IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA,

Appellant,

v.

GILBERT P. HYATT,

Respondent

Supreme Court Case No. 53264

District Court Case No.: A382999

Notice of Appeal Filed March 4, 2009

LIMITED REPLY IN SUPPORT OF MOTION TO EXTEND TIME FOR RESPONDENT'S ANSWERING BRIEF

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Respondent Gilbert P. Hyatt ("Hyatt"), by and through his attorneys of record, respectfully files this limited reply in support of his motion for an order extending the due date for filing Respondent's Answering Brief and in direct response to Appellant Franchise Tax Board of California's Limited Opposition to Hyatt's Motion for an Extension of Time for Responent's (sic) Answering Brief.

REPLY

Appellant filed what it termed a "Limited Opposition" to Hyatt's motion for a 45 day extension of time to file his answering brief. In the relevant portion of Appellant Franchise Tax Board of California's opposition, it states that if an extension is granted to Hyatt that (i) it be Hyatt's last extension, barring extreme or unforeseen circumstances, and (ii) the FTB be granted a similar extension if necessary when drafting its reply to Hyatt's answering brief. As to the former, Hyatt's counsel understands the need to process this voluminous appeal and is working diligently on his responding brief. He will continue to do so and has requested the additional 45 days with the clear expectation that this will be sufficient time. He also understands that if he requests any additional time, the court will rule on any such request based on the circumstances then existing. As to the latter, Hyatt and his counsel foresee no issue with stipulating to a similar reasonable extension for the FTB's reply, as long as it satisfies the requirements of NRAP 31 when and if requested by the FTB.

Hyatt expects that any reasonable request by the FTB for an extension to file its reply will not be opposed. In addition, since the FTB reply will also include the FTB's answering brief to Hyatt's cross-appeal, Hyatt is entitled to file a reply in support of his cross-appeal. As part of that process, Hyatt would similarly expect that the FTB would agree to a reasonable extension of time, when and if requested by Hyatt under NRAP 31. The parties therefore have a mutual

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interest in agreeing to reasonable requests for extensions, to ensure that each side can present its arguments adequately and efficiently for this Court's review.

The FTB's limited opposition, unfortunately, then adds irrelevant speculation to cast unnecessary, incorrect, negative aspersions against Hyatt. The FTB, despite agreeing in principle to Hyatt's requested extension for his Nevada responding brief, tries to create some sinister theory by Hyatt with respect to the approved briefing schedule in pending administrative proceedings before the California State Board of Equalization. This unsupported accusation by the FTB is unrelated to an extension in this appeal and is simply not true or relevant to this Court's decision to grant or deny Hyatt's requested extension. The FTB's suggests some sort of "Hyatt conspiracy" to connect the timing of events in this case, both in the trial court and in this Court, with events in the tax appeals pending in California. For whatever reason, the FTB cannot resist taking shots at Hyatt, even in the context of an essentially-unopposed motion for an extension.

Without devoting too much space in response to the FTB's unfounded and reckless speculation in regard to its conspiracy theory — attempting to draw a connection between the briefing schedule in each proceeding — the FTB disregards the fact that the California administrative agency (the State Board of Equalization) has approved the briefing schedule in that case, meaning that its schedule is appropriate for its purposes in this type of proceeding. In addition, the final determination letter issued by the FTB in November of 2007 asserted a different and wholly independent basis for taxing Hyatt that was not set forth in the FTB's preliminary assessments in 1996 and 1997, which the FTB had been reviewing *for over 11 years*. The FTB's assertion of this new basis for taxing, after 11 years, may have something to do with the time necessary for briefing in the California administrative proceedings.

Hyatt therefore requests that the Court disregard the FTB's irrelevant and speculative assertions concerning the timing and length of the briefing schedule in the administrative tax appeal. Hyatt also requests that the Court grant the 45 day extension he requests for filing his answering brief for this appeal. In so requesting, Hyatt does not dispute that a similar reasonable extension to the FTB for preparation and filing its reply brief may be necessary if requested by the FTB, along with a potential similar extension for Hyatt's filing of his reply brief in support of his cross-appeal.

DATED: October __, 2009

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CERTIFICATE OF COMPLIANCE

I hereby certify that I have read this **LIMITED REPLY IN SUPPORT OF MOTION TO EXTEND TIME FOR RESPONDENT'S ANSWERING BRIEF**, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, and in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED: October __, 2009.

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I certify that I am an employee of **KAEMPFER CROWELL RENSHAW GRONAUER & FIORENTINO** and that on this __ day of October, 2009, I caused the above and foregoing document entitled **LIMITED REPLY IN SUPPORT OF MOTION TO EXTEND TIME FOR RESPONDENT'S ANSWERING BRIEF** to be served by the method(s) indicated below:

_____ via U.S. mail, postage prepaid;

__X__ via Federal Express;

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