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Judge awards firm $1.2 million in fees in taxation case

Judge rules law firm is entitled to $1.2M following its work on a dispute involving a Nevada real estate company's California taxes

By Alexandra Schwappach

A judge has ordered the state Franchise Tax Board to pay a law firm $1.2 million in fees following its work on a dispute over whether a real estate company in Nevada was subject to taxation in California.

Attorneys from Reed Smith LLP in Los Angeles obtained the award on behalf of Daniel V Inc., a real estate firm owned by a California resident. The Franchise Tax Board audited the company in 2000, claiming it owed more than $2.27 million in California taxes for 1997 and 1998. The company paid those taxes and sued for a refund.

In April, Los Angeles County Superior Court Judge Mark V. Mooney ruled that the income at issue was not taxable in California because the company was based in Nevada and ordered the Franchise Tax Board to refund the $2.27 million. On Friday, Mooney ruled that Daniel V was also entitled to the $1.2 million in attorney fees and costs. *Daniel V Inc. v. Franchise Tax Board L.A. Superior Court,* BC457301 (L.A. Super. Ct., filed March 14, 2011).

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Reed Smith partner Marty Dakessian, who represented Daniel V Inc. owner and Orange County real estate entrepreneur Ron Lane, said the case might set a practical precedent for taxpayers who feel they are being abused.

"I'm glad that my client was vindicated after 12 years of doing battle with the Franchise Tax Board over something that they should have dismissed years ago," Dakessian said. "I hope it discourages [the Franchise Tax Board] from charging ahead on a weak case in the future."

Reed Smith attorneys brought the recent motion for fees under Revenue and Taxation Code Section 19717, which allows an award when the Franchise Tax Board takes positions in tax controversies that are not "substantially justified."

Dakessian said the case was particularly troubling because of the extent of litigation.

"The Franchise Tax Board had every conceivable opportunity to correct itself over the course of the last 12 years and it didn't," he said. "I am very happy for my client who I feel is an honest and forthright individual."

Tami Grimes, spokeswoman for the Franchise Tax Board, said the agency is reviewing the decision but cannot comment on pending litigation.

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