

NEVADA TAX COMMISSION MEETING
MINUTES

December 6, 2021

Commissioners Present:

James DeVold, Chairman
Tony Wren, Commissioner
Craig Witt, Commissioner
Sharon Byram, Commissioner
Randy Brown, Commissioner
Ann Bersi, Commissioner
Francine Lipman, Commissioner
Harold Stanley Johnson, Commissioner

Chairman DeVold called the meeting to order at 9:04 a.m.

Chairman DeVold shared with great sorrow and a heavy heart the passing of Carole Vilardo, the former President of the Nevada Taxpayer's Association (NTA). Carole was obviously a treasure and she was a legend in Nevada tax and somebody that I think deserves a couple of moments. Chairman DeVold read the following into the record from the current Nevada Taxpayer's Association's President, Cindy Creighton: With great sorrow and a heavy heart, the Nevada Taxpayer's Association shares the news of passing of our cherished retired President, Carole Vilardo, this morning in Las Vegas at the age of 80. Anyone who knew Carole found her larger than life. Her remarkable passion and talent had an enormous impact on taxation, spending, and regulatory issues impacting business. Carole has been affiliated with the Nevada Taxpayer's Association since 1986. We are extremely grateful for the many contributions Carole Vilardo made to the NTA over her 30-plus year career, expressed NTA Board Chairman Thom Sheets. She genuinely cared for Nevada, and the NTA experienced that firsthand beginning in 1986 when she was hired to oversee the new Southern Nevada office and lobby. In 1988, her active commitment to the NTA extended into retirement with emeritus status on the board of directors, Tom Sheets noted. She was always impeccably dressed and perfectly coiffed. Carole was prominent in the legislature building/local government chambers with her signature hats. She was a former two-term chairwoman to the National Taxpayers Conference. She served on numerous state and local government committees addressing issues as diverse as water funding, education, debt management, transportation funding, K-12 priorities in funding and healthcare delivery. Carole served as a public member on two legislature interim studies: Nevada Tax System and a Nevada Governor's Appointee to both the Sage Commission and the Sage Blue Ribbon Implementation Panel. A taxpayers' advocate icon, Ms. Vilardo received many awards for her life's work including the Free Enterprise Award presented by the Employers Association of Southern Nevada, the Vegas Chamber, Kiwanis Club of Uptown Las Vegas, Lifetime Achievement Award presented by the Nevada Newsmakers Outreach Foundation, the coveted SIR award presented by the Associated General Contractors, and the Clark County School District Crystal Apple Award for exemplary civic leadership, the Tax Foundation's Award for Outstanding Achievement in State Tax Reform. She was a careful and creative thinker who read broadly and thought deeply. With Carole's passing, she leaves behind a legacy that will long serve as a benchmark for all Nevadans, said NTA president Cindy Creighton. It was an absolute privilege to be her friend, be inspired by her vision and her guidance and to listen to her incredible stories and history lessons. While Nevada grieves her loss, the NTA will always honor her memory by instilling her lifetime of work into future generations. To the NTA, Carole Vilardo is our legend. May she rest in peace.

Thomas Sheets was present - Good morning, commission members. The only thing I would add to what was written about Carole and what Jim had to say is during the long time I was on the Commission, Carole really was the gold standard in terms of the institutional memory and history of how and why we got to the taxation situation we have. She was an invaluable resource to me personally and to me and the rest of the Commission and the staff, and we will all mourn her passing. Thank you.

I. Public Comment.

There was no public comment.

Director Hughes administered an oath to all parties testifying.

II. Meeting Minutes:

A. Consideration for Approval of the October 4, 2021 Nevada Tax Commission Meeting Minutes.

Commissioner Wren made a motion to approve the meeting minutes of the October 4, 2021, Nevada Tax Commission meeting. Commissioner Witt seconded the motion. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):

- a) Victorious Buffalo LLC
- b) Blissful LLC

B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure:

- 1) AMBU Inc.
- 2) American Lighting Inc.
- 3) American Marksman LLC
- 4) Des-Case Corporation
- 5) Dr Bronners
- 6) Inorganic Ventures
- 7) Interfocus Inc.
- 8) KaTom Restaurant Supply Inc.
- 9) Lencore Acoustics Corporation
- 10) Leupold & Stevens Inc.
- 11) Movora
- 12) North America HVAC
- 13) Panini America, Inc.
- 14) Project Management Institute Inc.
- 15) Real Flame
- 16) Rently
- 17) Rocket Innovations Inc.
- 18) Snipes
- 19) The Liv Group, Inc.
- 20) Upscale Audio Inc.
- 21) Watershed GEO
- 22) WiggleCRC
- 23) Xingzezhi HK Limited

C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) Crown Point Inc.
- 2) 5 Chinese Brothers LLC
- 3) Intrigue Shows Inc.
- 4) Pro Glass and Paint Inc.
- 5) Bellagio LLC
- 6) Enterprise Leasing Company-West LLC
- 7) Joes Seafood Prime Steak and Stone Crab
- 8) Star Concepts Acquisition LLC

- 9) Healthcare Partners Medical Group (COATS) Ltd.
 - 10) Healthcare Partners Management Services Nevada LLC
 - 11) Dollar Tree Stores Inc.
 - 12) CMD Inc.
 - 13) Blue Martini Las Vegas LLC
- D. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (Sales/Use Tax, Modified Business Tax, Excise Tax and/or Commerce Tax)
- 1) Flexground Nevada LLC
 - 2) Rural Remedies, LLC
- E. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
- 1) Juan Orozco-Gutierrez
 - 2) Edward Wardeh
 - 3) Jonathan Snyder
 - 4) Miguel Pereira, Tatianna Pereira and D'Etta Fineout
 - 5) Tony Lee Besson

Commissioner Wren made a motion to approve the Consent Calendar, with the exception of items C. 4), E. 3) and E. 4). Commissioner Brown seconded the motion. All in favor. Motion carries.

Item C. 4) Pro Glass and Paint Inc.: Commissioner Brown pulled Item C. 4) for further discussion. Commissioner Brown mentioned the Department's letter to the Taxpayer stated that this item is approved. This item is not approved until it comes before the Commission. Chairman DeVold asked that in the future, matters are contingent upon approval. Commissioner Brown made a motion to approve Item C. 4) Pro Glass and Paint Inc. Commissioner Bersi seconded the motion. All in favor. Motion carries.

Item E. 3) Jonathan Snyder: Commissioner Lipman pulled Item E. 3) for further discussion. Commissioner Lipman stated that this taxpayer is represented by two former commissioners. She stated that she wanted to be sure that this taxpayer is treated just as fairly and no more fairly than any other taxpayer. Commissioner Lipman commended the Department for not accepting the fact that there was doubt as to collectability. Thom Sheets, Esq., was present via Zoom on behalf of the taxpayer. Mr. Sheets stated that the taxpayer is not represented by two former commissioners, he is represented by Mr. Sheets only. Mr. Sheets stated he is representing the Taxpayer pro bono and per statute there is not a cooling off period. Rosalie Bordelove, Chief Deputy Attorney General, reviewed her research of 21A and 233B, and confirmed, in her opinion, there is no current conflict of interest with Thom Sheets representing Mr. Snyder. Commissioner Lipman made a motion to deny the offer of Jonathan Snyder. Commissioner Wren seconded the motion. Roll Call: Commissioner Byram – Aye; Commissioner Johnson – Aye; Commissioner Brown – Aye; Commissioner Lipman – Aye; Commissioner Bersi - Aye; Commissioner Wren – Aye; Commissioner Witt – Aye. Motion carries.

Item E. 4) Miguel Pereira: Commissioner Lipman pulled Item E. 4) for further discussion. Commissioner Lipman asked about interest earned from a charitable remainder trust. Miguel Pereira was present and stated the trust was left by family for his brother who is disabled. Lizette Arceo was present on behalf of the Nevada Department of Taxation. Commissioner Lipman made a motion to approve the offer-in-compromise of Miguel Pereira. Commissioner Byram seconded the motion. All in favor. Motion carries.

Item E. 1) Juan Orozco-Gutierrez: A motion was made by Commissioner Byram to rescind the approval of the offer-in-compromise of Juan Orozco-Gutierrez. Motion was seconded by Commissioner Wren. All in favor. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

A. Taxpayer's Appeal of the Treasurer's Denial of Waiver of Penalty and/or Interest per NRS 361.4835 (Clark County):

1) Dvir Bar-Gal

Jeffrey Mitchell, Deputy Executive Director, was present on behalf of the Nevada Department of Taxation.

Dvir Bar-Gal was present. Mr. Bar-Gal stated, firstly, the County should be very careful with people's homes. Correspondence was mailed to China and he was no longer in China. The home was going to auction if \$9100 was not paid. Between \$2000 and \$2500 were penalties and interest. Mr. Bar-Gal was not aware of the payment due. Secondly, the property was not listed with the correct spelling of Mr. Bar-Gal's name. And thirdly, the home was listed with the County and assessed as a rental, which was not correct.

Ken Diaz with the Clark County Treasurer's office was present. Mr. Diaz stated that the name issue was recorded through the County Recorder's office and any changes of address go through the Assessor's Office. With regard to being charged the rental cap instead of the residential cap, once a year, the Assessor sends out a tax hard cap that is to be filled out by the taxpayer and shows whether or not the property is a primary residence or a rental. Mr. Bar Gal purchased his first property in 2011 and another in 2015. He was current with his property tax up until 2017-2018. We send the tax bills to the address that is on record.

Commissioner Bersi made a motion to approve the taxpayer's appeal of the treasurer's denial of the penalty and interest in this case. Commissioner Witt seconded the motion.

Commissioner Bersi amended the motion to approve the taxpayer's appeal of the treasurer's denial of waiver of penalty and interest at 100 percent of the request. Commissioner Witt seconded the motion. Roll Call: Commissioner Johnson – Aye; Commissioner Brown – Nay; Commissioner Lipman – Nay; Commissioner Bersi – Aye; Commissioner Wren – Aye; Commissioner Witt – Aye; Chair votes – Nay. Motion carries.

B. Consideration for Approval of Agricultural Application Packet/Forms

Kelson Powell, Property Appraiser II, was present on behalf of the Nevada Department of Taxation.

Commissioner Witt made a motion to approve the Agricultural Application Packet/Forms. Commissioner Lipman seconded the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

A. Department's Recommendation to the Commission for Denial of an Offer-In-Compromise pursuant to NRS 360.263:

1) Warren Kirwin

Lizette Arceo, Tax Manager, was present on behalf of the Nevada Department of Taxation.

Bruce Gardiner, CPA, was present on behalf of the Taxpayer. Warren Kirwin was present. Mr. Gardiner explained Mr. Kirwin's health concerns and reviewed the offer that was made to the Department.

Commissioner Brown pointed out the taxpayer's W-2 income was in excess of a hundred thousand dollars and also noted some gambling income.

Commissioner Johnson asked the taxpayer about expenses for meals and other things that may be business expenses or possibly personal expenses. Mr. Gardiner stated those are business expenses.

Commissioner Byram asked if the taxpayer has made good faith payments while this matter was pending. Mr. Kirwin stated that he has not and did not have the funds after he lost the business and filed bankruptcy. Mr. Kirwin also stated he was paying to care for his mother who was diagnosed with dementia.

Commissioner Byram made a motion to uphold the denial of the offer-in-compromise of Warren Kirwin. Commissioner Brown seconded the motion. All in favor. Motion carries.

B. Approval of Refund/Credit Request in Excess of \$250,000:

1) Allegiant Air LLC

Jairam Singh, Audit Manager, was present on behalf of the Nevada Department of Taxation.

Commissioner Witt made a motion to approve the matter of Allegiant Air LLC. Commissioner Brown seconded the motion. All in favor. Motion carries.

2) EGP Still Water Solar PV LLC

Jairam Singh, Audit Manager, was present on behalf of the Nevada Department of Taxation.

Commissioner Wren made a motion to approve the matter of EGP Still Water Solar PV LLC. Commissioner Witt seconded the motion. All in favor. Motion carries.

3) Taser International

Guy Childers, Audit Manager, was present on behalf of the Nevada Department of Taxation.

Commissioner Witt made a motion to approve the matter of Taser International. Commissioner Lipman seconded the motion.

4) CSAA General Insurance Company

Brandon Mackie, Tax Program Supervisor, was present on behalf of the Nevada Department of Taxation.

Commissioner Lipman made a motion to approve the matter of CSAA General Company. Commissioner Bersi seconded the motion. All in favor. Motion carries.

5) New Hampshire Insurance Company

Brandon Mackie, Tax Program Supervisor, was present on behalf of the Nevada Department of Taxation.

Commissioner Wren made a motion to approve the matter of New Hampshire Insurance Company. Commissioner Lipman seconded the motion. All in favor. Motion carries.

C. Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:

1) Zachary and Jennifer Rice

Zachary Rice was present. Mr. Rice stated the Judge dismissed evidence that was provided. The Judge stated that evidence must be of a type commonly relied on by reasonable and prudent persons in the conduct of their affairs and that hearsay testimony does not qualify for any of the hearsay exceptions. No reasons were given as to why the hearsay testimony did not qualify. Second, the Judge found that the letter from the seller did not describe its business. The letter stated that the seller of the boat was not a dealer and the boat was not repossessed. The letter also concludes that because they are not a boat dealer, or a boat broker, that the use tax is not due. Lastly, the case made by the

Department is based on the website of the seller stating they offered the boat for rental. The boat that was purchased was not offered for rental.

Michael Viets, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation. Mr. Viets recalled that the Rices' understanding of the business operations was based on phone calls with the seller, that the hearsay testimony would not be used or was not found to demonstrate that the seller or the sale in this particular case qualified as an occasional sale. Secondly, Mr. Rice expressed that there was the basis of a decision on a website. Mr. Viets stated that not only was the seller's website used in forming this decision to find that the tax was due and that the occasional sale did not apply, but it was also a statement of the purchaser themselves.

Commissioner Byram asked if there has been a change in the occasional sales exemption in the past 20, 30 years. Mr. Viets was not aware of any change in the last 30 years and stated, he believes, it is two or more sales in any 12-month period, and it is a rolling calendar year. Commissioner Byram stated she believes that the occasional sales exemption would apply and makes it more akin to a private party sale. Mr. Viets stated that he is familiar with the code of Chapter 360 and NAC that a rental constitutes a sale. Commissioner Byram added it is difficult to correctly apply without being able to do an audit.

Commissioner Byram made a motion to uphold the appeal of the Administrative Law Judge's decision. Commissioner Johnson seconded the motion. Roll call: Commissioner Byram – Aye; Commissioner Johnson – Aye; Commissioner Brown – Nay; Commissioner Lipman – Nay; Commissioner Bersi – Nay; Commissioner Wren – Nay; Commissioner Witt – Nay. Motion failed.

Commissioner Lipman made a motion to deny the appeal of the Administrative Law Judge's decision. Commissioner Bersi seconded the motion. Roll Call: Commissioner Byram – Nay; Commissioner Johnson – Nay; Commissioner Brown – Aye; Commissioner Lipman – Aye; Commissioner Bersi – Aye; Commissioner Wren – Aye; Commissioner Witt – Aye. Motion carries.

- D. Pursuant to NRS 360.265, consideration for approval of the removal of the names of certain debtors, including the amount of tax, penalty and interest, from the records of the Department for debts exceeding 5 years due and collection being impossible or impracticable.

Charlene Bernardo, Tax Program Supervisor, was present on behalf of the Nevada Department of Taxation.

Commissioner Wren made a motion to approve the removal of names of certain debtors, including the amount of tax, and penalty and interest from the records of the Department for debts exceeding 5 years due and collection being impossible or impracticable, pursuant to NRS 360.265. Commissioner Lipman seconded the motion. All in favor. Motion carries.

VI. INFORMATIONAL ITEMS:

- A. Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- B. Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

There were no questions by the Commission.

VII. BRIEFING:

- A. Briefing to/from the Commission and the Executive Director.

Executive Director Hughes Reported: As an efficiency measure, the Department requested in the 2021-22 budget to consolidate our Las Vegas and Henderson offices into one location. Department staff found a location that has easy freeway access. The location is in a desirable business park close

to the McCarran International Airport. And to further realize cost savings, the Department chose to co-locate with the Cannabis Compliance Board and share a large public meeting training room which can be partitioned off into two separate spaces. Additionally, the location is equipped with other suitable conference hearing rooms to facilitate the Department's numerous meetings and Ask the Advisor trainings. The office space has the potential to accommodate Department growth, and there is adequate parking for both employees and customers. Staff has done an incredible job making sure the taxpayers' needs are still met during this transition, and the new location is expected to be opening and servicing taxpayers before the end of December 2021. With regard to MBT refunds, to date, the Department has issued 27,248 MBT refund checks totaling approximately \$60.4 million dollars. We have our last run of refund checks the week of December 13th. And to end my briefing, I wanted to let the commissioners know that Adriane Roberts-Larson is the Department's new administrative deputy as of November 1st. We are happy to have her on the executive team and she is doing an excellent job. I also wanted to inform you that today is our compliance Deputy, Terri Upton's, last commission meeting. Terri is retiring on December 31st, and she has been a tremendous asset to the Department. We are going to miss her, but we wish her all the best in her retirement.

Chairman Devolld stated, he thinks he echoes this from all of the Commissioners, Terri Upton's professionalism and knowledge will truly be missed, and we appreciate all of her service to every one of us in the State of Nevada and sincerely thank you so much.

Terri Upton thanked Chairman DeVolld and shared how saddened she is to hear of Carole Vilardo's passing. Ms. Vilardo was such a force to be reckoned with. Ms. Upton shared that she always enjoyed Ms. Vilardo's interaction with the Department and her knowledge was incredible. Ms. Upton shared that it has been such an honor and privilege to work with this Department. The staff is just incredible. They are so hardworking and dedicated to treating taxpayers fairly and at the same time making sure that the revenue is collected for the Department or for the State. The executive team is wonderful, and it is such a pleasure to work with them and also with the Nevada Tax Commission. Ms. Upton stated that she has been through a lot of chairs and a lot of members, and she appreciates all of you and the work that you do for the citizens of Nevada and the Department. Thank you.

VIII. Next Meeting Date: January 24, 2022

IX. Public Comment

There was no public comment.

X. Items for Future Agendas. (for discussion only)

Commissioner Bersi asked for an outline of information that should be redacted from meeting documents.

XI. Adjourn.

Meeting adjourned at 11:35 a.m.