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VEGAS UNITED INVESTMENT
7 SERIES 105, INC.

Electronically Filed
Aug 28 2018 08:02 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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10 IN THE SUPREME COURT OF THE STATE OF NEVADA

11 ***

12 VEGAS UNITED INVESTMENT SERIES)
105, INC., A NEVADA DOMESTIC)
13 CORPORATION,)

14 Appellant,)

15 vs.)

16 CELTIC BANK CORPORATION,)
17 SUCCESSOR-IN-INTEREST TO SILVER)
STATE BANK BY ACQUISITION OF)
18 ASSETS FROM THE FDIC AS RECEIVER)
FOR SILVER STATE BANK, A UTAH)
19 BANKING CORPORATION ORGANIZED)
AND IN GOOD STANDING WITH THE)
LAWS OF THE STATE OF UTAH,)

20 Respondents.)

Supreme Court No. 74163

District Court Case No. A728233

21 **MOTION TO EXTEND TIME TO FILE OPENING BRIEF AND APPENDIX**
22 **(First Request)**

23 COMES NOW, Appellant, VEGAS UNITED INVESTMENT SERIES 105, INC., by and
24 through its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., and hereby presents its
25 Motion to Extend Time to File Opening Brief and Appendix, requesting an extension of time of
26 approximately 45 days from the current due date of August 27, 2018. This Motion is made and
27 based upon the attached Memorandum of Points and Authorities, the attached exhibits, the
28

1 declaration of counsel, and all papers and pleadings on file herein.

2 DATED this 27th day of August, 2018.

3 ROGER P. CROTEAU & ASSOCIATES, LTD.

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5 /s/ Timothy E. Rhoda
6 ROGER P. CROTEAU, ESQ.
7 Nevada Bar No. 4958
8 TIMOTHY E. RHODA, ESQ.
9 Nevada Bar No. 7878
10 9120 West Post Road, Suite 100
11 Las Vegas, Nevada 89148
12 (702) 254-7775
13 *Attorney for Appellant*
14 **VEGAS UNITED INVESTMENT**
15 **SERIES 105, INC.**

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **A. STATEMENT OF THE FACTS**

- 13 1. Appellant caused the instant appeal to be filed on September 28, 2017.
- 14 2. Pursuant to this Court's Order dated May 29, 2018, Appellant's Opening Brief is
- 15 presently due on August 27, 2018.
- 16 3. As a result of various personal and professional obligations, Appellant's counsel
- 17 is unable to complete and file the Opening Brief and Appendix by the existing
- 18 deadline.
- 19 4. On August 27, 2018, Appellant's counsel contacted Respondents' counsel by
- 20 email and provided a proposed stipulation to extend time to file and serve the
- 21 opening brief and appendix in this matter for a period of 30 days pursuant to
- 22 NRAP 31(b)(2).
- 23 5. Counsel did not receive an immediate response and therefore followed up with a
- 24 telephone call. The office of Respondent's counsel advised that counsel was in
- 25 court. It was unclear whether or not counsel would be able to respond today.
- 26 6. As of the filing of this Motion, Appellant's counsel has not received a response to
- 27 his request for an extension of time.
- 28

7. A 30-day extension would make the instant Opening Brief and Appendix due on September 26, 2018.

8. Because Appellant's counsel has another appellate brief due on September 26, 2018, in Appeal No. 74840, as well as numerous other pending matters, counsel respectfully requests a 45-day extension until October 8, 2018 (because October 6, 2018 falls on a Saturday) in which to file the Opening Brief and Appendix herein.

B STATEMENT OF THE LAW

NRAP 31(b) provides in pertinent part as follows:

(2) Stipulations. Unless the court orders otherwise, in all appeals except child custody, visitation, or capital cases, the parties may extend the time for filing any brief for a total of 30 days beyond the due dates set forth in Rule 31(a)(1) by filing a written stipulation with the clerk of the Supreme Court on or before the brief's due date. No extensions of time by stipulation are permitted in child custody, visitation, or capital cases.

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

(A) Contents of Motion. A motion for extension of time for filing a brief shall include the following:

- (i) The date when the brief is due;
- (ii) The number of extensions of time previously granted (including a 5-day telephonic extension), and if extensions were granted, the original date when the brief was due;
- (iii) Whether any previous requests for extensions of time have been denied or denied in part;
- (iv) The reasons or grounds why an extension is necessary; and
- (v) The length of the extension requested and the date on which the brief would become due.

C. ARGUMENT

As set forth above, Appellant's counsel sought to obtain a stipulated extension of the due date for the opening brief and appendix that is presently due on August 27, 2018. In such a manner, Appellant hoped to avoid burdening the Court with a matter as mundane as an extension of time, as well as to avoid the time and expense of preparing and filing the instant Motion. Unfortunately, Appellant's counsel has been unable to reach Respondent's counsel. This is the first extension of time that has been requested.

The requested extension is the result of various circumstances, including various other personal and professional obligations. Because Appellant's counsel has another appellate brief

1 due before this Court on September 26, 2018, in lieu of a 30-day extension, counsel requests a
2 45-day extension of time to avoid having the two appellate briefs due on the same day.

3 Appellant's counsel considered requesting a 14-day extension pursuant to NRAP
4 26(b)(1)(B). However, based upon the sheer volume of his pending work obligations and the
5 nature thereof, Appellant's counsel is not confident that he can complete the Opening Brief and
6 Appendix within 14 days. This is the case in part because the instant matter is relatively complex
7 and raises certain issues of first impression. Because NRAP 26(b)(1)(B) specifically bars any
8 additional extensions of time beyond 14 days under most circumstances, Appellant's counsel
9 brings the instant Motion.

10 **CONCLUSION**

11 Based upon the foregoing, Appellant respectfully requests that the deadline to file the
12 opening brief and appendix herein be extended until October 8, 2018, or until such other date that
13 the Court deems appropriate.

14 DATED this 27th day of August, 2018.

15 ROGER P. CROTEAU & ASSOCIATES, LTD.

16
17 /s/ Timothy E. Rhoda
18 ROGER P. CROTEAU, ESQ.
19 Nevada Bar No. 4958
20 TIMOTHY E. RHODA, ESQ.
21 Nevada Bar No. 7878
22 9120 West Post Road, Suite 100
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25 ***Attorney for Appellant***
26 **VEGAS UNITED INVESTMENT**
27 **SERIES 105, INC.**
28

DECLARATION OF TIMOTHY E. RHODA

TIMOTHY E. RHODA, being first duly sworn, deposes and says that:

1. I am an attorney for the Appellant, Vegas United Investments Series 105 , Inc. (“*Appellant*”), in the above-captioned matter.
2. Of the following facts, I know them to be true of my own knowledge unless stated upon information and belief, in which case I possess a good faith belief that such facts are true and correct.
3. Appellant caused the instant appeal to be filed on September 28, 2017.
4. Pursuant to this Court’s Order dated May 29, 2018, Appellant’s Opening Brief is presently due on August 27, 2018.
5. As a result of various personal and professional obligations, Appellant’s counsel is unable to complete and file the Opening Brief and Appendix by the existing deadline.
6. On August 27, 2018, I contacted Respondent’s counsel by email and provided a proposed stipulation to extend time to file and serve the opening brief and appendix in this matter for a period of 30 days pursuant to NRAP 31(b)(2).
7. I did not receive an immediate response and therefore followed up with a telephone call. The office of Respondent’s counsel advised that counsel was in court. It was unclear whether or not counsel would be able to respond today.
8. As of the filing of this Motion, I have not received a response to my request for an extension of time.
9. A 30-day extension would make the instant Opening Brief and Appendix due on September 26, 2018.

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10. Because I have another appellate brief due on September 26, 2018, in Appeal No. 74840, as well as numerous other pending matters, I respectfully request a 45-day extension until October 8, 2018 (because October 6, 2018 falls on a Saturday) in which to file the Opening Brief and Appendix herein.

11. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct to the best of my knowledge.

DATED this 27th day of August, 2018.

/s/ Timothy E. Rhoda
TIMOTHY E. RHODA

CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of ROGER P. CROTEAU & ASSOCIATES, LTD. and that on the 27th day of August, 2018, I caused a true and correct copy of the foregoing document to be served on all parties as follows:

X VIA ELECTRONIC SERVICE: through the Nevada Supreme Court's eflex e-file and serve system.

Sylvester & Polednak, Ltd.

Contact

Bridget Williams

Kelly L. Schmitt

Email

bridget@sylvesterpolednak.com

kelly@sylvesterpolednak.com

____ VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on service list below in the United States mail at Las Vegas, Nevada.

____ VIA FACSIMILE: by causing a true copy thereof to be telecopied to the number indicated on the service list below.

____ VIA PERSONAL DELIVERY: by causing a true copy hereof to be hand delivered on this date to the addressee(s) at the address(es) set forth on the service list below.

/s/ Timothy E. Rhoda

An employee of ROGER P. CROTEAU &
ASSOCIATES, LTD.