

1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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4       VEGAS UNITED INVESTMENT  
5       SERIES 105, INC., a Nevada  
6       Domestic Corporation

7                                   Appellant,

8       v.

9  
10      CELTIC BANK CORPORATION,  
11      Successor-in-Interest to SILVER  
12      STATE BANK by acquisition of assets  
13      from the FDIC as Receiver for  
14      SILVER STATE BANK, a Utah  
15      Banking Corporation organized and in  
16      good standing with the laws of the  
17      State of Utah,

18                                   Respondent.

                                  Electronically Filed  
Supreme Court No. 74163 2018 03:20 p.m.  
Elizabeth A. Brown  
District Court Case No. 17-28299 Clerk of Supreme Court

**RESPONSE TO MOTION TO  
EXTEND TIME TO FILE  
OPENING BRIEF AND APPENDIX  
(Second Request)**

19           Respondent, CELTIC BANK CORPORATION, ("Respondent"), by and  
20 through its attorney, Allyson R. Noto, Esq. of the law firm of Sylvester &  
21 Polednak, Ltd., respectfully submits this Response to Motion to Extend Time to  
22 File Opening Brief and Appendix (Second Request).

23                                   **I. INTRODUCTION**

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25           This case arises from Respondent's exercise of its rights pursuant to its first  
26 priority Deed of Trust recorded against a commercial property located at 181 N.  
27

1 Gibson Road, Henderson, Nevada (the "Property"). Appellant purchased the  
2 Property for \$30,000 at an Owner's Association foreclosure sale ("Association  
3 Sale").  
4

5 After trial, the trial court found in favor of Respondent and ordered that  
6 Respondent could judicially foreclose upon the Property.  
7

8 The trial court then denied Appellant's request for injunction finding that  
9 Appellant failed to meet its burden regarding the requisite elements to obtain an  
10 injunction pending appeal.  
11

12 The trial court based its decision, in part, due to Appellant's continued lack  
13 of interest in protecting the Property from third-party claims. The trial court  
14 considered all the factors enumerated in *Mikohn Gaming Corp. v. McCrea*, 120  
15 Nev. 248 (2004)(citing *Fritz Hansen A/S v. District Court*, 116 Nev. 650, 659  
16 (2000)). The trial court was concerned about the irreparable harm to the  
17 Respondent if Appellant's stay is granted. Further, the trial court found that  
18 Appellant did not enjoy a likelihood of success on the merits. Thus, two of the  
19 factors weighed heavily in favor of Respondent and the injunction was denied.  
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## 23 **II. LEGAL ARGUMENT**

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25 This appeal has been pending since September 28, 2017. The following is  
26 the pertinent timeline of events:  
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28

1 **Timeline of Events:**

2 09.05.17 – Notice of Entry of Finding of Facts, Conclusions of Law, and

3  
4 Judgment Entered by trial court

5 09.28.17 – Notice of Appeal

6  
7 11.06.17 – Notice of Amended Appeal

8 11.08.17 – Motion for Injunction Pending Appeal on OST filed in lower court

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10 11.21.17 – Notice of Entry of Order Denying Motion for Injunction Pending

11 Appeal on OST Entered

12 11.21.17 – Foreclosure Sale

13  
14 02.23.18 – Court Issued Order to Show Cause re: Jurisdiction

15 03.26.18 – Appellant's Response to Court Issued Order to Show Cause re:

16 Jurisdiction

17  
18 05.10.18 – Notice of Entry of Stipulation and Order to Certify Judgment

19 05.29.18 – Order Reinstating Briefing

20  
21 08.28.18 – Motion to Extend Time to File Brief and Appendix – First Request

22 09.06.18 – Order Granting Motion to Extend Time to File Brief and Appendix –

23 First Request

24  
25 10.11.18 - Motion to Extend Time to File Brief and Appendix – Second Request

1 In Appellant's second Motion to Extend Time to File Opening Brief and  
2 Appendix, Appellant concedes that it first was required by this Court to show  
3 cause regarding a potential jurisdictional defect which delayed the appeal. Next,  
4 Appellant argues that "personal and professional obligations" precluded its initial  
5 ability to comport with the timeline provided by this Court for its Opening Brief.  
6 Appellant correctly advises that this Court cautioned when it extended Appellant's  
7 time for its Opening Brief that additional extensions would not be granted "absent  
8 extraordinary circumstances." Now the Appellant comes to this Court and  
9 requests yet another extension due to an "inadvertent error" which resulted in the  
10 trial transcript not being timely completed. It is unfathomable that Appellant did  
11 not confirm the receipt of the transcript when its original briefing was required or  
12 at least in the six months since this Court reinstated the briefing following the  
13 Order to Show Cause. It cannot be said that this is the type of "extraordinary  
14 circumstances" that would provide this Court the basis for extending the time  
15 period yet again.

16 Appellant erroneously argues that further extension would not  
17 "significantly adversely affect the instant appeal." However, this case involves  
18 title to real property. The delays in the Appeal directly impact the Respondent's  
19 rights as it relates to the real property. Respondent prevailed on a judicial

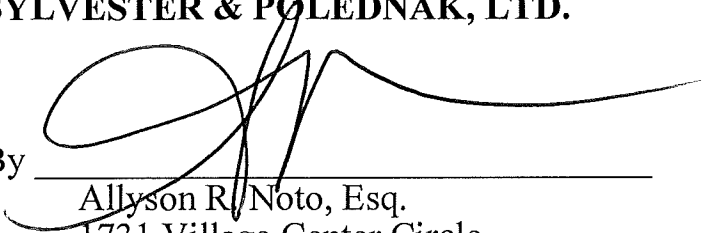
1 foreclosure action in the court below and has foreclosed on the subject property.  
2 There is a one year right of redemption period following the judicial foreclosure  
3 which expires on November 21, 2018. Further delay results in uncertainty related  
4 to the Respondent's rights and interests in the property and causes Respondent to  
5 incur fees and costs related to taxes, insurance, and the ability to sell the real  
6 property following the expiration of the right of redemption. It is respectfully  
7 submitted that the prejudice to the Respondent in granting a further extension of  
8 time is substantial.  
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12 Accordingly, it is respectfully requested that this Court deny Appellant's  
13 request for further extension and allow this Appeal to proceed in order for  
14 Respondent to obtain finality regarding title to the real property.  
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16 DATED this 11<sup>th</sup> day of October, 2018.

17 **SYLVESTER & POLEDNAK, LTD.**

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19  
20 By

  
\_\_\_\_\_  
21 Allyson R. Noto, Esq.  
22 1731 Village Center Circle  
23 Las Vegas, NV 89134  
24 *Attorneys for Respondent*  
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