

## Nevada Cannabis Compliance Board Meeting Minutes September 27, 2022

The Nevada Cannabis Compliance Board (CCB) held a public meeting at 555 East Washington Ave, Room 2450, Las Vegas, Nevada and 1919 College Parkway, Meeting Room 100, Carson City, Nevada beginning at 9:07 a.m. on September 27, 2022.

### **Cannabis Compliance Board Members Present:**

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

**Chair Douglas called the meeting to order, and Director Klimas took roll.** Chair Michael Douglas and Member Durrett, and Member Merritt were present in Las Vegas. Member Young was present in Carson City. Member Neilander was present via video connection.

### **I. Public Comment**

Chandler Cooks provided public comment on social equity in the cannabis industry. Mr. Cooks stated it was important that people of color are included in the industry and Nevada was working to correct those injustices. A cannabis company owned by social equity applicant would be vulnerable to big business. The use of people of color to obtain a license is ground for corruption and unequal treatment. There are predatory operating agreements. One of the biggest challenges is experience. Mr. Cooks focus was ensuring social equity applicants were seen and heard during this process.

Rachel Lee of Sunflower Compassionate Company and thanked the CCB for the work with Metrc and keeping cannabis safe with the seed to sale tracking system. Ms. Lee spoke about the fentanyl drug problem. Ms. Lee asked where the numbers for fines came from. Ms. Lee spoke of her background and drug charges filed against her, her job history holding a job with her background after pleading guilty to drug changes. Ms. Lee asked the Board to consider people like her affected by war on drugs

Ron Baker stated he was the community outreach coordinator with CEIC, and he worked with legacy people that were looking to get into the industry. Mr. Baker preferred the term “legacy” over the term “illicit” or “black market.” Mr. Baker had a product that will do well in the consumption lounges, but he was still part of the legacy market.

Dr. David Fuhr with Fuhr Research Laboratories. Dr. Fuhr stated that he submitted a petition to the Board, but it was not on the current agenda. The petition was to amend regulation 10 regarding waste, so that there are other types of substances that can be introduced to make waste disposal environmentally friendly and non-hazardous.

Layke Martin, Executive Director of the Nevada Cannabis Association (NCA), commented on agenda item VIII, Green Life Production’s petition to amend regulations. The NCA supported Green Life pushing for these regulation changes to permit cultivators to use composting and mulching. These types of sustainable growing practices should be encouraged.

Sheldon Mudd, Executive Director of the Northeastern Nevada Regional Development Authority, and provided comment on White Pine County’s petition. Their organization was responsible for the economic development pursuits of four northeastern Nevada counties. It is not easy in rural Nevada. There are several

reasons why companies do not choose to come to northeastern Nevada. They thought they hit the jackpot with Silver Lion Farms deciding to come to White Pine County with an integrated model of production, processing, and extraction with potential manufacturing. This would bring opportunities of economic diversification. Silver Lion Farms received state tax abatements and invested more funds into its project. Silver Lion Farms has been caught in the red tape of several state agencies. Mr. Mudd asked the CCB to honor NRS 678B.220(3)(b) and issue White Pine County a medical cannabis cultivation and production license immediately.

Nicole Buffong spoke on behalf of Minorities for Medical Marijuana and Chamber of Cannabis. Ms. Buffong thanked the Board for hosting a roundtable discussion with industry stakeholders. Ms. Buffong asked the Board to allow the Green Life petition to go to workshop for further discussion. Ms. Buffong supported GLP's clean and sustainable growth methods. GLP provides organic produce and does not use radiation to treat their cannabis.

Cristina Ulman appeared on behalf of the Chamber of Cannabis. Ms. Ulman thanked the Board for hosting the roundtable. Ms. Ulman stated the biggest threat to the cannabis industry was over-regulation and not understanding the plant. As more states legalize cannabis, less people will need to purchase it in Nevada unless we grow the highest quality product. Ms. Ulman asked the CCB to stop charging time and effort billing for researching the cultivation process.

Robert Kurilko, CEO of Silver Lions Farms, stated they were and interested business in supporting White Pine County's efforts to secure a medical cannabis license. Mr. Kurilko noted that he understood that his business must enter into a competitive licensing round. Silver Lion Farms has been working to put itself in the best position to compete for the license. Silver Lion Farms is not able to purchase a license in another county since the license can't be moved. Silver Lion chose White Pine County. White Pine petitioned the CCB to enforce the "shall" language of the statute, and Mr. Kurilko did not understand why it has taken so long. Silver Lion Farms wants the opportunity to apply for a license on fair footing and open a licensing round in White Pine County.

Will Adler appeared on behalf of the Sierra Cannabis Coalition. Mr. Adler thanked the Board for the roundtable with industry and looked forward to fixing some of the issues. Mr. Adler thought that the GLP petition should be looked at. The regulations are not set in stone and the industry needs to grow and develop. Mr. Adler also thought that the White Pine County petition should be looked at because it had merit. Mr. Adler will continue to submit petitions of economic importance.

## **II. Meeting Minutes**

### **A. Consideration for approval of the August 23, 2022, Cannabis Compliance Board Meeting minutes.**

Chair Douglas asked for corrections or a motion from the Board. Member Durrett made a motion to approve the minutes for agenda item II A. Member Merritt seconded the motion. Board Members said aye. Motion carried.

## **III. Consent Agenda**

### **A. Complaints**

Director Klimas noted that staff requested to pull one of the complaints from the agenda, so there would only be agenda item III (A) (1).

1. As to Respondent A, the complaint alleged violations of NCCR 4, NCCR 6, and NCCR 10.

Member Durrett made a motion to approve service of the complaint for disciplinary action in agenda item III A (1). Member Merritt seconded the motion. All Members said aye. Motion carried.

## **B. Conditional Approval of Request for Transfer of Interest**

1. Wellness Connection of Nevada, LLC (CTOI# 22010) (C167, RC167, P109, RP109, D190, RD190, RD633)

Rachel Branner, Compliance Audit Investigator III, presented the conditional TOI to the Board. Ms. Branner stated Wellness Connection of Nevada, LLC filed an application for approval of an internal divestiture of ownership of one existing owner to three other existing owners pursuant to a settlement agreement issued in Clark County District Court. Ms. Branner noted that staff identified an area of concern due to a tax compliance issue and that will be fully reviewed during the full TOI investigation at a later date.

Melissa Waite with the law firm of Dickinson Wright appeared on behalf of Wellness Connection. Robert Lally appeared via Zoom and Matt McClure, general manager, was present. Ms. Waite requested approval of the transfer of interest among existing members.

Chair Douglas noted that the Board received a copy of the District Court order and noted the tax issue. There were no questions from the Board.

Member Durrett made a motion to approve agenda item III B relating to Wellness Connection. Member Young seconded the motion. All Member said aye. Motion carried.

## **IV. Consideration the Proposed Settlement Agreements to Resolve Disciplinary Action**

### **A. Cannabis Compliance Board vs. Helios NV, LLC (Case No. 2021-46)**

Chair Douglas noted that this agenda item was pulled from the agenda.

### **B. Cannabis Compliance Board vs. Joseph Foley (RD217) (Case No. 2022-101)**

Senior Deputy Attorney General Michael Detmer presented the settlement agreement to the Board. Mr. Detmer stated the matter arose from a disciplinary complaint that was filed and served on or about July 6. The complaint alleged a Category I violation for making a false statement to the Board or in the alternative, a Category III violation for failing to meet the requirements for the disposal of cannabis. For the Category I violation, the range of penalties could include revocation or suspension of the respondent's agent card and a civil penalty up to \$90,000. As Category III violation, the possible penalties include a civil penalty that could total up to \$10,000. The terms of the settlement agreement include respondent's admission to two Category III violations for failing to meet the requirements for disposal of cannabis waste, a civil penalty of \$1,000, and completion of an approved plan of correction. The Attorney General requested approval of the settlement agreement.

Charles Gianelloni appeared on behalf of Mr. Joseph Foley who was also present. Mr. Gianelloni stated that the agreement was fair, and they appreciated the cooperation from the attorney and the Board. They have already started to work through the plan of correction.

Chair Douglas commented that he had some concerns after reading through the initial complaint. Chair Douglas was not willing to accept it at this date not knowing the mitigation and settlement discussions. Chair Douglas wanted to hear on the record the mitigation and looking at what occurred and thoughts from other Board Members.

Member Durrett asked how the terms of the settlement agreement would work with the plan of correction. Mr. Detmer explained that Mr. Foley had already completed the plan of correction that was approved by the CCB; it paralleled the way other plans of correction were handled. Member Durrett asked for clarification on the fines and if the higher fine could be triggered. Mr. Detmer responded that the range of penalties could include failure to pay the \$1,000. Member Durrett asked if the State was able to be

subjective and impose the full fine. Mr. Detmer responded that the Respondent would be entitled to due process and may result in a hearing for non-compliance. Member Durrett was concerned with that approach since it was not definitive.

Chair Douglas added that in reading the complaint, there were over 100 cannabis products that were deemed as waste that were gifted or provided to employees without charge, inspectors being told that items were destroyed and then later the items were found still in place and not destroyed. There is more to it than what was received. Chair Douglas was not comfortable going forward. How much was the respondent's fault or was it the culture of the establishment. This seemed worse than what has happened with other individuals that the Board has taken action on.

Mr. Detmer asked the Chair if he would like to hear the mitigating factors. Chair Douglas responded that he would like to hear them and asked for those to be included going forward so that the Board is able to make informed decisions.

Mr. Detmer stated that Mr. Foley had no prior violations of Title 56 or the Regulations, he has been candid since the inception of the investigation, forthcoming, and generally accepted responsibility for the violations. Mr. Foley completed a plan of correction in which he made declarations that he would familiarize himself with the regulations annually. Mr. Foley was terminated from that job and his current employment in the industry is no longer in supervisory role; he does not have access to edit Metrc. The establishment also received prior discipline for the offense from which this complaint arose.

Mr. Gianelloni added that in the mitigation there was discussion of how this arose; there was some miscommunication as to a directive that Mr. Foley received. Mr. Foley was directed to come up with a way to give expired product to employees. Mr. Foley accepted responsibility for doing that in way that was not consistent with the law. The establishment settled the matter prior and paid a stiff penalty. Mr. Foley understands that the laws apply to him, and his personal policy will be to follow the law regardless of a company's policy. Mr. Gianelloni thought that the settlement agreement was appropriate in this situation.

Member Durrett supported accepting the settlement agreement and the fine amount. It was a mistake, but it was isolated and corrected.

Member Durrett made a motion to accept the settlement agreement. Member Neilander seconded the motion. Member Neilander commented that he would like the mitigating factors included in the settlement agreement. Member Durrett, Member Merritt, Member Neilander and Member Young said aye. Chair Douglas said nay. Motion carried.

### **C. Cannabis Compliance Board vs. Greenleaf Enterprises, Inc. (Case No. 2022-098)**

Senior Deputy Attorney General Emily Bordelove presented the three inter-related settlement agreements, Agenda items IV C through IV E, to the Board that resulted from TOI investigations. None of the violation stem from self-reported incidents. At the April board meeting, these were referred to the CCB and Attorney General's office due to tax issues that came up during the TOI investigation. The settlement agreements are separate for each entity. These settlement agreements did not involve a separate complaint.

Greenleaf Enterprises (GLE) holds a medical and adult-use license for a cultivation facility. GLE, Greenleaf Production (GLP), and Greenleaf Wellness (GLW) submitted a TOI request to redistribute ownership percentages among the natural persons. The TOI investigation discovered that GLE had multiple late filed tax returns that were not zero returns. During the settlement discussions, Metrc issues were encountered by CCB staff during a March 15, 2022, routine inspection and audit; this involved weight discrepancies that qualified as a few Category III NCCR violations as embodied in the statement of

deficiencies dated March 16, 2022. This was subsequently folded into the settlement agreement. The settlement agreement included a plan of correction for the tax issues that included an updated accounting and financial management process and procedures, legal counsel to assist with regulatory matters and compliance, and formal quarterly meetings to review corporate legal compliance and business planning oversight guidance to include the timely filing of tax returns. The plan of correction for the Metrc discrepancies and seed to sale violations included secondary verification of lot weights, grading lot weights before creation in Metrc and disposal of any excess cannabis. CCB staff have approved the plan of correction. To resolve the matter, GLE admitted to two Category III violations for unintentionally failing to pay taxes to the Department of Taxation, two Category V violations for failing to submit monthly tax or sales reports or payments, and one Category III violation for failing to keep required records. GLE agreed to accept a formal warning for the first Category V violation and pay \$25,000 civil penalty for the two Category III and remaining Category V violations, and \$10,000 for the one additional admitted Category III Metrc violation payable within 30 days of approval of the agreement. This is comparable to previous tax violation settlements. The Attorney General requests approval of the settlement agreement.

Wade Beavers with Fennemore Craig appeared on behalf of Greenleaf Enterprises with Steve Duque and Tammy Kolvet of Greenleaf. Mr. Beavers stated they agreed with Ms. Bordelove's summary and requested approval of the settlement agreement.

Chair Douglas asked if there were comments on the correction plan or mitigation. Mr. Beavers responded that the approved correction plan is adequate to address the concerns. The hiring of a public accounting firm and retention of law firm Fennemore Craig will ensure regulatory compliance and prevent issues from occurring again. The new Metrc guidelines will address the weight discrepancies.

Member Neilander asked where Mr. Reaser was and commented that Mr. Reaser was a particular and detail-oriented attorney.

Member Durrett made a motion to approve the settlement agreement for Greenleaf Enterprises. Member Merritt seconded. All Members said aye. Motion carried.

#### **D. Cannabis Compliance Board vs. Greenleaf Production Inc. (Case No. 2022-099)**

Ms. Bordelove stated that GLP had the same change in ownership structure as GLE and holds a medical and adult-use production license. The TOI investigation uncovered that GLP had a few late modified business tax returns that were zero returns. To settle the matter, the respondent admitted to two Category V violations for failing to submit monthly tax returns or sales reports and payments. GLP agreed to accept a formal warning for the first Category V violation and pay \$5,000 civil penalty for the second Category V violation within 30 days of approval of the agreement. The settlement included a plan of correction, as was detailed in the GLE settlement, that was approved by the CCB. The Attorney General requested approval of the settlement agreement.

Wade Beavers appeared on behalf of Greenleaf Production. Mr. Beavers added that the issues in this matter did not relate to the Metrc violations but tax returns. The compliance plan including the hiring of the accounting firm will go a long way towards addressing management of cash and records keeping. Mr. Beavers thought it was a fair agreement and requested approval of the plan.

Member Durrett made a motion to approve the settlement agreement for Greenleaf Production. Member Merritt seconded. All Members said aye. Motion carried.

#### **E. Cannabis Compliance Board vs. Greenleaf Wellness Inc. (Case No. 2022-100)**

Ms. Bordelove stated that GLW had the same change in ownership structure as GLE and GLP and holds a medical and adult-use production license for dispensaries. The TOI investigation uncovered that GLW

had multiple late filed tax returns with liabilities to be paid. The violations for GLW and GLE are identical. To resolve the matter, GLW admitted to two Category III violations for unintentionally failing to pay taxes to the Department of Taxation, two Category V violations for failing to submit monthly tax or sales reports or payments. GLW agreed to accept a formal warning for the first Category V violation and pay \$25,000 civil penalty within 30 days of approval for the remaining violations. The plan of correction I is identical to GLE's plan of correction for tax violations. CCB staff has approved the plan. The Attorney General recommends and requests approval of the settlement agreement.

Wade Beavers appeared on behalf of Greenleaf Wellness. Mr. Beavers agreed with the summary provided by Ms. Bordelove. The violation is similar to the GLE violation and Mr. Beavers thought that the plan of correction would sufficiently address staff's concerns. Mr. Beavers stated it was a fair settlement and requested approval of the settlement agreement.

Member Merritt made a motion to approve the settlement agreement for Greenleaf Wellness, Case No. 2022-100. Member Young seconded. All Members said aye. Motion carried.

## **V. Request for Transfer of Interest**

Compliance Audit Investigator III Rachel Branner presented the transfers of interest.

### **A. LNP, LLC (TOI# 21058) (C196, RC196)**

Ms. Branner stated LNP, LLC submitted a TOI application to request approval of internal LNP restructuring and the addition of two new members, TB Group LLC and Island Group, LLC. Staff identified an area of concern with TOI 21058 because LNP filed late tax returns eleven times during the last three years with the Department of Taxation.

Alicia Ashcraft appeared on behalf of LNP with other parties appearing remotely. Ms. Ashcraft thanked CCB staff for their work and requested approval of the transfers.

Member Neilander asked if this was just converting the notes to equity. Ms. Ashcraft responded that generally yes; the interest was originally held directly by the Lynch's, then moved into an entity and then the note conversions for the other members.

Chair Douglas noted that there were tax issues, but the report indicated that they are currently in good standing.

Member Durrett made a motion to approve the transfers in agenda item V A. Member Young seconded the motion. All Members said aye. Motion carried.

### **B. Matrix NV, LLC (TOI# 21033) (C150, RC150, P095, RP095, T049)**

Ms. Branner stated Matrix NV, LLC filed a TOI application for approval of internal dilution of ownership and the addition of one new member. Matrix requested waivers of the requirements of NCCR 5.110 pursuant to NCCR 5.112 and 5.125, regarding a review of owners related to transfers under 5%. Staff suggests that if approved, the Board limit such waivers to expire on the next agenda date for a Matrix transaction. Staff identified areas of concern as there appears to be unapproved TOIs that took place after the conversion of convertible notes issued in 2016 and 2019. Matrix also filed four late or incomplete tax returns with the Department of Taxation within the last three years.

JJ Brumfield appeared on behalf of Matrix and was available for questions. Mr. Brumfield requested approval of the transfers.

Chair Douglas asked if they wanted to comment on the area of concern regarding an unapproved TOI. Mr. Brumfield responded that it was converted notes for capital that they needed to raise in order to keep operations going.

Chair Douglas commented that was something that probably should have come to the Board. Member Neilander asked if they didn't realize that they needed to get approval for that at the time. Mr. David Tuttleman responded that they applied for the transfer of interest over two years ago and was done in conjunction with the funding and all of the existing partners of the entity. There was a need for additional funding which was denied by most of the other partners. Mr. Tuttleman brought in Mr. Radcliffe as an investor pending TOI approval.

Member Neilander asked if it was a member-to-member transfer. Mr. Tuttleman replied that his share would be enhanced but other members would be diluted. Member Neilander commented that they all had strong business backgrounds and asked who was managing. Mr. Tuttleman responded that Mr. Brumfield was the senior vice president, and he was one of the managing members. One of the other owners was also part of the management team. Mr. Tuttleman added that they were very hands on.

Member Neilander asked what Mr. Radcliffe's role would be. Mr. Radcliffe responded that he would be an investor and accepting a seat on the board of directors, but no day-to-day management.

Member Neilander made a motion to approve item V B for Matrix as stated on the agenda. Member Merritt seconded the motion. Chair Douglas noted the difficult times, but he supported the transfer and advised to be sure to follow the stated rules. All Members said aye. Motion carried.

**C. CPCM Holdings, LLC (TOI# 2100052) (C078, RC078, D027, RD027, D028, RD028, RD263, RD264, RD265, RD267, RD329, RD598, T050) and Green Therapeutics, LLC (C082, RD082, C083, RC083, P054, RP054, P055, RP055, RD273, T036)**

Ms. Branner stated CPCM Holdings filed the TOI for approval of internal restructuring and for approval to purchase two cultivation and two production licenses held by Green Therapeutics. CPCM Holdings requested waivers of the requirements of NCCR 5.10 pursuant to NCCR 5.112 and 5.125 regarding a review of owners related to transfers of under 5%. Staff suggest that if approved, the Board limit such waivers to expire on the agenda date for a CPCM transaction. An early suitability review for a lounge license was conducted in conjunction with the TOI investigation. The report concluded that CPCM Holdings was suitable for the requested TOI and the lounge license. Staff identified areas of concern because two of CPCM Holding's subsidiaries filed a total of six late or incomplete tax returns with the Department of Taxation.

Amanda Connor appeared on behalf of CPCM Holdings, LLC. Ms. Connor noted that there were several facility ID numbers listed on the agenda, but this transfer only deals with C082, RC082, P054, and RP054; the remaining Green Therapeutics licenses are not affected by the transfer. Ms. Connor noted that most of the owners were present at the meeting to show how important this was to them. In regard to the late tax filings, Ms. Connor stated that almost all of them were filed timely, a couple were amended, and the Department of Taxation used the amendment date to indicate that they were late. In some instances, multiple returns were paid by a single check and the payment was not properly applied. The licensee has put in place corrective measures, including paying each return with its own check. Ms. Connor requested approval for the transfer.

Chair Douglas noted that a tracker system was also implemented. Member Neilander asked for clarification on the check payments. Ms. Connor responded that they used to send one check for all of the tax payments on behalf of the various subsidiaries. They now send one check for each tax return.

Member Neilander commented that Ms. Branner did an excellent job presenting the items.

Member Neilander made a motion to approve item V C as stated on the agenda with the condition that the waivers expire on the date that CPCM's next transaction is heard. Member Merritt seconded the motion. All Members said aye. Motion carried.

**VI. Request for Consideration of Approval of Management Services Agreement**

**A. CN Licenseco I, Inc. (C095, RP095, P066, RP066); Fluids Manufacturing Inc.**

Ms. Branner stated that CCB staff have reviewed the agreement and found the relationship between the relationship between the parties to be appropriate.

This matter was trailed to later in the agenda as a representative from CN Licenseco was not present at the time the item was called.

**VII. Request for Consideration of Approval of Court-Appointed Receiver’s Application for a Cannabis Establishment Agent Registration Card for a Cannabis Receiver**

**A. Kevin Singers Application for a Cannabis Establishment Agent Registration Card for a Cannabis Receiver as a Court-Appointed Receiver for Harvest Foundation, LLC (C130, RC130) in Eighth Judicial Court Case No. A-18-783185-C)**

Member Durrett noted that she would abstain from this matter or anything related to Harvest Foundation as she had been retained as an expert witness by a firm that represented an adverse party to Harvest Foundation.

Senior Deputy Attorney General L. Kristopher Rath stated that this was a receivership application for Mr. Kevin Singer. Mr. Rath noted that Mr. Singer was approved as a cannabis receiver earlier this year over Green Cross of America by this Board. Mr. Rath added that the licensee has some issues and some history and likely needs a cannabis receiver.

Chair Douglas noted that the receiver appeared to be well qualified. Chair Douglas added there was a scheme of payment this is a short duration, and the Court has reviewed this. Chair Douglas also noted that the license was in suspense at this time.

John Savage, counsel, stated that Mr. Singer was appointed by the Eighth Judicial Court, subject to the Board’s approval, upon a request from a creditor. Mr. Savage added that this has been a more stable situation and there is already a plan in place. They understood the concerns related to funding. A \$10,000 advance was received to get started with the receivership. A six-month budget and valuation of the business were submitted to the Board.

Member Neilander asked Mr. Singer if he intended to raise funds in order to cover the expenses. Mr. Singer responded that the business was not in operation. Mr. Singer would oversee the licenses and the transition of those licenses. Mr. Singer did not think there would be a need to go raise money for the estate; they could get through the disciplinary actions, and the marketing and selling the license.

Chair Douglas noted that reports would need to be submitted to both the Eighth Judicial District Court and the Board. Member Neilander asked if a condition was needed to have the receiver submit reports to the Board. Mr. Rath replied that normally, the reports were due the 15<sup>th</sup> of each month and submitted to both the Court and the CCB.

Member Neilander made a motion to approve agenda item VII as stated on the agenda with the condition that the reports that are submitted pursuant to the Court’s order are also submitted to the Board. Member Young seconded the motion. Member Young, Member Merritt, Member Neilander, and Chair Douglas said aye. Member Durrett abstained. Motion carried.

**VIII. Petition Filed Pursuant to NRS 678A.460(1)(d)**

**A. Green Life Productions, LLC’s Petition to Request Amendments and/or Additions to Regulations 1 and 10**

Scot Rutledge with Argentum Partners appeared before the Board to present the petition from Green Life Productions. Mr. Rutledge thanked the CCB staff for their work to address some of the methodologies that Green Life Productions in their cultivation facility and what they might want to petition the Board on. Steve Cantwell was present to answer questions.

Mr. Rutledge requested that the Board move to a workshop to work on these items. Mr. Rutledge thought there were others in the industry that are interested and have suggestions. The proposed definitions were based on months of consultation and research, but it would be valuable to have more feedback.

Chair Douglas asked for comments from staff. Director Klimas stated that this was an issue that staff has been working with Mr. Cantwell and Mr. Rutledge on. Conceptually, using cannabis as compost is something that staff felt was worth working towards. Director Klimas agreed that we need to hear from the public and was supportive of adopting language at a later date.

Member Neilander thought that the Board would need to go to a workshop on this and wanted to know what Dr. Young thought. Member Neilander thought if Director Klimas could have his staff do the load to get to the workshop, that would be helpful.

Member Durrett appreciated the licensee availing themselves of the petition process and thanked the CCB staff for working with the licensee.

Member Young commented that he found it very interesting what GLP was proposing and would be interested and available to help lead the workshop.

Chair Douglas added that the materials provided was helpful and interesting for a layperson to read. The cannabis industry in Nevada would be taking steps forward and looking at avenues and possibilities. This matter looked as if it would bear fruit after some work was done.

Chair Douglas made a motion to refer the petition to the CAC or direct CCB staff to hold a public workshop after some discussions to see if the matter can go forward and get some of the kinks worked out. Member Neilander seconded the motion. All Members said aye. Motion carried.

### **B. White Pine County's Petition to Amend Regulation 5 Status Update**

Mr. Mike Wheable, White Pine County Manager, appeared before the Board to answer questions and provide information. Mr. Wheable stated that the petition was submitted in February to amend Regulation 5. In discussions with Director Klimas, they see a few paths forward. One is legislative changes that allow the purchase and transfer of licenses from larger counties to rural counties that may not have them. Two is now that consumption lounge regulations have been adopted, those can be mirrored for licensing rounds for recreational and medical going forward. Mr. Wheable stated that he was before the Board specifically to talk about the law. Mr. Wheable stated that NRS 678 A states that the Board shall issue a medical cannabis establishment license to at least one medical cannabis cultivation facility and at least one medical cannabis production facility in each county. There was a moratorium when the licenses were first issued. It took a while for some counties to see the benefit of cannabis. White Pine was interested in the Board to authorizing a limited licensing round for medical cultivation and production facilities only in those rural counties that don't yet have their first pursuant to statute. White Pine County no longer has a moratorium and would like to become good faith players, understand the regulations and laws, so that they can participate and have the economic driver in the community. Mr. Wheable added that there have been many licenses that were revoked or surrendered so the discussion about requiring a market study on this narrow window is not necessary.

Chair Douglas noted that in the ongoing discussions, White Pine County is aware that the licensing round has to be open. Chair Douglas understood that an individual has put forth capital and resources, but the

Board is not in a situation where it can give a license to a party. Chair Douglas asked if White Pine was seeking both cultivation and production. Mr. Wheable responded affirmatively and added that he was not representing or partnered with any specific organization. Mr. Wheable added that he understood that the licensing round needed to be open and was asking the Board to open those windows for medical licensing and bridge the gap between when the regulations are adopted or the legislation changes.

Member Durrett asked why they weren't asking for a medical and adult-use licensing round since with medical there is no outlet for sales. Mr. Wheable responded that it was obvious that they also wanted recreational, but with medical there a statutory lever of a mandate to require licensure in rural counties. The "shall" language limits the discretion of the Board. They felt that they had a statutory right for a medical license. Mr. Wheable thought that the Board did have the power to direct the Executive Director to draft regulations and get recreational licensing rounds open; the Board also trusts the Director to appropriately draft regulations to protect the state. Mr. Wheable will be working to get recreational licensing rounds.

Member Durrett added that there was a misunderstanding that the state was doing something to prevent this from happening. It was White Pine that passed on the opportunity to do it. Mr. Wheable commented that he had heard that before, and there was a moratorium in place. The trust in the system has come a long way.

Member Neilander asked Mr. Rath if a market study needed to be done for medical only. Mr. Rath responded that there was a change in the regulation since February. The marketing study was originally requested in February under NCCR 5.020 which stated, "As often as the Board deems necessary, the Board will determine whether a sufficient number of cannabis establishments exist to serve the people of the state and if the Board determines that additional cannabis establishments are necessary, the Board will issue a request for applications to operate a cannabis establishment." When the consumption lounge regulations were done, that regulation changed and now indicates it is for consumption lounges only. The reason for why that was done was because there had been several requests to limit the application regulations to consumption lounges and not any other type of license. Mr. Rath did not think that a marketing study was required for a medical licensing round under the new language. But a new, open licensing round is needed, and also new regulations are needed for opening that licensing round to say how the application process would occur. Mr. Rath saw the path forward as draft and workshop the regulations to open a medical licensing round for the counties that don't have them.

Mr. Rath noted that if it's for the single medical license for a county, the one-year limitation of once licensing round per year would not be effective for that, so the additional licensing round could be done. Member Neilander asked for clarification regarding the one licensing round per year. Mr. Rath explained that under the statute there can be only one licensing round per year, but it excludes getting a license for medical under NRS 678B.322; you can have that round in addition to any round you have during the year. Member Neilander asked if the petition was granted to open the medical round for White Pine County, it would preclude the CCB from opening a round for another county within the year. Mr. Rath responded that was correct, but you could also open the round to any County that does not have a medical license.

Member Neilander stated that the petition was for White Pine County only. Mr. Wheable only spoke for White Pine County but added that he did not think it would interfere because the licenses cannot be transferred under the law. Mr. Rath explained that the round could be opened for White Pine County only or any county that did not have a medical license.

Member Neilander wondered what the other counties that opted out wanted to do. Mr. Rath noted that Director Klimas had statistics on that. Chair Douglas noted that changes were made to the application process and was under the impression that more work would need to be done on the application

regulations even though that may slow things down. Mr. Rath agreed. Director Klimas agreed that changes would need to be made but the CCB would still need to adhere to licensure requirements, the 30-day notice, and the 10-day application window. Director Klimas stated that there are 5 counties that do not have medical cultivation or production licenses, one or both. Member Neilander did not think that the Board could expand the petition past White Pine County. Chair Douglas responded that the Board could not expand the petition but was not precluded from advising similarly situated counties as to what the CCB is about to do and then they could petition the Board.

Chair Douglas asked for a motion. Member Neilander made a motion for approval to grant the petition in item VIII B with the condition that the Board would amend the regulations in order to allow them to apply for a medical license, it's an open application and subject to both this Board and the county's approval of the suitability of those applicants; and as a comment, Member Neilander added that any of the counties that don't have medical now, the Board would amend the regulations to not only accommodate White Pine, but any other County who wants to avail themselves of their statutory right to have at least one medical location.

Chair Douglas noted that the Board had looked at the initial petition which was to amend Regulation 5 which was denied without prejudice, and what was on the agenda today. Chair Douglas thought that the Board could do what Member Neilander proposed and thought that language should be added to make sure that the request for White Pine County was in sync since it is a little different from the original petition. Chair Douglas would like to start the work on these changes.

Mr. Rath suggested that the motion could be a directive to the Executive Director to amend the regulations to allow for an open license round for White Pine County and potentially any other county without a medical cultivation or production license. Member Neilander stated he would amend his motion to be to amend Regulation 5 and refer it back to staff to consider that.

Mr. Rath added that it could also include holding a workshop. Chief Deputy Attorney General Rosalie Bordelove suggested amending the motion to say that the Board is instructing staff to start the process for amending Regulation 5 as discussed today.

Member Neilander made a motion to direct the staff to amend Regulation 5 and have workshops if necessary, in order to allow the counties that don't have medical marijuana now to allow a process for them to get medical marijuana locations in accordance with the statute. Chair Douglas seconded the motion. All Members said aye. Motion carried.

Chair Douglas added that he would like a status update next month or an outline of where it's at.

A recess was called at 11:22 a.m. The Board came back on the record at 11:34 a.m.

## **IX. Petition for Additional Retests Filed Pursuant to NCCR 11.075(7)**

### **A. Clear River, LLC (C097, RC097)**

Jason Bañales, Program Supervisor for the CCB, presented the petition for additional retests for failed cannabis from Clear River, LLC. Clear River filed the petition on August 30, 2022, to request an additional fifty retests. Clear River provided a list of the previous 50 retests completed. After review of the initial petition, CCB staff requested additional information from Clear River, including any corrective actions which have been taken to address the contamination within the facility. Clear River provided a response on September 13, 2022, and additional information provided on September 23, 2022. The plan addressed cleaning and sanitation providing monitoring procedures that are aimed at reducing or eliminating yeast and mold contamination within the facility. Mr. Bañales provided options for the Board to consider.

Mr. Randy Black appeared on behalf of Clear River. Mr. Black stated their main priority was public health and safety. They also try to comply with Nevada laws, and they are trying to grow the best marijuana they can to pass every test that they can. Mr. Black gave their mission statement and provided the history of their business. They harvest about 70 pounds of flower every week to ten days and 30 pounds of trim. They have grown almost 11 tons of marijuana. Mr. Black provided information on how they grow the plants. They have a 92% pass rate. Mr. Black explained the testing process and stated the biggest problem was yeast and mold. Mr. Black added that 50% of the retests pass. Mr. Black explained the cleaning process and the new methods they try; they do not use radiation as that dries out the product and it can be tasted. The cost of lot that passes after retest is worth \$10,000 - \$20,000; if it fails, it is worth \$0 - \$1,000. The costs of the retests are paid by the grower. Mr. Black didn't understand why they couldn't just test as many lots as they need to. The weather affects the plants growing. Mr. Black thought that if the lots were sent to 3 or 4 different labs, they would get different results for each one. Mr. Black did not know how many retests he would need but asked for the Board's support.

Chair Douglas commented that the staff seems to be concerned with the adequacy of the contamination control and understood that as an industry, we are still learning. Mr. Bañales stated there was an initial concern, but after conversations about the monitoring of those procedures for specific issues have been addressed. Mr. Bañales pointed out that under NCCR 11.075, retests are to validate the result of the failed test of the representative sample; the lot limits are set at five pounds. Mr. Bañales also noted that destruction is not always necessary; there are option to send to extraction or remediation.

Chair Douglas commented that testing sizes was something the Board will be looking at.

Member Young asked if there was a high pass rate that suddenly became a lower pass rate. Mr. Black responded no and added that they are constantly updating their procedures. Member Young asked if there was a plan of action that was introduced or do, they just want to do more tests. Mr. Black stated they have made updates and would like to do additional retests. Mr. Black reiterated that each test would produce different results. Member Young and Mr. Black discussed the percentages for the pass/fail rate. Member Young was included to support more tests if new measures had been put in place, but not if they just want to keep retesting until the sample passes. Member Young asked if the plan of correction increased the pass rate. Mr. Black responded yes. Mr. Black reiterated that they would get different test results from the same sample. Member Young noted that lot size and other issues are being looked into by the CCB.

Member Durrett commented that something must have happened this year to reach the 50-test limit since they have not needed additional retests until now. Member Durrett added that the process to request retests appears to be working great. Member Durrett stated that Mr. Bañales had noted some changes that were done. Mr. Bañales added that additional information was received the previous Friday and they did not have the opportunity to pass that on to the Board. Mr. Bañales stated the Chief Cronkhite noted the plan was acceptable but not exceptional.

Member Durrett asked Jade Piatt to speak regarding the changes to address the increase in retests. Jade Piatt, the director of cultivation stated that as far as the 50 retests was recently implemented in the regulations. Ms. Piatt explained the problems with failures, retests, and the changes they have implemented.

Member Durrett noted that there was a limit of 50 retests previously. Chair Douglas noted they Board was in communication with the industry and the CCB regarding testing.

Chair Douglas made a motion to allow 50 additional retests. Member Durrett seconded the motion. Chair Douglas noted that Member Merritt left the meeting [at 11:40 a.m.] and there was now a four-person quorum. All Members present said aye. Motion carried.

Chair Douglas called agenda item VI A to be heard.

Ms. Branner stated that CCB staff have reviewed the agreement with CN Licenseco I, Inc. and Fluids Manufacturing Inc. and found the relationship between the parties to be appropriate.

Chair Douglas noted that the agreement was more of a relationship as opposed to a management agreement because one was paying for the use of their name.

Salpy Boyajian appeared on behalf of CN Licenseco I and stated it was a business relationship between a brand partner and themselves so that they can produce and manufacture their products. Ms. Boyajian stated they would make all of the decisions and take all of the responsibility.

Member Durrett made a motion to approve the request for the relationship under agenda item VI A. Member Neilander seconded the motion. All Members present said aye. Motion carried.

## **X. Approvals and Resolutions**

### **A. Notice of Final Licensure**

**1. FTLB, LLC (C210, P140) Chief** of Administration Steve Gilbert presented the final licensure to the Board. FTLB was issued a conditional license for a medical cultivation and production facility in Esmeralda County. FTLB received an extension to the February 5, 2022, final inspection deadline. A preopening audit and inspection was conducted on July 19, 2022, and the facilities were found to be in compliance. The CCB issued a final license on September 8, 2022, for its medical cultivation and production facility.

**2. GreenMart of Nevada NLV, LLC (RD504) Chief** Gilbert stated that GreenMart of Nevada was issued its conditional adult-use retail store license on December 5, 2018. GreenMart received an extension for the February 5, 2022, final inspection deadline. A pre-opening audit and inspection was done on August 19, 2022, and the facility in Las Vegas was found to be in compliance. Final licensure was issued on September 2, 2022.

**3. QualCan, LLC (RD591) Chief** Gilbert stated that Qualcan obtained its conditional adult-use retail store license via the July 29, 2020, Settlement Agreement. QualCan was granted an extension of the February 5, 2022, deadline. On August 16, 2022, CCB staff conducted a pre-opening audit/inspection and the facility in Las Vegas was found to be in compliance. Final licensure was issued on September 2, 2022.

## **XI. Consideration of Pending Motions in the matter of Cannabis Compliance Board vs. Cannex Nevada, LLC now known as Lettucetest, LLC (Case No. 2020-27) Continued from Cannabis Compliance Board Special Meeting held on September 15, 2022.**

Chair Douglas introduced the matter and stated that the Board considered a motion to dismiss in the disciplinary proceeding. The motion was initially heard by a hearing officer and it was requested for the Board to consider it. The Board determined that it would consider the motion to dismiss and heard the arguments from the licensee and the State. The Board was familiar with the information having reviewed the information submitted to it. Chair Douglas had asked the Board Members to take additional time to review and consider the arguments that were made. It was now for the Board to formulate its decision.

Member Neilander asked Director Klimas if there was any movement to settle the matter. Director Klimas responded that there has not been any movement or discussion. Chair Douglas noted the motion to dismiss was based upon res judicata, unlawful rulemaking, laches, preservation of evidence, and one witness deemed to be material. Argument was heard in favor and opposition. Chair Douglas added that it was a motion to dismiss so the burden was on the party making the motion.

Member Neilander stated there were serious violations in the matter and did not believe that the party filing the motion has carried the burden to dismiss. In reviewing the record, there is a finding by the hearing officer. In light of those facts, Member Neilander supported denying both of the motions.

Member Durrett does not think the burden was carried on the motion to dismiss based on the particular arguments, particularly that this matter was already settled because the State said it was not a settlement. There was not much more to be said to convey that it was going forward for disciplinary action.

Chair Douglas stated in looking at the claims presented, and evidence introduced, the res judicata claim was problematic in terms of wishing to rely on something that had been done in part previously, and a settlement or stipulated order to allow the licensee to reopen, it wasn't a final action. It was merely to allow to reopen following a suspension. It was alleged about conversations and alleged what was said. In reading the plain document, it was not there. The arguments made as to unlawful rulemaking did not carry the weight. The laches, as to the 12-month delay in filing the complaint, conflicting rules between the changes in state law, and all that going away when the Cannabis Compliance Board took over regulation, Chair Douglas was not aware, and nothing was cited that applied to that argument. As to the preservation of evidence, issues of testing samples and an individual witness later subpoenaed by the State, it was not brought forward until late in the process by the licensee. For those reasons, Chair Douglas would support a motion to deny the motion to dismiss. Any set of facts at this time could go forward.

Chair Douglas added that there was an issue that was presented that the hearing officer heard this argument, ruled on the record which they were allowed to do, but did not reduce that to writing after request. The question was if it had been reduced to writing, could that have come before the Board at that point or whether or not they were precluded. There were various points of rules of civil procedure and the Eighth JD that were not applicable to this matter because they were in the family and not civil.

Chair Douglas stated that for the Board's decision, they will ask that the Attorney General will provide an order for the Board to review. Chair Douglas asked that the Order be presented to Ms. Rushton so she may come in on it. Additionally, if any Board Members has a concern as to the Order prior to signing off on it, the Member should address those concerns directly to the Chair so he can express those concerns back to the attorney preparing the Order. The formal Order will be on the record in written form. After the Board has a final Order, it will proceed to set a date for the next stage of proceedings.

Chair Douglas made a motion to deny the motion to dismiss. Member Durrett seconded the motion. Member Neilander commented that he didn't know about not having the written decision for the hearing officer, but she clearly had the authority and did rule on the record. Member Neilander agreed with the Chair's comments and would support the motion. All Members present said aye. Member Merritt was not present. Motion carried.

## **XII. Briefing from the Chair and the Executive Director**

Director Klimas gave an update on consumption lounges. The application period was announced on September 14<sup>th</sup>. The application period will begin on October 14<sup>th</sup> and close on October 27<sup>th</sup>. The agent card application was open for any prospective owners, officers, and board members. Director Klimas noted that on September 30<sup>th</sup> at noon the second and final live webinar will be held on how to apply for a cannabis consumption lounge license. Director Klimas directed any questions to be emailed to [CCBconsumptionlounge@ccb.nv.gov](mailto:CCBconsumptionlounge@ccb.nv.gov). Director Klimas added the Cannabis Advisory Commission will be meeting on October 4 to discuss the petition that the Board asked them to meet on and discuss.

Chair Douglas commented on the recent district court case with cannabis being a schedule one; this was still ongoing as there is not a final written decision at this point. The federal regulations still have it as a schedule one. The State of Nevada allowed the sale and use of cannabis, but the Department of Justice has not changed its policy as to allowing states to move forward with that action.

**XIII. Next Meeting Date**

The next Board meeting is scheduled for October 25, 2022.

**XIV. Items for Future Agendas**

Chair Douglas noted that Board members could submit items for future agendas.

**XV. Public Comment**

Katree Saunders provided her history with cannabis, including a federal felony. Ms. Saunders was active in social justice issues. In light of the language issued for cannabis consumption lounges, it indicates that there is a 10-year clause, or one had to be convicted by any other entity other than the State of Nevada. Ms. Saunders was convicted by the federal government so she would be eligible, but she did not get out of prison until 2014 so she was still under the 10-year clause. Ms. Saunders would like clarification moving forward for when she applies for a consumption lounge or agent card. Ms. Saunders commented as a patient in regard to remediation and radiation on the medication; if there were good growing practices, remediation and radiation would not be needed. She did not want to look back in 10 years and see adverse effects from radiation.

**XVI. Adjournment**

Meeting adjourned at 12:27 p.m.