

Nevada Cannabis Compliance Board Emergency Meeting Minutes July 29, 2021

The Nevada Cannabis Compliance Board (CCB) held a via remote technology system Zoom on July 29, 2021, beginning at 3:00 p.m.

Cannabis Compliance Board Members Present:

Michael Douglas, Chair
Dennis Neilander
Jerrie Merritt

Tyler Klimas, Executive Director, called the meeting to order and took roll. Chairman Michael Douglas, Member Neilander, and Member Merritt were present via video connection. Deputy Attorney General Asheesh Bhalla confirmed that the meeting complied with the emergency meeting open meeting law requirements.

I. Public Comment

There was no public comment.

II. Request for placement of Receiver by licensee ACC Enterprises, LLC (C130, RC130) due to the death of its sole managing member, Howard Misle.

Director Klimas stated that the purpose of the emergency meeting was for placement of a Receiver to operate and manage the licensee ACC Enterprises, LLC (ACC) due to the recent death of its sole managing member, Howard Misle.

ACC operates a medical and adult-use cultivation facility in Pahrump. Mr. Misle testified at a recent deposition that he was in charge of ACC as 100% owner and personally managed the operations. Mr. Misle passed away on July 18, 2021, and is survived by his wife, Meghan Konecne. The CCB was advised of Mr. Misle's death late on July 20, 2021. CCB staff inspected the facility on July 21, 2021 and found some violations but none were sufficient to warrant an immediate closure of the operation.

CCB staff and counsel spoke with ACC's counsel, Mr. Fulton, regarding the ownership. Mr. Fulton expressed concerns of shutting down the facility as it was the third largest employer in Pahrump. CCB records showed ownership interest by Mr. Peter Seltzer, though Mr. Misle had previously testified Mr. Seltzer sold his interest in 2019. Mr. Fulton agreed to provide additional documents on this issue.

The parties agreed it was in the best interest to have a Receiver placed to operate and manage the company and it was requested that Mr. Fulton propose a Receiver. Mr. Fulton proposed Mr. William A. Leonard, Jr. as the Receiver. CCB staff reviewed Mr. Leonard's qualifications and believes he is qualified to act as Receiver for ACC, pursuant to new legislation A.B.326 Section 1.69 effective July 1, 2021.

Counsel for ACC provided a Court Order of June 5, 2019, regarding the transfer of interest by Mr. Seltzer. The Court found that Mr. Seltzer executed an agreement to sell his interest in ACC to Belmeko, LLC. The CCB does not have a record of a transfer of interest request submitted to the Department of Taxation. This will require further investigation as there may have been an unapproved transfer of interest. Mr. Fulton indicated that ACC may seek to transfer ownership of ACC to Ms. Konecne as she is Mr. Misle's heir and a manager of Belmeko, LLC.

ACC and CCB staff agree that the company should be allowed to operate while all of the issues are investigated, as long as a qualified Receiver is in place to manager, operate, and ensure compliance. CCB staff recommends Mr. Leonard be placed as Receiver and provide monthly report to the CCB on its activities. Mr. Leonard has a temporary agent card and would be ready to proceed with Board's approval.

Director Klimas added that if the Board approved Mr. Leonard's placement, the Order should include language that the Receiver is to take immediate possession and control of ACC and manage its operations in the best interests of the company and in compliance with Nevada law. The Receiver must be independent and may not be represented by counsel for ACC and/or counsel for the Estate of Howard Misle. The Receiver may retain independent counsel. The Receiver should be ordered to provide CCB with a report of initial activities with ACC no later than August 16, 2021, and monthly reports on the 15th day of each month, or the first business day thereafter. The Receiver should remain in place until the CCB has approved his removal. ACC is to be responsible for payment of the Receiver's fees and costs for the execution of his duties.

Mr. Fulton thanked staff and counsel for working on this matter. Mr. Fulton stated that the facility was one of the largest employers in Pahrump. He understood there was a process to put a Receiver in place and they were working through the transfers that happened and will be submitting paperwork regarding that.

Member Neilander stated he has seen this in other industries where there is a one person LLC. He encouraged Mr. Fulton to get the TOI application filed as soon as possible. It will be expensive for the estate to have a Receiver.

Chair Douglas added they may also process a fine or follow the recommendations to be in compliance as to the non-transfer that occurred, so that the new ownership can be properly put in place.

Mr. Fulton agreed and will comply. They were trying to get an accurate reflection of the records.

Meghan Konecne and Mr. Leonard were available for questions.

Chair Douglas stated there would be monthly reports required and the submittal of the transfer of interest application. The Board would appreciate an outline at the August meeting of what the timeline might be.

Mr. Leonard stated he is prepared to step in and manage the company and get it into compliance. He did not see a problem with preparing the initial report.

Member Neilander commented that he has reviewed Mr. Leonard's background and asked if he thought that he could fully manage the affairs of the company without interference from other parties. Mr. Leonard responded that he believed he could.

Member Neilander made a motion to approve the placement of Mr. Leonard as the Receiver to oversee the affairs of ACC Enterprises until such further notice as the parties agree to. Member Merritt seconded the motion.

Member Neilander added that this action was the best interest of the state.

Chair Douglas, Member Neilander, and Member Merritt said aye. Motion carried.

III. Public Comment

There was no public comment.

IV. Adjournment

Meeting adjourned at 3:21pm.