

ORIGINAL

Tracie K. Lindeman

MAR 18 9 24 AM '99

1 DCRR
2 Thomas L. Steffen
3 Mark A. Hutchison
4 HUTCHISON & STEFFEN
5 Lakes Business Park
6 8831 West Sahara Avenue
7 Las Vegas, Nevada 89117
8 (702) 385-2500

FILED
FILED

Attorneys for Plaintiff

MAR 13 2009

DISTRICT COURT
CLARK COUNTY, NEVADA

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

No. 53264

10 GILBERT P. HYATT,
11 Plaintiff,

Case No. A382999
Dept No. XVIII

12 v.

13 FRANCHISE TAX BOARD OF THE
14 STATE OF CALIFORNIA, and DOES
1-100, inclusive,

**DISCOVERY COMMISSIONER'S
REPORT AND RECOMMENDATION**

15 Defendants.

Date of Conference: February 22, 1999

Time of Conference: 9:30 a.m.

NATURE OF ACTION

20 Plaintiff's Motion for an Order Compelling Further Testimony from Defendant's
21 30(b)(6) Witness Sheila Cox and Plaintiff's Motion for an Order Compelling Answers to
22 Deposition Questions re Related Taxpayers.

APPEARANCES

24 Mark A. Hutchison and Thomas K. Bourke on behalf of the plaintiff. James W.
25 Bradshaw and Felix E. Leatherwood on behalf of the defendant.

26 ///

27 ///

28 ///

RECEIVED
MAR 11 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

HUTCHISON
& STEFFEN
LAKES BUSINESS PARK
8831 W. SAHARA AVENUE
LAS VEGAS, NV 89117
(702) 385-2500

CE34

09-06549

FINDINGS

1
2 1. Plaintiff brought a Motion for an Order Compelling Further Deposition
3 Testimony from Defendant's 30(b)(6) Witness Sheila Cox and Motion for an Order Compelling
4 Answers to Deposition Questions re Related Taxpayers, seeking to require the defendant to (1)
5 make Sheila Cox available to complete her Rule 30(b)(6) deposition; and (2) have its witnesses
6 answer deposition questions and respond to discovery concerning "related" taxpayers
7 (including Grace Jeng, Leetronics, Inc., and Digital Nutronics).

8 2. Plaintiff's Motion for an Order Compelling Further Deposition Testimony from
9 Defendant's 30(b)(6) Witness Sheila Cox was granted. The Discovery Commissioner found
10 that the plaintiff had pursued questioning of the witness in good faith and on relevant topics,
11 that there were no "Rambo" tactics employed during the deposition, and that Ms. Cox should
12 be better prepared to answer questions posed more fully. The Discovery Commissioner also
13 stated that deposition questions directed to Ms. Cox should be tightened.

14 3. Plaintiff's Motion for an Order Compelling Answers to Deposition Questions re
15 Related Taxpayers was granted. The Discovery Commissioner found that the "official
16 information privilege" contained in Cal. Evid. Code Sec. 1040 does not bar plaintiff from
17 obtaining discovery about the defendant's investigation and audit of Grace Jeng, Leetronics,
18 Inc., and Digital Nutronics. The Discovery Commissioner further found Jeng and Leetronics
19 have consented to the discovery of their audit files and matters related to the defendant's
20 investigation and audit of them. Digital Nutronics was a company controlled by plaintiff.
21 Once Digital Nutronics provides consent to such discovery, plaintiff may also obtain discovery
22 about the defendant's investigation and audit of that company.

23 4. Plaintiff is reasonably concerned about the disclosure of confidential
24 information about him during these proceedings, including information concerning his finances.
25 To provide an environment for both parties to submit materials and information to the Court
26 freely, the court file should be sealed.

27 ///

28 ///

1 **RECOMMENDATIONS**

2 1. The plaintiff is entitled to continue taking Ms. Cox's deposition for an additional
3 four days. The Discovery Commissioner will consider a request for additional time from
4 plaintiff at the conclusion of the four days.

5 2. The plaintiff may obtain all forms of discovery (e.g., deposition questions posed
6 to defendant's employees and others, document requests, requests for admissions,
7 interrogatories) concerning the defendant's investigation and audit of Grace Jeng, Leetronics,
8 Inc., and Digital Nutronics (once it provides consent).

9 3. The court file in this case is sealed. All documents filed with the Court shall be
10 done so under seal.

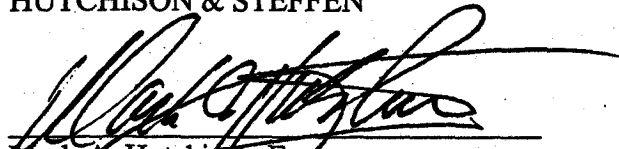
11 The Discovery Commissioner, having met with counsel for the parties, having discussed
12 the issues noted above and having reviewed any materials proposed in support thereof, hereby
13 submits the above recommendations.

14 DATED this 26th day of February, 1999.

15
16 
17 DISCOVERY COMMISSIONER

18 Submitted by:

19 HUTCHISON & STEFFEN

20 
21 Mark A. Hutchison, Esq.
22 Lakes Business Park
23 8831 West Sahara Avenue
24 Las Vegas, Nevada 89117
25 Attorneys for Plaintiff
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOTICE

Pursuant to NRCP 16.1(d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

[Pursuant to E.D.C.R. 2.34(f), an objection must be filed and served no more than five (5) days after receipt of the Commissioner's Report. The Commissioner's Report is deemed received when signed and dated by a party, his attorney or his attorney's employee, or three (3) days after mailing to a party or his attorney, or three (3) days after the clerk of the court deposits a copy of the Report in a folder of a party's lawyer in the Clerk's office.]

A copy of the foregoing Discovery Commissioner's Report was:

↓
Mailed to Plaintiff/Defendant's counsel on the 2nd day of March, 1999 at the following address:

Matthew C. Addison, Esq.
McDonald Carano Wilson
McCune Bergin Frankovich & Hicks
241 Ridge Street, 4th Floor
Reno, Nevada 89508
Attorney for Defendant

↓
Placed in the folder of Plaintiff/Defendant's counsel in the Clerk's office on the 2nd day of March, 1999.

RECORDED
INDEXED
CLERK

SHIRLEY R. PARRAGUIRRE

By: Mary Daigle
Deputy Clerk

MARY DAIGLE



**CLARK COUNTY COURTS
EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3RD FLOOR
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Edward A. Friedland
Clerk of the Court

Steven D. Grierson
Assistant Clerk of the Court

March 9, 2009

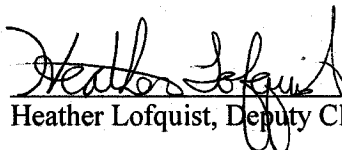
Tracie Lindeman
Clerk of the Supreme Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: GILBERT P. HYATT vs. FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA
S.C. CASE: 53264
D.C. CASE: A382999

Dear Ms. Lindeman:

Pursuant to a request by Linda Castillo, please find enclosed the Discover Commissioner's Report and Recommendation, filed March 18, 1999, sealing the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,
EDWARD A. FRIEDLAND, CLERK OF THE COURT


Heather Lofquist, Deputy Clerk

