

Nevada Cannabis Compliance Board

Meeting Minutes February 23, 2021

The Nevada Cannabis Compliance Board (CCB) held a public meeting on February 23, 2021, beginning at 9:00 a.m. In compliance with the Governor's Emergency Directive #006 dated March 22, 2020 and Emergency Directive #029 dated July 31, 2020, the Meeting was conducted by means of electronic communication.

Cannabis Compliance Board Members Present:

Michael Douglas, Chair
Jerrie Merritt
Dennis Neilander
Riana Durrett
Dr. Bryan Young

Tyler Klimas, Executive Director, called the meeting to order and took roll. Chairman Michael Douglas was present in Las Vegas. Member Dennis Neilander, Member Jerrie Merritt, Member Riana Durrett, and Member Dr. Bryan Young were present via video connection. Deputy Attorney General Asheesh Bhalla confirmed that the meeting complied with open meeting law requirements.

I. Public Comment

Executive Director Klimas stated all public comment received up until the start of the meeting will be read into the record. Any public comment received after the start of the meeting will be read into the record at the second public comment period. Tiana Bohner, Public Information Officer, read public comment into the record.

Public comment was received from Daesia Angstadt, who works for MedMen at a cultivation and production facility in Mustang. Ms. Angstadt supported Blackbird's petition to allow cross-docking at distribution hubs.

Layke Martin submitted public comment on behalf of the Nevada Dispensary Association (NDA) in support of Blackbird's petitions. The NDA supported extending the waiver of the two-driver rule under NCCR 13.025(5) for the duration of the pandemic, or repealing the regulation if it was determined that waiving the requirement did not result in any safety or security issues. The NDA supported revising NCCR 13.020 to include provisions for cross-docking and extending temporary storage to 72 or 96 hours.

Larry Burton submitted public comment to request to expedite the application process to allow the applicant to submit photos and copy of driver license at the time of submitting fingerprints. It would be more efficient to upload all of the required documents at the same time.

Margaux Hansberry (TGIG, LLC dba The Grove) submitted public comment to request the Board to consider extending and/or removing NCCR 13.025(5). Ms. Hansberry stated not having two drivers had made the delivery process more efficient and there was less risk to employees.

John Moe III of Dentons US LLP and Groia & Company PC submitted public comment in regard to iAnthus Capitol Holdings, Inc. and GreenMart of Nevada NLV, LLC and the application for transfer of licenses. They requested that the CCB deny without prejudice the transfer of cannabis licenses or hold the matter in abeyance until the CCB can conduct a detailed investigation. A second public comment was also submitted by the same party. Their clients are Debentureholders.

Kimberly Maxson-Rushton submitted public comment on behalf of RAD Source. A study was conducted by the Cannabis Testing Section, Food and Drug Laboratory Branch, California Department of Public Health on the effectiveness of x-ray radiation in remediation of Aspergillus in contaminated cannabis flower. The results of the study were included in public comment and posted online on the CCB website.

- II. A. Consideration for approval of the January 19, 2021 Cannabis Compliance Board Regulatory Workshop minutes.**
B. Consideration for approval of the January 26, 2021 Cannabis Compliance Board meeting minutes.

Douglas asked for a motion on agenda item II. Member Young made a motion to approve the minutes for agenda item II A and B. Member Merritt seconded. All Members said aye. Motion carried.

III. Briefing to the Board Regarding January 19, 2021 Workshop

Member Young stated there had been additional public comment received today, an informative meeting with Willow Industries, and he would like to receive additional public comment on the issue. Member Young asked the Chair if this item could be moved to the March meeting. The Chair agreed that Dr. Young should be diligent in reviewing all materials and the matter will be moved to the March meeting.

IV. Consent Agenda

A. **Complaints.** Executive Director Klimas stated that pursuant to NRS 678A.510, the Attorney General reviewed these violations and recommended proceeding with disciplinary action. Klimas presented the violations alleged and requested the Board vote to authorize the service of a complaint for disciplinary action for each licensee.

1. For Licensee A, the complaint alleged violations of NRS 453A, NRS 453D, and NAC 453D.
2. For Licensee B, the complaint alleged violations of NCCR 4, NCCR 6, and NCCR 9.

Chair Douglas asked for a motion. Member Neilander made a motion to approve service of complaint for agenda item IV A (1) and (2). Member Merritt seconded the motion. All Members said aye. Motion carried.

V. Request for Transfer of Interest

Director Klimas noted that item V D has been requested to be moved to the March agenda. Chief Compliance Audit Investigator David Staley confirmed that Digipath, Inc. requested their matter to be moved to the March agenda. Chair Douglas asked for the matter to be moved.

A. Mr. Staley presented item A, the TOI application for 3480 Investors, Inc (TOI 19078) to request approval for an existing shareholder, Kerry Lee McDonald, to sell her 25% ownership to Paul Thomas through his company (ETW Management, LLC). Staff identified no areas of concern with this application.

Chair Douglas asked if counsel would like to speak to the Board regarding this matter. Adam Fulton, Kerry Lee McDonald and Paul Thomas were present via video connection. Adam Fulton stated they appreciated the Board's consideration of the matter. There were no questions from the Board.

Member Neilander made a motion to approve agenda item V A. Member Young seconded. All Members said aye. Motion carried.

B. Mr. Staley presented item B, the TOI application for Franklin BioScience NV, LLC (TOI 19047). The request was for approval for Jushi Holdings, Inc. to acquire Franklin BioScience. Jushi proposed to hold the ownership of Franklin BioScience through a series of wholly owned subsidiaries. Jushi requested waivers pursuant to NCCR 5.112 and 5.125. Jushi had adequately addressed the requirements for the waivers and the CCB requests if approved, the waivers expire on such date as when the next TOI is heard. Staff identified no areas of concern.

Chair Douglas asked for comment from the licensees. Melissa Waite appeared on behalf of Jushi Holdings. Ms. Waite thanked the CCB staff and requested approval of the application. There were no questions from the Board.

Member Durrett made a motion to approve the transfer with the condition that the waiver expire on the date that the next TOI application is heard on a Board agenda. Member Neilander seconded. All Members said aye. Motion carried.

- C. Member Neilander made a disclosure prior to agenda item C. Member Neilander stated that two lawyers that represent the applicant work at his law firm. Member Neilander does not have pecuniary interest and works solely in gaming. Out of an abundance of caution, Member Neilander will recuse himself from this matter. Deputy Attorney General Bhalla confirmed the disclosure was adequate.

Mr. Staley presented agenda item C, the TOI application for My Life Organics, Inc. TOI 16005 was not filed by My Life, but issued in error by the Division of Public and Behavioral Health. Staff requested that TOI 16005 be administratively withdrawn. TOI 19017 was filed by My Life and requested to remove Karl Bonar and redistribute his shares to the remaining three shareholders, Brian Ruggles, Neal Bartoletta and Shawn Christopher. My Life requested permission to issue new shares of stock to Mr. Bartoletta and Mr. Christopher. Staff identified areas of concern because My Life completed these transactions before Board approval was received. My Life has had conversations with Senior Deputy Attorney General Rath and have agreed in principle to accept one violation of NAC and pay \$15,000 fine. If the Board is comfortable approving the agreement in principle, the stipulated settlement will be provided to the Board for approval at the March meeting.

Neal Bartoletta and Briana Martinez appeared on behalf of My Life. Ms. Martinez agreed with Mr. Staley's representations and requested for the Board to approve the settlement in principle with the stipulated agreement coming before the Board for approval in March. There were no questions from the Board.

Mr. Staley asked the Board to make a motion on the withdrawal of TOI 16005 before making a motion on TOI 19017. Chief Douglas made a motion for the administrative withdrawal of TOI 16005. Member Durrett seconded. All Members said aye (Member Neilander recused). Motion carried.

Member Durrett made a motion to approve TOI 19017 conditioned upon agreement the agreement in principle, with the stipulated settlement coming to the Board for approval at the March meeting. Member Merritt seconded. All Members said aye (Member Neilander recused). Motion carried.

VI. Consideration for Approval of Proposed Settlement Agreements to resolve disciplinary action.

Senior Deputy Attorney General Kristopher Rath provided an update on Nye Farm Tech, which had been referred back to staff at the January meeting. An agreement has been reached with Mr. Saga, and the matter will be on the March agenda for the Board to review. Mr. Rath presented three proposed settlement agreements.

- A. Agenda item VI A was Cannabis Compliance Board vs. Polaris Wellness Center, LLC (Case No. 2020-17). The complaint was filed and served on September 22, 2020. The matter was referred to a hearing officer. During the administrative process, the parties began negotiations and came to a mutually agreeable settlement to resolve the matter. The events at issue occurred at a cultivation facility in 2020. The allegations involved failure to follow seed-to-sale tracking requirements, and violations regarding maintenance and disrepair issues. Respondent admitted to one Category 3 violation for failure to properly tag product, and one Category 5 violation for maintenance issues. Respondent agreed to imposition of a \$12,500 civil penalty plus \$8,500 fees for investigation costs, for a total payment of \$21,000. The settlement contained a formal warning on maintenance issues. Respondent agreed to dispose of all quarantined cannabis within 30 days and provide a plan of disposal. The plan has been provided to CCB and it has been approved by CCB staff. Respondent provided a plan of correction, which was approved by CCB staff. The facility is now in compliance. The Attorney General recommended and requested approval of the settlement agreement.

Chair Douglas asked if there had been any additional problems of this nature at the facility since the event. Mr. Rath confirmed there hadn't and added that the plan of correction has been submitted and there has been additional employee training.

Rusty Graf, counsel for Respondent, appeared and stated that Black and Wadhams was immediately retained following the inspection. The policies and procedures were reviewed and revised. A plan of disposal was submitted and approved. Employee and training and counseling has been done. Mr. Graf agreed with the statements made by Mr. Rath.

There were no questions from the Board. Member Neilander made a motion to approve the settlement agreement. Member Merritt seconded. All Members said aye. Motion carried.

- B. Member Durrett made a disclosure regarding agenda item B. Ms. Durrett did a small amount of work for GreenMart when she was of counsel at the McLetchie Law Firm. Ms. Durrett did not have a pecuniary interest in the company, received no confidential information, and did not feel that her independent judgment would be biased in any way.

Mr. Rath presented Agenda Item VI B, Cannabis Compliance Board vs. GreenMart of Nevada NLV, LLC (Case No. 2021-30). At the January Board meeting, GreenMart's transfer of interest request was referred back to staff for further review and to work with the Attorney General's office to determine if a violation was in order. Mr. Staley and Mr. Rath worked with respondent's counsel and came to an agreement to resolve the matter. Respondent waived its rights to the filing and service of the disciplinary complaint, admitted to one Category 2 violation, and agreed to pay \$10,000 civil penalty. The TOI would be deemed approved upon receipt of payment of the civil penalty. The Attorney General recommended and requested approval of the settlement agreement.

Mr. Staley provided additional information that was not included in the initial investigative report regarding an identified under 5% owner, Ms. Elizabeth Stavola. Following the restructuring, Ms. Stavola's overall ownership interest will be reduced to almost nothing, as the secured creditors gain control of the company. After the January Board meeting, Ms. McLetchie provided CCB staff with a listing and analysis of public disclosures that iAnthus made regarding its acquisition of GreenMart of Nevada NLV.

Margaret McLetchie appeared on behalf of GreenMart of Nevada NLV, LLC and iAnthus. Andrew Ryan and Erin McCarthy were also available. Ms. McLetchie asked that the Board approve the settlement agreement and thanked CCB staff for their work on the transfer and agreement.

There were no questions from the Board. Member Neilander made a motion to approve the proposed settlement agreement. Member Durrett seconded. All Members said aye. Motion carried.

- C. Mr. Rath presented agenda item VI C, Cannabis Compliance Board vs. NCMM, LLC (Case No. 2021-31). This case concerned the respondents' transfer of interest request heard at the January Board meeting. The Board agreed to approve the TOI request on the condition of respondent admitting to a single Category 2 violation and \$2,500 civil penalty. The respondent waived its rights to the filing and service of complaint. The settlement agreement memorialized the terms recommended at the Board meeting. The Attorney General's office recommended and requested approval of the settlement agreement.

Michael Becker and Valerie Small appeared on behalf of NCMM. Mr. Becker stated NCMM reviewed and agreed to the terms and respect the Board's recommendation.

There were no questions from the Board. Member Neilander made a motion to approve the settlement agreement. Member Durrett seconded. All Members said aye. Motion carried.

VII. Adjudication of Disciplinary Action

Chair Douglas moved this agenda item to be heard later in the meeting.

VIII. Consideration of Proposed Amendments and/or Additions to the Nevada Cannabis Compliance Board Regulations

Deputy Director Michael Miles presented the proposed amendments to the regulations. There was a workshop conducted on January 19, 2021. No public comments were received regarding these changes.

NCCR 5.120 is being updated to clarify that any person, without limitation, who wishes to own less than 5% of a cannabis establishment must apply for a registration card absent a waiver pursuant to NCCR 5.125.

NCCR 5.130 is being updated to include titles of various executive positions that must obtain the cannabis executive agent registration card.

- A. Member Neilander made a motion to approve agenda item VIII A for NCCR 5.120. Member Young seconded. All Members said aye. Motion carried.
- B. Member Neilander made a motion to approve agenda item VIII B for NCCR 5.130. Member Durrett seconded. All Members said aye. Motion carried.
- C. Member Neilander made a motion to approve agenda item VIII C for NCCR 6.025. Member Durrett seconded. Chair Douglas noted that this regulation is similar to what gaming does. All Members said aye. Motion carried.

IX. Petitions filed Pursuant to NRS 678A.460(1)(d)

- A. Deputy Director Miles provided an introduction. At the December meeting, the Board waived enforcement of the two-driver rule under NCCR 13.025 due to the current emergency situation with COVID-19. An update was requested to be given at the February Board meeting.

Ms. Jennifer Gallerani appeared on behalf of Blackbird Logistics to provide an update. Ms. Gallerani stated there have been significant gains in efficiencies and there have no COVID cases amongst their driver fleet. Ms. Gallerani noted the Nevada Dispensary Association supported the single driver rule. The drivers are not yet vaccinated in the state, and requested an extension of the waiver to continue through the pandemic, or removing the requirement. Director Klimas commented that the CCB has not seen any issues in the past 60 days, and would not have concerns with extending the modification for a time period as decided by the Board.

Chair Douglas stated that it made sense to extend the waiver another 60 days. Member Neilander agreed but was not prepared to repeal the regulation. Member Young agreed and commented that a 90-day extension would be appropriate.

Chair Douglas made a motion to extend the waiver of the two-driver rule for 90 days, based upon the circumstances of the pandemic emergency and vaccinations. Member Neilander seconded. All Members said aye. Motion carried.

- B. Deputy Miles introduced the petition from Blackbird Logistics regarding a change to NCCR 13.020 which limits the storage of cannabis within a storage facility while a distributor distributes cannabis throughout the state. Blackbird Logistics was available to summarize the petition, Kara Cronkhite from the CCB was available to answer questions.

Jennifer Gallerani appeared on behalf of Blackbird. Ms. Gallerani requested a notification to be sent out to industry regarding the 90-day waiver extension for the two-driver rule.

Ms. Gallerani stated the current regulations are limiting in terms of when product can be temporarily stored, and they are driven by unusual or extraordinary circumstances. The regulations can be interpreted that the

CCB would need to be notified every time there was a need to bring product to the warehouse, even for a typical cross-docking distribution model. Cross-docking allows for a central site for orders to be sorted and combined to that they can be distributed to multiple destinations in the most productive and fastest method.

The petition called for removing language around unusual and extraordinary circumstances and replacing it with the ability for a cannabis distributor to utilize a storage area and its warehouse as part of normal business operations for the purposes of sorting cannabis and cannabis products from various originating cannabis establishments. The petition also asked to extend the temporary storage limit from 48 hours to 72 hours so that they can accommodate a Friday pickup and Monday delivery. Dispensaries prefer to have Monday deliveries as that is their slowest day. The Nevada Dispensary Association also supported the petition request.

Director Klimas stated that there was comfort with these changes but the CCB would want to work through the language. Ms. Cronhite confirmed that the CCB staff was comfortable with the proposed changes. If the Board wished, the CCB could put this out for informal public comments. Once those were reviewed, the language could be drafted and the proposed changes put on workshop.

Director Klimas stated this could be placed on a workshop in April. Chair Douglas stated that it would be prudent to have public comment and a workshop to get a better understanding of the industry. Member Neilander agreed and would like to get a view of how is working in other industries as well and if there are any problems. Deputy Attorney General Bhalla confirmed that no action needed to be taken by the Board at this time.

Director Klimas noted that the petition filed by THC Nevada regarding product retests and heard at the last Board meeting is being prepared for a workshop.

X. Approvals and Resolutions

- A. H & K Growers Corp (C197, RC197) is a medical and adult use cultivation facility in Wells, Nevada. The final approval was granted on September 22, 2020 with the final license number issued on January 11, 2021.
- B. Director Klimas provided a summary of the location request for Livfree Wellness, LLC (RD547). Livfree Wellness requested its final licensure for the location 8605 S. Eastern Ave. in Las Vegas. A survey was presented that showed a day care operating as a preschool (Creative Kids Learning Center) within 1000 feet, a potential violation of NRS 678B.250. An updated survey was submitted that removed the reference of the preschool. Clark County did not recognize Creative Kids as a school, as it is licensed as a day care facility. A retail dispensary must only be within 300 feet of a day care. There is no Nevada agency that regulates “preschool” and Nevada law distinguishes between public and private school and day care. After consultation with counsel, CCB staff recommended and will proceed with granting the final license at that location.

Alicia Ashcraft appeared on behalf of Livfree and agreed with Director Klimas’ summary of events. Chair Douglas responded that after consideration of the county’s position and the state regulatory bodies, he was comfortable with the position. Member Neilander added that upon review of the material, the CCB was following what the law states.

VII. Adjudication of Disciplinary Action

- A. Cannabis Compliance Board vs. William Alberto Giron (Case No. 2020-14)
Chair Douglas provided an introduction and summary of the matter. The case was heard by a hearing officer and the Board Members received the hearing officer’s Findings of Fact, Conclusions of Law, and Recommendations for Discipline. The Board Members also received that materials of the record including audio recordings, documents, and video recordings. Chair Douglas confirmed he had reviewed the entire record. Member Neilander, Member Durrett, Member Merritt, and Member Young stated they had each reviewed the record. Chair Douglas stated that this was a review and the Board is not bound by prior action. Mr. Giron stipulated to the actions, but did not stipulate as to the outcome of the matter.

Senior Deputy Attorney General Ashley Balducci acted as legal counsel for the CCB in the administrative proceeding and presented to the Board. The CCB's complaint alleged two violations of Nevada law. The complaint alleged Mr. Giron worked in a dispensary when he did not hold an agent card to work in a dispensary. The complaint alleged Mr. Giron diverted cannabis, which was shown on video surveillance. The complaint requested a civil penalty of \$1,250 and revocation of Giron's agent cards for nine years and eleven months. The hearing was held on November 12, 2020 and the hearing officer issued Findings of Fact, Conclusions of Law, and Recommendation for Discipline on December 14, 2020. The hearing officer concluded the CCB met its burden by the preponderance of evidence on both violations, but Giron established mitigating circumstances as to the first violation. The hearing officer recommended revocation of agent cards, and a bar on applying for a new agent card for nine years and eleven months. Ms. Balducci requested that the Board adopt the hearing officer's Findings of Fact, Conclusions of Law, and Recommendation for Discipline.

Mr. William Giron was duly noticed for the hearing and appeared on his own behalf. Mr. Giron stated that he hoped the Board took the judge's recommendation into consideration. Chair Douglas asked Mr. Giron if he would like to comment regarding the indication that he was misled by the employer. Mr. Giron had no additional comment to add to what was said during the hearing.

Ms. Balducci stated that the hearing officer recommended approximately what was given to the other agent card holders pursuant to those settlement agreements, with the exception of paying the civil penalty within four years and being able to apply for an agent card sooner.

Member Durrett asked for clarification regarding the hearing officer's comment about the employees involved hiding the product from each other. Ms. Balducci responded that she thought the questioning arose because if the employees were given permission to take product, why were they hiding it from each other. Mr. Giron responded that they were not hiding it from the other employees in the room, but from other employees at the establishment. Member Durrett asked Mr. Giron if he could provide clarification on how the product would be processed in Metrc. Mr. Giron responded that he was confused about that because he did not have Metrc access and did not know how it would be tracked. Member Durrett asked Mr. Giron if he knew the others were taking product. Mr. Giron responded that he did know but did not know how much product.

Chair Douglas recommended upholding the decision of the hearing officer in regard to Count 1 and modifying Count 2 to the condition imposed on the other licensees; if the \$1,250 civil penalty is paid within four years, he may reapply for an agent card. Member Neilander agreed. Member Durrett agreed and added that she did not want Mr. Giron to be punished more harshly for having exercised his due process rights. Member Merritt agreed.

Mr. Young asked for clarification on when Mr. Giron may reapply. Ms. Balducci responded that he may reapply if the civil penalty is paid within the four years and would have to wait four years even if paid sooner. Member Durrett asked when the effective date would be. Ms. Balducci responded that it would begin at the date of the final adjudication. Chair Douglas asked if there had been an agent card suspension. Ms. Balducci responded there had not been a suspension mentioned in the complaint. Mr. Bhalla clarified that discipline is imposed upon the effective date of the order, four years from the date that the order is signed.

Chair Douglas made a motion to accept the disciplinary recommendation as to item 1; and as to item 2, the modification of the \$1,250 to be paid within four years and if not then suspended for nine years eleven months. Member Neilander seconded. All Members said aye. Motion carried.

XI. Briefing to the Board from the Executive Director

Director Klimas provided an update on the legislative session. Senate Bill 49 was introduced on February 1 and had its first hearing at the Senate Health and Human Services Committee meeting on February 4. The bill contained a few administrative fixes. The CCB gave an agency overview at the Senate hearing and to the Assembly Judiciary Committee. A small number of cannabis related bills have been introduced.

The CCB is working on holding a workshop in late March or April to address a number of items including packaging and labeling. The CCB will work further to refine NCCR 5, in particular the waiver requirements around ownership under 5% as it pertains to publicly traded companies.

Chair Douglas asked for comment on the recent survey and product concerns. Director Klimas responded that the CCB sent the results of its first demographic survey pursuant to AB533. The soon to be appointed Cannabis Advisory Commission can look into equity, inclusion and diversity. A health advisory was issued due to high levels of yeast and mold found during a retest.

Member Neilander asked if there had been discussion in Legislature about consumption lounges. Director Klimas responded that there was talk, but no bills have been introduced.

XII. Next Meeting Date

Chair Douglas stated the next meeting date is March 23, 2021.

XIII. Items for Future Agendas

Chair Douglas asked the Board to let Director Klimas or himself know if any items should be taken into consideration.

XIV. Public Comment

Public comment was submitted by Dani Baranowski, the Vice President of the Chamber of Cannabis. Ms. Baranowski stated it was disturbing to note the disparity between white people in leadership positions compared to minorities and also between women and men in leadership. The Chamber would like to offer its assistance in filling roles within the advisory board. They are looking forward to the legislative session and new lines of commerce with social use venue licensing.

Public comment was submitted by Tina Ulman, President of the Chamber of Cannabis. Ms. Ulman thanked the CCB for the demographics study and consumption lounge study. It was clear from the data that owners and board members are predominantly white males. They are asking the CCB to find solutions to this concern, and the concern of not having a legal place for residents and tourists to consume cannabis by creating a fair and equitable license process for social use venues and additional cultivation and production licenses.

Public comment was submitted by Nicole Buffong, Director of Medical Voices for the Chamber of Cannabis. The fees suggested by the CCB report of social use licenses will be a barrier of entry for most business owners. Keeping the cost at the same rate of a beer and wine license (\$3,500) would allow a more diverse group of applications to become stakeholders. New Jersey has issued micro business licenses to allow them to sell micro doses of cannabis in a social setting, similar to purchasing a cocktail at a restaurant. A licensing structure specifically for social equity applicants will successfully diversify owners and operators in the state.

Chair Douglas asked CCB staff to pursue information from New Jersey as to the other licensing opportunities.

XV. Adjournment

Meeting adjourned at 11:03 am.