will be asked to elect new Officers of the Board to fill the position of Board Chairman and Board Secretary.

- (c) Schedule of hearings on pending cases, calendar and status report. The Board has scheduled the following meetings.

The Board reviewed the current calendar of Board meetings and found no reason to add to, amend or subtract from the list of dates when the Board will be in session.

Public Comment: Board Chairman called for Public Comment. There was none.

5. Adjournment.

Board Chairman called for a motion to adjourn. It was moved by William Spielberg, seconded by Frank Milligan, to adjourn the meeting. **Motion adopted.**

Vote: 4-0


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

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