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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ASSOCIATION OF APARTMENT OWNERS
OF MAKAHA VALLEY, a Hawaii
nonprofit corporation, by its
Board of Directors,

Plaintiff,
v.

JOHN THOMAS GUINAN, JR.; LEIGH
POLHAMUS; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
solely as nominee for AMBER
FINANCIAL GROUP, LLC, a Delaware
limited liability company;
DEPARTMENT OF TAXATION, STATE OF
HAWAII; JOHN DOES 1-20; JANE DOES
1-20; DOE PARTNERSHIPS 1-20; DOE
CORPORATIONS 1-20; and DOE
GOVERNMENTAL UNITS 1-20,

Defendants

Civil No. 12-00070 DAE-KSC

ORDER GRANTING UNITED
STATES' THIRD UNOPPOSED
MOTION TO CONTINUE THE RULE
16 SCHEDULING CONFERENCE

**ORDER GRANTING UNITED STATES' THIRD UNOPPOSED MOTION
TO CONTINUE THE RULE 16 SCHEDULING CONFERENCE**

Based on the United States' Third Unopposed Motion to Continue the Rule 16 Scheduling Conference, and good cause having been shown, the Court ORDERS that the Rule 16 Scheduling Conference in this case, currently set for June 14, 2012, is hereby VACATED and reset to August 21, 2012, at 9:00 a.m.

No further continuances of the Rule 16 Scheduling Conference will be permitted.

DATED this 8th day of June, 2012.





Kevin S.C. Chang
United States Magistrate Judge

CV 12-00070 DAE-KSC; AOAO MAKAHA VALLEY V. GUINAN, ET AL.; ORDER GRANTING UNITED STATES' THIRD UNOPPOSED MOTION TO CONTINUE THE RULE 16 SCHEDULING CONFERENCE

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No.: 3:08-cv-966-J-34MCR

v.

JUDITH BARNES and NATHAN GENRICH,

Defendants.

ORDER OF SALE

This Court entered judgment in this action on June 5, 2012, (Doc.70), in favor of the plaintiff United States of America and against the defendant Judith Barnes that the federal tax liens associated with Judith Barnes' unpaid federal income tax liability for 1997 be foreclosed and enforced with a judicial sale of the following two parcels of land, along with all improvements, buildings, and appurtenances thereon, now known as and numbered:

A. 10 Riviera Place, Palm Coast, FL 32137 ("the Riviera Place property"),

and which is more particularly described as

Lot, 13, of the Subdivision plat of GRANDE MER, as recorded in Map Book 29, Page 99, being an amended plat of Section 85, North Raffles Surf Club as recorded in Map Book 23, Pages 41-57, Public Records of Flagler County, Florida.

-and-

B. 3 Anastasia Court, Palm Coast, Florida 32137 ("Anastasia Court property"), and which is more particularly described as

Lot 2, of Block 1, Map of Granada Estates, Section 1, according to the plat thereof as recorded in Map Book 28, Pages 26-27, being an amended plat of Section 85, at Palm Coast, North Raffles Surf Club, as recorded in Map Book 23, Pages 41-57, Public Records of Flagler County Florida.

The Court now ORDERS that the Riviera Place property and the Anastasia Court property (collectively "Properties") shall be sold in their entirety under 26 U.S.C. §§ 7402(a) and 7403(b) in order to collect the unpaid federal tax liabilities, with the sale of the Riviera Place property to occur first and to take place no less than 45 days prior to the sale of the Anastasia Court property, as follows:

1. The Internal Revenue Service ("IRS") Property Appraisal and Liquidation Specialists ("PALS") is authorized to offer for public sale and to sell the Properties.

2. The terms and conditions of the sale(s) are as follows:

a. The sale(s) of the Properties shall be by public auction to the highest bidder, free and clear of all rights, titles, claims, liens, and interests of all parties to this action, including the plaintiff United States and the defendants Judith Barnes or Nathan Genrich, and any successors in interest or transferees of those parties.

b. The sale(s) shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Properties, and easements, restrictions, and reservations of record, if any.

c. The sale(s) shall be held either at the courthouse of the county or city in which the Properties are located or on the Properties' premises.

d. The PALS shall announce the date and time for sale(s). The IRS, PALS, and their representatives shall be permitted to enter the Properties with prospective buyers in order to allow prospective buyers to inspect the interior and exterior of the Properties at such times as the IRS or PALS shall determine are reasonable and convenient.

e. Notice of the sale(s) shall be published once a week for at least four consecutive weeks before the sale(s) in at least one newspaper regularly issued and of general circulation in Flagler County, and, at the discretion of the PALS, by any other notice or advertisement that the PALS deems appropriate. The notice of the sale(s) shall contain a description of the Properties and shall contain the material terms and conditions of sale set forth in this order of sale.

f. The Properties shall be offered for sale "as is," with all faults and without any warranties either express or implied, and the sale(s) shall be made without any right of redemption.

g. The PALS shall set, and may adjust, the minimum bid for each of the Properties. If the minimum bid is not met or exceeded, the PALS may, without further permission of this Court, and under the terms and conditions in

this order of sale, hold a new public sale, if necessary, and adjust the minimum bid.

h. At the time of the sale(s), the successful bidder(s) shall deposit with the PALS, by cash or by money order, certified check, or cashier's check drawn payable to the Clerk of the United States District Court for the Middle District of Florida, a deposit in an amount between five (5) and twenty (20) percent of the minimum bid as specified by the PALS in the published notice of sale. Before being permitted to bid at the sale(s), potential bidders shall display to the PALS proof that they are able to comply with this requirement. No bids will be accepted from any person(s) who have not presented proof that, if they are the successful bidder(s), they can make the deposit required by this order of sale. The United States may bid as a creditor against its judgment without any tender of cash or check.

i. The successful bidder(s) shall pay the balance of the purchase price for the Properties within sixty (60) days following the date of the sale(s). The cash or money order, certified check, or cashier's check drawn payable to the Clerk of the United States District Court for the Middle District of Florida shall be given to PALS who will deposit the funds with the Clerk of this Court. If the bidder fails to fulfill this requirement, the sale shall be treated as null and void, and the deposit shall be forfeited as damages and applied to cover the expenses of the sale, with any amount remaining to be applied to the 1997

federal tax liabilities of Judith Barnes. The Clerk shall distribute the deposit as directed by the PALS by check drawn payable to the "United States Treasury." The Properties shall be again offered for sale under the terms and conditions of this order of sale or, in the alternative, sold to the second highest bidder. The successful bidder(s) at the new sale or second highest bidder, as the case may be, shall receive the Properties free and clear of all rights, titles, claims, liens, and interests of the defaulting bidder(s).

j. The Clerk of the Court is directed to accept the deposits and proceeds of the sale(s) and deposit them into the Court's registry for distribution as provided for herein or pursuant to further order of this Court.

k. The sale(s) of the Properties shall be subject to confirmation by this Court. On confirmation of the sale(s), ownership and possession of the Properties shall transfer to the successful bidder(s), and all interests in, liens against, and titles and claims to, the Properties that are held or asserted by the parties to this action are discharged and extinguished. When this Court confirms the sale(s), the Recording Official of Flagler County Florida shall cause the transfer of the Properties to be reflected upon that county's register of title.

l. After the confirmation of the sale(s), the IRS shall execute and deliver a deed under the authority of this Court conveying the Properties, effective as of the date of the confirmation of the sale(s), to the successful

bidder(s). The successful bidder(s) shall pay, in addition to the amount of the bid, any documentary stamps and registry fees as provided by law.

m. All rights to rents of or from the Properties arising after the final judgment in this action and before the confirmation of the sale(s) of the Properties shall constitute proceeds of the Properties and such rents shall be turned over to, and paid to, the PALS for deposit and distribution in the same manner as the proceeds of the sale(s) of the Properties. On confirmation of the sale(s) of the Properties, all rights to product, offspring, rents, and profits of or from the Properties arising thereafter shall transfer to the successful bidder(s) and all risks of losses associated with the Properties shall transfer to the successful bidder(s).

3. Up until the date that this Court confirms the sale(s) of the Properties, Judith Barnes shall take all reasonable steps necessary to preserve the Properties (including all buildings, improvements, fixtures and appurtenances on the Properties) in their current condition including, without limitation, maintaining a fire and casualty insurance policy on the Properties and Judith Barnes, and all occupants of the Properties shall neither commit waste against the Properties nor cause or permit anyone else to do so. All of the defendants in this case shall neither do anything that tends to reduce the value or marketability of the Properties nor cause or permit anyone else to do so. Such defendants shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements,

posting signs, or making internet postings) that may directly or indirectly tend to adversely affect the value of the Properties or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall they cause or permit anyone else to do so. Violation of this paragraph shall be deemed a contempt of court and punishable as such.

4. All persons occupying the Properties shall vacate the Properties permanently within 30 days of the date of this order of sale, each taking with them his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Properties). If any person fails or refuses to vacate the Properties by the date specified in this order of sale, the PALS are authorized to coordinate with the United States Marshal to take all actions that are reasonably necessary to have those persons ejected. Any personal property remaining on the Properties 30 days after the date of this order of sale is deemed forfeited and abandoned, and the PALS are authorized to dispose of it in any manner they see fit, including sale, in which case the proceeds of the sale are to be applied first to the costs and expenses of sale and the balance shall be paid into the Court for further distribution. Money orders and checks for the purchase of the personal property shall be drawn payable to the Clerk of the United States District Court for the Middle District of Florida and the Clerk of the Court is directed to accept cash and checks and deposit such items into the Court's registry for distribution pursuant to further order of this Court.

5. No later than two business days after vacating the Properties pursuant to the deadline set forth in paragraph 4, above, Judith Barnes shall notify counsel for the United States of a forwarding address where she can be reached. Notification shall be made by contacting the U.S. Department of Justice Tax Division's paralegal at (202) 514-6674.

6. Up until the date that this Court confirms the sale(s) of the Properties, the IRS, PALS, and their representatives are authorized to have free and full access to the Properties in order to take any and all actions necessary to preserve the Properties, including, but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the Properties.

7. After the Court confirms the sale(s) of the Properties, the sale proceeds deposited with the Clerk of this Court should be applied to the following items, in the order specified below:

a. First, to the United States Treasury for the costs and expenses of the sale, including any costs and expenses incurred to secure or maintain the Properties pending sale and confirmation by the Court;

b. Second to Flagler County, or other local taxing authority, for real property taxes and other local assessments due and owing, if any;

c. Third, the remaining proceeds shall be distributed to the plaintiff United States of America for application to the liability then outstanding in connection with the unpaid federal income tax liabilities of the defendant

Judith Barnes for the tax period 1997, including all accrued statutory penalties, additions, and interest, until fully paid;

d. Any further remaining sale proceeds shall be held in the Court's registry pending further order of the Court.

DONE AND ORDERED in Jacksonville, Florida, this 7th day of June, 2012.


MARCIA MORALES HOWARD
United States District Judge

Copies to:

Counsel of Record

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOSEPH IANTOSCA, BELRIDGE
CORPORATION, GAIL A. CAHALY,
JEFFREY M. JOHNSTON, BELLMORE
ASSOCIATES, LLC, MASSACHUSETTS
LUMBER COMPANY, INC., UNITED
STATES OF AMERICA

Plaintiffs,

v.

BENISTAR ADMINISTRATIVE SERVICES,
INC., DANIEL CARPENTER, MOLLY
CARPENTER, BENISTAR PROPERTY
EXCHANGE TRUST COMPANY, INC.,
BENISTAR LTD., BENISTAR EMPLOYER
SERVICES TRUST CORPORATION,
CARPENTER FINANCIAL GROUP, LLC,
STEP PLAN SERVICES, INC., BENISTAR
419 PLAN SERVICES, INC., TRAVELERS
INDEMNITY COMPANY, CERTAIN
UNDERWRITERS AT LLOYDS, LONDON,
TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, WAYNE H.
BURSEY

Defendants.

Civil Action No. 08-CV-11785NMG

**PLAINTIFFS' MOTION FOR IMMEDIATE RELEASE OF CASH PLAINTIFFS PAID
INTO COURT REGISTRY IN LIEU OF SECURITY BONDS REQUIRED BY COURT
AS CONDITION FOR PRELIMINARY RELIEF**

Plaintiffs, other than the United States, ("plaintiffs") jointly move that this Court Order release of the Four Hundred Thousand Dollars (\$400,000.00), plus accrued interest, that plaintiffs deposited with the Court Registry pursuant to this Court's Orders dated October 31, 2008 and November 21, 2008. As grounds for this motion, plaintiffs state that on October 31, 2008, as a condition for entering preliminary relief against the defendants, this Court ordered

Motion allowed.
J. M. Johnston, USDJ 6/8/10

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In Re:

Case No. 8:11-bk-22675-MGW

JOHN DARGAN STANTON III,

Chapter 7

Debtor.

_____/

**ORDER GRANTING MOTION OF CHAPTER 7 TRUSTEE TO: (I) ESTABLISH
BID AND SALE PROCEDURES, UNDER BANKRUPTCY CODE §§ 105(A)
363(B), (F) AND (M), AND FEDERAL RULE OF BANKRUPTCY PROCEDURE
NO. 2002 AND 6004, INCLUDING EXPENSE REIMBURSEMENT FOR THE
PURCHASER, FOR THE SALE FREE AND CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES AND INTERESTS OF CERTAIN PREFERRED SHARES
OWNED BY THE DEBTOR; (II) SCHEDULING A HEARING ON THE
APPROVAL OF THE SALE ON REDUCED NOTICE; AND
(III) APPROVING THE FORM AND MANNER OF NOTICE OF THE SALE**

THIS CAUSE came on for a hearing on May 31, 2012, on the *Motion of Chapter 7 Trustee to Establish Bid and Sale Procedures* dated May 21, 2012 (the “Motion”)¹, (Doc. No.114) for entry of an order approving: (i) bid and sale procedures, including expense reimbursement for the Purchaser, for the sale free and clear of liens claims, encumbrances and interests of certain preferred shares in IoWorldMedia, Inc. (the “Shares”) owned by the Debtor; (ii) scheduling a hearing on approval of the proposed sale on reduced notice (the “Sale Hearing”) and (iii) approving the form and manner of notice of the sale; and based upon all of the evidence proffered or adduced at the hearing on the Motion (the “Bid Procedures Hearing”); and after consideration of any memoranda, objections, or other pleadings filed in connection with the Bid Procedures

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

Hearing; and after consideration of the arguments of counsel made at the Bid Procedures Hearing; and upon the entire record of these cases; and it appearing that the approval of the Bid Procedures as requested in the Motion are in the best interests of the Debtor, his estate and creditors; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

FOUND AND DETERMINED THAT:

A. The form and manner of notice of the Bid Procedures, the proposed sale process and the Bid Procedures Hearing shall be, and hereby are, approved as sufficient and adequate notice. No other or further notice in connection with the entry of this Order is or shall be required.

B. The Bid Procedures were proposed by the Trustee in good faith with the goal of maximizing the value of the Shares for the benefit of all creditors of the estate.

C. Approval of the Bid Procedures will facilitate an orderly sale process and will help ensure that all potential purchasers of the Shares will compete on a level playing field.

NOW, THEREFORE, IT IS HEREBY

ORDERED that the Motion is granted to the extent set forth in this Order. The following Bid Procedures are hereby approved and shall be used in connection with the proposed sale of the Shares:

- a. Within two business days of the entry of this Order, the Trustee shall place a publication version of the Auction and Hearing Notice in a newspaper of general circulation.
- b. A bidder who submits a "Qualified Bid" shall be referred to herein as a "Qualified Bidder." To be considered a "Qualified Bidder", a

bidder shall, at least 3 days prior to a sale meeting (the “Sale”) to be conducted by the Trustee immediately prior to the Sale Hearing, have (i) disclosed to the Trustee the identities of all individuals and entities who are then, or at the closing will be, owners of any interests in such prospective bidder together with the nature and extent of any such ownership interest, (ii) delivered to the Trustee a cashiers’ or certified check payable to the order of the Trustee in the amount of \$25,000 (it being understood that deposits may also be sent by wire transfer of immediately available funds), (iii) provided to the Trustee proof satisfactory to the Trustee that such bidder has no less than \$130,000 in additional, immediately available funds with which to pay the Expenses and the Successful Bid in the event that the bidding shall so warrant; and (iv) remain open and irrevocable until thirty days after the entry of an order by the Bankruptcy Court approving a definitive agreement providing for the sale of the Shares.

- c. A copy of any Competing Bid should be provided to the Trustee and counsel for the Purchaser at the addresses below:

Larry S. Hyman
Chapter 7 Trustee for Debtor John Dargan Stanton, III
PO Box 18625
Tampa, FL 33679

Herbert R. Donica, Esq.
Attorney for Chapter 7 Trustee
Donica Law Firm, P.A.
106 S Tampania Avenue, Suite 250
Tampa, FL 33609

Heidi J. Sorvino, Esq.
Counsel for Purchaser
Hodgson Russ, LLP
1540 Broadway, 24th Floor
New York, NY 10036

- d. The Purchaser shall automatically be deemed a Qualified Bidder.
- e. At all times during the proposed sale process the Trustee retains the right to determine which bid constitutes the highest or otherwise best offer for the purchase of the Shares, and which bid should be selected as the successful bid (the “Successful Bid”), if any, all subject to final approval by the Bankruptcy Court pursuant

to the provisions of Section 363(b) of the Bankruptcy Code. When evaluating the bids, the Trustee shall consider the financial and contractual terms of each bid and factors affecting the speed and certainty of closing each bid.

- f. Competing Bids shall be irrevocably deemed to be submitted on all the terms and conditions set forth in the Agreement (except as to the Purchase Price) and the Successful Bidder shall be deemed bound by all terms and conditions of the Agreement (with the exception of the Purchase Price which may be increased at the Auction).
- g. Competing bids shall be submitted in bidding increments of at least \$30,000 for the first competing bid and \$25,000 for each bid thereafter.
- h. The Deposits of Qualified Bidders who are not the Successful Bidder will be returned to such Qualified Bidders promptly upon the entry of an order approving the sale of the Shares (the "Sale Order").
- i. The Trustee, in his sole discretion, may continue the Sale and Sale Hearing to an adjourned date without further notice to Qualified Bidders, creditors or parties in interest.
- j. In the event that the Trustee timely receives two or more conforming Qualified Bids from prospective purchasers as described above (each, a "Qualified Bidder"), then the Trustee shall conduct an auction with respect to the sale of the Shares on June 20, 2012, beginning at 11:00 a.m. (EST), in Courtroom 8A, Sam M. Gibbons United States Courthouse, 801 N. Florida Ave., Tampa, FL 33602. In order to participate in the Auction, each prospective purchaser shall be required to comply with the requirements of the Bid Procedures and to submit a Qualified Bid that is timely and that complies in all respects with the Bid Procedures Order. All bidding for the Shares will be concluded at the Auction and there will be no further bidding at the Sale Hearing. The Trustee may adopt rules for the Auction that will better promote the goals of the Auction. All bids shall be made on an open basis, participating Qualified Bidders shall be entitled to be present for all bidding; and the principals of each participating Qualified Bidder shall be fully disclosed to all other participating Qualified Bidders throughout the entire Auction. All bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Court and waived any right to jury trial in connection with

any disputes relating to the Auction, the Sale of the Shares and the construction and enforcement of the Successful Bid.

- k. The Sale Hearing will be conducted at 11:00 a.m. (EST), on June 20, 2012, at the United States Bankruptcy Court, Middle District of Florida, Sam M. Gibbons United States Courthouse, 801 N. Florida Avenue, Courtroom 8A, Tampa, Florida 33602-2899, before the Honorable Michael G. Williamson, United States Bankruptcy Judge, at which time the Trustee intends to present the Successful Bid for approval by the Court pursuant to the provisions of Sections 105, 363(b), 363(f) and 363(m) of the Bankruptcy Code. The Trustee shall be deemed to have accepted a bid only when the bid has been approved by the Court at the Sale Hearing. Upon the failure to consummate a sale of the Shares after the Sale Hearing because of the occurrence of a breach or default under the terms of the Successful Bid, such bidder shall be deemed to have forfeited its Deposit in partial satisfaction of the damages incurred by the estate and the next highest or otherwise best bid, as disclosed at the Sale Hearing, shall be deemed the Successful Bid without further order of the Court and the parties shall be authorized to consummate the transaction contemplated by the backup Successful Bid.
- l. Following the approval of the Successful Bid at the Sale Hearing, the Trustee will be authorized to take all commercially reasonable and necessary steps to complete and implement the transaction(s) contemplated by the Successful Bid, including (but not limited to) seeking entry of one or more sale orders.
- m. The Purchaser is to be paid at the closing of a sale of the Shares to a Qualified Bidder other than the Purchaser, an amount equal to the expenses incurred by Purchaser (the "Expenses") in connection with the purchase of the Shares up to \$25,000 plus 10% of the Successful Bid in excess of \$130,000 up to a total of \$50,000. The Court reserves jurisdiction to exercise its discretion if the Purchaser seeks additional amounts for its Expenses.
- n. Any conflict between the terms and conditions of the Bid Procedures Order and any purchase agreement executed by Trustee and any of the bidders shall be resolved in favor of the Bid Procedures Order.

and it is further

ORDERED that the form of the Auction and Hearing Notice attached to the

Motion as Exhibit “C” is approved and the Trustee is directed to serve a copy of the Auction and Hearing Notice on the Notice Parties within two business days of entry of this Order; and it is further

ORDERED that within two business days after entry of this Order, or as soon as practicable thereafter, the Trustee will publish the Auction and Hearing Notice in a local publication.

ORDERED that Objections (if any) to approval of any Successful Bid or to approval of any proposed sale of the Shares, shall be in writing, shall set forth the name of the objecting party, the basis for the objection and the specific grounds therefor, and shall be filed with the Court and served upon each of the following so as to be actually received on or before 5:00 p.m. on June 18, 2012: (i) Chapter 7 Trustee, Larry S. Hyman, PO Box 18625, Tampa, FL 33679, (ii) counsel to the Trustee, Herbert R. Donica, Esq., 106 South Tampania Avenue, Suite 250, Tampa, FL 33609, (iii) counsel to the Debtor, Paul DeCailly, Esq., DeCailly Law Group, P.A., 19455 Gulf Boulevard, Suite 8, Indian Shores, FL 33785, (iv) counsel to the United States Trustee’s Office, Benjamin E. Lambers, Esq., Timberlake Annex, 501 E. Polk Street, Suite 1200, Tampa, FL 33602 and (iv) counsel to the Purchaser, Heidi J. Sorvino, Esq., Hodgson Russ, LLP, 1540 Broadway, 24th Floor, New York, NY 10036 (collectively, the “Objection Service List Parties”). Any objection not filed and served in accordance with this paragraph shall be deemed waived and shall be forever barred; and it is further

ORDERED that the failure of any third party to file and serve an objection as ordered and directed herein shall be deemed the consent of such party to the granting of

the Motion and the sale and transfer of the Shares; and it is further

ORDERED that the Bid Procedures are fair and reasonable, are reasonably calculated to produce the best and highest offers for the Shares, and will confer actual benefits upon the Debtor's estate. The Bid Procedures represent an exercise of the Trustee's sound business judgment and will facilitate an orderly sale process; and it is further

ORDERED that nothing herein shall impair the rights of any parties-in-interest to object to the sale of the Shares and any such objections shall be heard at the Sale Hearing.

DONE and **ORDERED** in Chambers at Tampa, Florida on June 08, 2012.



Michael G. Williamson
United States Bankruptcy Judge

Copies to:

John Dargan Stanton, III, 322 Roebling Rd. S., Belleair, FL 33756

Paul DeCailly, Esq., 3111 W Dr. MLK Jr. Blvd., Ste. 100, Tampa, FL 33607

Herbert R. Donica, Esq., 106 South Tampania Avenue, Suite 250, Tampa, FL 33609

Larry S. Hyman, P.O. Box 18625, Tampa, FL 33679

Benjamin E. Lambers, Assistant U.S. Trustee, 501 E. Polk St., Ste. #1200, Tampa, FL 33602

ioWorldMedia, Inc. c/o Tom Bean, President, 5025 W. Lemon St., Suite 200, Tampa, FL 33609

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL L. EAGAN, *et al.*,

Defendants.

§
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§
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§
§
§

Civil Action No. 3:11-CV-2054-N

ORDER REQUIRING STATUS AND SCHEDULING CONFERENCE

Pursuant to the Federal Rules of Civil Procedure, the Local Rules of this Court, and the Civil Justice Expense and Delay Reduction Plan for the Northern District of Texas, the Court issues this Order to facilitate early consideration of settlement and entry of a scheduling order under Rule 16(b).

1. The parties are directed to confer within 14 days of the date of this Order regarding the following matters, and report to the Court within 14 days after the conference the parties' position:

- a. a brief statement of the nature of the case and the contentions of the parties;
- b. the status of settlement discussions (excluding any discussion of amounts);
- c. possible joinder of additional parties;
- d. any anticipated challenges to jurisdiction or venue;
- e. date by which the case will be ready for trial and estimated length of trial;
- f. the desirability of ADR, and the timing for ADR; and

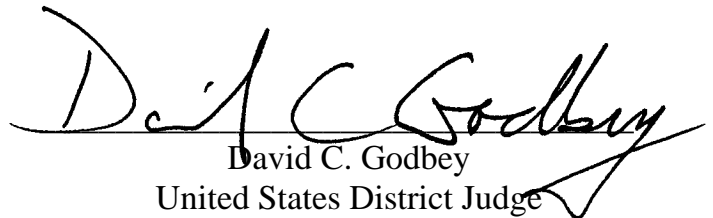
g. any objections to disclosure under Rule 26(a)(1).

2. The parties are directed to hold the conference required by Rule 26(f) within 14 days of the date of this Order and report to the Court as required by that Rule.

3. The parties' Rule 26(f) report does not need to include suggested discovery deadlines. The Court's scheduling order will include default scheduling deadlines. The scheduling order provides that the parties are free to alter those deadlines by written agreement, to conform to any agreed discovery plan under Rule 26(f) or otherwise, without the necessity of motion or order.

4. The reports required by paragraphs 1 and 2 of this Order should be contained in a single document. Upon receipt of that report, the Court will enter a scheduling order without the necessity of a scheduling conference with the Court, unless otherwise ordered. Requests for extension of the deadlines contained in this Order are unlikely to be granted due to the time constraints of Rule 16(b).

Signed June 8, 2012.


David C. Godbey
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civil Action 2:10-CV-336
Judge Economus
Magistrate Judge King

TOBIAS H. ELSASS, et al.,

Defendants.

ORDER

Earlier in this action, plaintiff moved to compel response to Interrogatory No. 5 of its Third Set of Interrogatories, which seeks information relating to FRG Nevada, an entity related to defendants but which is not itself a named party. In granting that motion, the Court agreed with plaintiff that information regarding FRG Nevada and its relationship to the named defendants is relevant to the claims asserted in this action and to the type and scope of the injunctive relief requested by plaintiff. *Opinion and Order*, Doc. No. 122. The Court also rejected defendants' representation that they (or at least defendant Elsass) do not possess information about the activities of FRG Nevada. *Id.* at 7. The Court therefore expressly ordered defendants to "provide a supplemental, more detailed answer to Interrogatory No. 5 no later than May 18, 2012." *Id.* at 8 (footnote omitted).

No party sought reconsideration of that order. See Fed. R. Civ. P. 72(a) ("A party may serve and file objections to the order [of the Magistrate Judge] within 14 days after being served with a copy. A party may not assign as error a defect in the order not timely objected to."). On May 18, 2012, defendants filed a request for an extension of time "to respond to this Court's *Opinion and Order* dated May 9, 2012 . . . "

Defendants' Joint Request for Extension of Time, Doc. No. 125. As justification for the requested extension, defendants represented only that "Defendant Elsass has been on an extensive business trip way from Ohio and all the records and documents for this case are in Ohio." *Id.* at 1. Plaintiff responded to that motion on May 31, 2012, representing that defendants had not complied with the Court's order even by the requested extended date. *Response to Defendants' Joint Motion to Extend Time*, Doc. No. 126. Defendants were granted until Jun 7, 2012 to reply in support of their motion for an extension of time. *Order*, Doc. No. 127.

Defendants have not replied in support of their motion for an extension of time. On June 4, 2012, however, defendant Elsass, who is proceeding *pro se*, filed *Defendant Elsass [sic] Response to Court's Opinion and Order of May 9, 2012*, Doc. No. 133. In that motion, defendant Elsass appears to take the position that he need not provide the discovery ordered by this Court:

As this Court has ruled, FRG Nevada is not a party in this action. As a result, irrespective of the breath [sic] of the Civil Rules allowing a party to "obtain discovery regarding any nonprivileged matter that is relevant to the parties [sic] claim or defense", none of the books or records of FRG Nevada are discoverable as it is not a party subject to this Court.

Id. at 2. Defendant Elsass also appears to suggest that, because this Court permitted plaintiff to explore the relationship between the named defendants and FRG Nevada during the course of his deposition, and because the discovery completion date has now passed, plaintiff is not entitled to further response to its interrogatory. *Id.* Defendant Elsass is wrong on all counts.

This Court has issued an express order directing response to plaintiff's interrogatory; the time for objecting to that order has

passed. Rather than complying with the Court's order, Defendant Elsass has acted in blatant disregard of that order and has failed to establish any justification for his misconduct.

Under these circumstances, the joint motion for an extension of time, Doc. No. 125, is **DENIED** as moot. To the extent that they have not done so, defendants shall provide the information requested by Interrogatory No. 5 of plaintiff's Third Set of Interrogatories no later than June 13, 2012. By that same date, defendant Elsass shall **SHOW CAUSE** why he should not be held in contempt of court for which sanctions should be imposed.

June 8, 2012

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

NO. CR 05-00215 EJD

Plaintiff,

**SEALING ORDER PURSUANT
TO GENERAL ORDER 54**

v.

SAMUEL S. FUNG,

Defendant.

The following documents in this action are placed under seal and shall not be opened except by the United States Sentencing Commission for its eyes only and shall not be transmitted or otherwise opened except by order of this court upon application.


☒ Presentence Report

☐ Plea Agreement

☒ Statement of Reasons

☐ _____
(Other)

Dated: 6/8/2012


EDWARD J. DAVILA
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN MAILED TO:**

2 United States Marshal Service
3 United States Probation Office
4 United States Pretrial Services Office

5 **Dated: 6/8/2012**

Richard W. Wieking, Clerk

7 By: Elizabeth C. Garcia
8 Elizabeth Garcia
9 Courtroom Deputy

Civil Action No. CV-12-S-2015-NE

The plaintiffs in this action are two limited liability companies named:

“Mama’s Enterprises, LCC” and “Mama’s Enterprises II, LLC.” Sherry Roach formed both of the entities under Alabama law, and she is a member of both entities. She formed Mama’s Enterprises, LLC in October 2009, and that company originally operated a restaurant in Guntersville, Alabama.¹ The Guntersville restaurant closed, and the company now operates a restaurant within the food court of Huntsville Hospital, pursuant to a contract with the Hospital. That restaurant has been in operation for three years, employs six persons, and produces approximately one-half million dollars in gross revenue each year.

Sherry formed Mama’s Enterprises II, LLC in September 2011, and for the past six months that entity has operated a restaurant in Huntsville, Alabama, that conducts business under the name “Mama’s American Table.” That restaurant employs fifty-five persons, and produces from \$30,000 to \$32,000 in gross revenue each month (\$360,000 to \$384,000 a year).

Sherry Roach has been married to Christopher Roach for eighteen years. Christopher is not a member of either of the plaintiff limited liability companies.

As of January 31, 2012, the Internal Revenue Service (“IRS”) has assessed \$1,951,644.67 in unpaid taxes, penalties, and interest against Christopher for the tax

¹ See doc. no. 1 (Complaint).

years 1996, 1999, and 2000.² The IRS also has assessed, as of January 31, 2012, \$306,161.38 in unpaid taxes, penalties, and interest against Sherry for the tax years 2002 through 2006.³

The IRS has issued levies to Huntsville Hospital seeking payment to the IRS of all funds owed to Mama's Enterprises, LLC on the basis that the entity is the alter-ego of Christopher and Sherry Roach.⁴ The IRS has collected more than \$50,000 through such levies since January 2012, and it continues to collect funds by means of such levies. The IRS also has seized money belonging to Mama's Enterprises II, LLC from a bank account opened by that entity.

Sherry Roach testified that Mama's Enterprises, LLC has borrowed money from her mother-in-law, Dorothy Roach, and from profits of the "Mama's American Table" restaurant, in order to pay the expenses incurred by the Huntsville Hospital food court restaurant. Even so, she contends that she can no longer borrow money from those sources, and she does not have sufficient funds to continue to pay the wages of the employees of the Huntsville Hospital food court restaurant.

The evidence presented during the June 6 hearing established that Christopher and Sherry Roach used the funds of Mama's Enterprises, LLC to pay personal

² See doc. no. 14-1 (Affidavit of IRS Agent Duncan), at 1.

³ See *id.*

⁴ See doc. no. 1-1 (Exhibits to Complaint), at 1, 7.

expenses. Christopher and Sherry both wrote numerous checks from an account opened by Mama's Enterprises, LLC at Bancorp South and ending in the four digits 5907.⁵ For example, between the dates of January 28, 2010 and January 20, 2011, Sherry Roach wrote checks for veterinary services, for a gift to her nephew, for "cash," and two checks to her church.⁶ During that same period, Christopher Roach wrote a check for the couple's daughter's school tuition, a check for his step-son's college tuition, a check to his mother, a check making a payment on a loan Sherry entered into when she was engaged in the business of "flipping" homes in Florida, a check for a payment on a personal vehicle, a check for personal moving expenses, two checks for rental payments on the home Christopher and Sherry rented, and two checks to their church.⁷ Additionally, during the same period, Christopher wrote seven checks to "cash" and made one withdrawal, and those checks and the withdrawal aggregated the amount of \$7,208.92.⁸ Christopher Roach also has a debit card that draws on a bank account owned by the plaintiff entities, and he uses that card to purchase gas and make other daily purchases, as needed.

⁵ See Affidavit of IRS Agent Duncan, at 2.

⁶ See Defendant's Ex. 1 (Bancorp South Records), and the checks numbered 1028, 1036, 1234, 1237, and 1312.

⁷ See *id.*, and the checks numbered 1026, 1035, 1078, 1221, 1241, 1302, 1319, 1329, 1359, and 1368.

⁸ See *id.*, and the checks numbered 1038, 1233, 1240, 1318, 1328, 1336, and 1360.

Sherry testified that her husband does not have a personal bank account, and until recently she did not have a personal bank account, because they “were afraid that [the IRS] would come and take [the money] because of his [tax debts], what he owed.”

Christopher Roach was indicted, along with two co-defendants, in the United States District Court for the Northern District of Illinois on April 13, 2000, on twenty-seven counts of racketeering, unlawful offers and payments to influence operations of employee benefit plans, money laundering, interstate and foreign travel in aid of a racketeering enterprise, tampering with a witness, and extortion and attempted extortion.⁹ The indictment alleged that, from on or about March 1994 to on or about August 1997, Christopher Roach and his co-conspirators paid kickbacks and bribes to the trustees of union pension funds in exchange for the trustees directing investment advising business, and the resulting commissions, to the conspirators’ securities brokerage firm. The conspirators then transferred the commissions to an account in the Cayman Islands, and from there to accounts in the United Kingdom and the Isle of Man. The conspirators traveled to the Cayman Islands on numerous occasions to conduct business related to their money laundering operation. Roach and his co-conspirators made threats of physical harm and assaulted an individual with a firearm for the purpose of extorting money from individuals, and they threatened an individual

⁹ See *United States v. William V. Close et al.*, No. 00-CR-0288 (N.D. Ill.).

with physical harm if he cooperated in the investigation against them. Additionally, the indictment alleged that Roach and his co-conspirators were in possession of forfeitable property. The United States filed an information charging Roach with tax evasion and making false statements on tax returns on December 18, 2000.¹⁰

Christopher Roach pled guilty on charges of racketeering, acceptance or solicitation to influence operation of employee benefit plan, tax evasion, and making false statements on tax returns.¹¹ He was sentenced on May 30, 2002 to thirty-six months in the custody of the United States Bureau of Prisons, followed by three years of supervised release. Additionally, a judgment of forfeiture was entered against Christopher Roach in the amount of \$7,433,845.

II. LEGAL STANDARDS

Temporary restraining orders are an extraordinary remedy designed to preserve the *status quo*, and to prevent irreparable harm before the merits of a case can be heard. *See Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda County*, 415 U.S. 423, 439 (1974).

“The basis of injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies.” *Sampson v. Murray*, 415 U.S. 61, 88 (1974).

¹⁰ *See United States v. Christopher P. Roach*, No. 00-CR-1031 (N.D. Ill.).

¹¹ *See United States v. William V. Close*, No. 00-CR-0288 (N.D. Ill.).

Four factors must be considered when deciding whether to grant a motion for a temporary restraining order. The movant must establish: “(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that entry of the relief would serve the public interest.” *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225-26 (11th Cir. 2005); *see also Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (*en banc*) (same).

Additionally, the Anti-Injunction Act, 26 U.S.C. § 7421, narrowly limits the ability of taxpayers to obtain an injunction against the assessment and collection of taxes. The statute provides that:

Except as provided in sections 6015(e), 6212(a) and (c), 6213(a), 6225(b), 6246(b), 6330(e)(1), 6331(i), 6672(c), 6694(c), 7426(a) and (b)(1), 7429(b), and 7436, no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

26 U.S.C. § 7421(a). Plaintiffs assert that their claim arises under an exception to the Anti-Injunction Act provided by 26 U.S.C. §§ 7426(a) and (b)(1).¹² Section 7426(a) reads, in relevant part, as follows:

If a levy has been made on property or property has been sold

¹² *See* doc. no. 6 (Motion for Reconsideration of Plaintiffs’ Motion for a Temporary Restraining Order and Permanent Injunction); doc. no. 1 (Complaint) ¶ 4 (“This cause of action is a wrongful levy suit brought pursuant to Internal Revenue Code ‘IRC’ Section 7426(a)(1) . . .”).

pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in or lien on such property and that such property was wrongfully levied upon may bring a civil action against the United States in a district court of the United States.

26 U.S.C. § 7426(a). Section 7426(b)(1) provides that:

If a levy or sale would irreparably injure rights in property which the court determines to be superior to rights of the United States in such property, the court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

26 U.S.C. § 7426(b)(1).

III. DISCUSSION

A. Likelihood of Success on the Merits

Plaintiffs allege that the IRS has wrongfully levied funds owed to Mama's Enterprises, LLC by Huntsville Hospital for operation of the food court restaurant because the IRS incorrectly determined that the LLCs were the alter-egos of Sherry and Christopher Roach. Thus, to succeed on the merits, plaintiffs must show that they were not the alter-egos of Sherry and Christopher Roach.

The IRS may levy the funds of a taxpayer's "alter-ego" because the property owned by a delinquent taxpayer includes property owned by a third party that is an alter-ego of the taxpayer. *See, e.g., G.M. Leasing Corp. v. United States*, 429 U.S. 338, 350-51 (1977); *Shades Ridge Holding Co., Inc. v. United States*, 888 F.2d 725,

728 (11th Cir. 1989) (“Property of the nominee or alter ego of a taxpayer is subject to the collection of the taxpayer’s tax liability.”). That rule derives from the principle that “taxation is not so much concerned with the refinements of title as it is with *actual command over the property taxed* — the actual benefit for which the tax is paid.” *Corliss v. Bowers*, 281 U.S. 376, 378 (1930) (emphasis supplied). “[I]t makes no difference that such ‘command’ may be exercised through specific retention of legal title or the creation of a new equitable but controlled interest, or the maintenance of effective benefit through the interposition of a subservient agency.” *Griffiths v. Helvering*, 308 U.S. 355, 357-58 (1939). The *Griffiths* opinion also observed that: “Taxes cannot be escaped ‘by anticipatory arrangements and contracts however skillfully devised by which the fruits are attributed to a different tree from that on which they grew.’” *Id.* at 358 (quoting *Lucas v. Earl*, 281 U.S. 111, 115 (1930)) (emphasis supplied).

There is no binding precedent on the question of whether federal or state law governs the determination of whether an entity is the “alter-ego” of a deficient taxpayer. *See Shades Ridge*, 888 F.2d at 728. In some instances, however, courts have found that the resolution of that issue is not necessary because federal and state law is “essentially the same.” *United States v. Jon-T Chemicals, Inc.*, 768 F.2d 686, 690 n.6 (5th Cir. 1985); *see also Shades Ridge*, 888 F.2d at 728 (finding that the

federal law and Alabama law on the issue “are so similar that the distinction is of little moment”).

Even so, when another court within this Circuit was confronted with the issue of whether to apply federal or state alter-ego law when the IRS attempted to collect a tax deficiency from an entity, that court found that

all of the decisions cited from courts within this Circuit have applied the law of the forum state in which the court sits, and more importantly, the vast majority of decisions throughout the United States which address alter ego liability in the federal tax arena have squarely applied the law of the forum state.

Old West Annuity and Life Insurance Company v. Apollo Group, No. 5:03-cv-354-Oc-10GRJ, 2008 WL 2993958, at *7 (M.D. Fla. Aug. 1, 2008) (footnotes omitted) (Hodges, J.). The court cited numerous decisions from district courts within the Eleventh Circuit, as well as district and appellate opinions from other circuits, in support of that proposition, *see id.* at *7 nn.14 & 15 (collecting cases), and concluded that “it appears that the better weight of authority militates in favor of applying [state] law to the alter ego analysis.” *Id.* at *7. Similarly, another judge on this same court applied Alabama law when determining whether a successor corporation could be held liable for the debts of its predecessor for federal tax lien purposes, and cited the *Old West Annuity* decision in support of the conclusion that it could be liable. *General Electric Capital Corp. v. Emergystat, Inc.*, Nos. CV-08-B-0171-J, CV-08-B-0699-J,

2009 WL 4465245, at *13 (N.D. Ala. Sept. 30, 2009) (Blackburn, C.J.).

This court finds the reasoning of the *Old West Annuity* decision persuasive for the reasons stated and, thus, will apply Alabama alter-ego law.

Alabama law provides that a corporation *may be* the alter-ego of a person or another entity, and that the corporate “veil” may be “pierced” when evidence establishes that to be the case. *See Forest Hill Corp. v. Latter & Blum*, 29 So. 2d 298, 302 (Ala. 1947) (“The notion of separate corporate existence will not be recognized where a corporation is so organized and controlled and its business conducted in such a manner as to make it merely an instrumentality of another . . .”). Despite the clarity of that well-settled proposition, there are no published decisions by Alabama courts addressing the question of whether the same theory applies to *limited liability companies*. For example, in *Filo America, Inc. v. Olhoss Trading Co., L.L.C.*, 321 F. Supp. 2d 1266 (M.D. Ala. 2004) (Thompson, J.), an action based on the parties’ diversity of citizenship — and, therefore, a case in which Alabama law provided the rules of decision — the Middle District court was confronted with the question of whether the Alabama doctrine of “piercing the corporate veil” applied to limited liability companies. Judge Thompson held that such an entity should be subject to the same standards as corporations under Alabama law. *Id.* at 1268. The court reasoned that an LLC borrows its limited liability characteristic from corporations and, thus, the

“veil piercing” exception to the limited liability of corporations should apply to LLCs. *Id.* at 1269. The courts of other jurisdictions have reached the same conclusion. *See id.* (collecting cases). Additionally, learned commentators who have considered the issue have concluded that the corporate “veil piercing” doctrine applies to LLCs. *See id.* (collecting scholarly articles). For those reasons, this court concludes that the limited liability of LLCs may be disregarded under Alabama law when an LLC is the alter-ego of a person or another entity.

The alter-ego theory is one of three “typical justification[s] for piercing the corporate veil” under Alabama law. *First Health, Inc. v. Blanton*, 585 So. 2d 1331, 1334 (Ala. 1991). “[T]he following factors [are] typical justification[s] for piercing the corporate veil: 1) inadequacy of capital; 2) fraudulent purpose in conception or operation of the business; or 3) operation of the corporation as an instrumentality or alter ego.” *Id.*

The Alabama Supreme Court also held in *Messick v. Moring*, 514 So. 2d 892 (Ala. 1987), that, in order to impose liability on a defendant for the acts of a corporation on the grounds that the corporation was an “instrumentality” or “alter-ego” of the defendant, a plaintiff must show that:

1) The dominant party must have complete control and domination of the subservient corporation’s finances, policy and business practices so that[,] at the time of the attacked transaction[,] the subservient

corporation had no separate mind, will, or existence of its own;

2) The control must have been misused by the dominant party. Although fraud or the violation of a statutory or other positive legal duty is misuse of control, when it is necessary to prevent injustice or inequitable circumstances, misuse of control will be presumed;

3) The misuse of this control must proximately cause the harm or unjust loss complained of.

Id. at 894-95 (alterations supplied).

One important factor indicating that a corporation may be the alter-ego of an individual is “where corporate and personal funds are intermingled and corporate funds are used for personal purposes” *Simmons v. Clark Equipment Credit Corp.*, 554 So. 2d 398, 401 (Ala. 1989); *see also Ex Parte AmSouth Bank of America*, 669 So. 2d 154, 158 (Ala. 1995); *Barrett v. Odom, May and DeBuys*, 453 So. 2d 729, 732 (Ala. 1984); *Lyons v. Lyons*, 340 So. 2d 450, 451 (Ala. Civ. App. 1976).

As discussed previously, the United States presented extensive evidence showing that the plaintiff entities were the alter-egos of Sherry and Christopher Roach, and plaintiffs have not presented any evidence to counter that showing. Christopher and Sherry Roach conducted their personal lives through the funds of the plaintiff entities, and did so for the purpose of avoiding their liabilities to the United States for unpaid taxes. Christopher does not, and, until recent months, Sherry did not possess a personal bank account because of their fear that the IRS would levy any

funds deposited to such an account. Instead, Christopher and Sherry Roach regularly withdrew cash and wrote checks necessary to cover their living expenses from the bank account of Mama's Enterprises, LLC.

Furthermore, Sherry Roach testified that she personally makes, or directs Christopher to make, all of the payments to employees and vendors necessary for the operations of the businesses. Plaintiffs have not presented any evidence that any individual other than Sherry Roach is a member of the plaintiff entities, much less that other individuals exercise control over the entities.

Plaintiffs argue that, while Christopher and Sherry Roach may have treated plaintiffs as their alter-egos in the past, that is no longer the case, because the plaintiff companies no longer conduct business as the alter-egos of the Roaches. Plaintiffs assert that Christopher and Sherry Roach no longer pay their personal expenses out of the Mama's Enterprises, LCC account. Plaintiffs did not, however, present persuasive evidence substantiating that assertion. Moreover, plaintiffs did not present any evidence to show that plaintiffs were not operated as the alter-egos of Christopher and Sherry at the time the IRS made the alter-ego determination or at the time the IRS issued the levies. For those reasons, plaintiffs have failed to show that they are likely to succeed on the merits of their claim that the LLCs are not the alter-egos of Christopher and Sherry Roach.

B. Irreparable Injury

A showing of irreparable injury is “the *sine qua non* of injunctive relief.” *Northeastern Florida Chapter of the Association of General Contractors v. City of Jacksonville, Florida*, 896 F.2d 1283, 1285 (11th Cir. 1990) (quoting *Frejlach v. Butler*, 573 F.2d 1026, 1027 (8th Cir. 1978)). The asserted irreparable injury “must be neither remote nor speculative, but actual and imminent.” *City of Jacksonville*, 896 F.2d at 1285 (quoting *Tucker Anthony Realty Corp. v. Schlesinger*, 888 F.2d 969, 973 (2d Cir. 1989)); *see also Church v. City of Huntsville*, 30 F.3d 1332, 1337 (11th Cir. 1994) (holding that “a party has standing to seek injunctive relief only if the party alleges, and ultimately proves, a real and immediate — as opposed to a merely conjectural or hypothetical — threat of future injury”). “An injury is ‘irreparable’ only if it cannot be undone through monetary remedies.” *City of Jacksonville*, 896 F.2d at 1285.

In *Sampson v. Murray*, 415 U.S. 61 (1974), the Court emphatically rejected an “intimation” by the District of Columbia Circuit Court of Appeals “that either loss of earnings or damage to reputation might afford a basis for a finding of irreparable injury and provide a basis for temporary injunctive relief.” *Id.* at 89. The Court said:

Assuming for the purposes of discussion that respondent had made a satisfactory showing of loss of income and had supported the claim that her reputation would be damaged as a result of the challenged agency

action, we think the showing falls *far short* of the type of irreparable injury which is a necessary predicate to the issuance of a temporary injunction in this type of case.

Id. at 91-92 (emphasis in original). The Court stressed that:

The key word in this consideration is irreparable. Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough. The possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.

Id. at 90 (quoting *Virginia Petroleum Jobbers Association v. Federal Power Commission*, 259 F.2d 921, 925 (D.C. Cir. 1985)). Similarly, the Eleventh Circuit has held that “[c]onjecture about a possibility of difficulties with damage computations is inadequate to support an injunction before trial.” *City of Jacksonville*, 896 F.2d at 1286.

Plaintiffs acknowledged at the hearing that the loss of earnings they have suffered, and will continue to suffer, due to the IRS levies is not sufficient to establish irreparable harm. Plaintiffs argue that the community — more specifically, the employees of the plaintiff entities — will suffer irreparable harm if the plaintiffs are forced to close their businesses or declare bankruptcy. The core of plaintiffs’ argument is that their employees will be rendered unemployed if their businesses close.

However, plaintiffs bear the burden to show that *they* will suffer irreparable injury. *See City of Jacksonville*, 896 F.2d at 1284 (stating the irreparable injury factor as requiring “a showing that plaintiff will suffer irreparable injury if an injunction does not issue”); *Virginia Petroleum Jobbers Association*, 259 F.2d at 925 (stating the irreparable injury factor as: “Has the petitioner shown that without such relief, it will be irreparably injured?”). Any injury to the restaurant employees or the community if the plaintiff entities are forced to cease operations is not an irreparable injury that would be suffered by the plaintiff entities. Furthermore, any injury that may be suffered by the public, which would include the community and plaintiffs’ employees, is considered under the fourth factor — whether the entry of injunctive relief would serve the public interest. The plaintiff entities have not alleged that *they* have suffered or will suffer any injury other than loss of earnings. Thus, plaintiffs fail to satisfy the irreparable injury requirement for the issuance of a temporary restraining order.

Additionally, in order to meet the requirements of the exception to the Anti-Injunction Act provided by 26 U.S.C. § 7426(b)(1), the plaintiffs must show that the levies would irreparably injure their property interests. For the same reasons previously discussed, plaintiffs fail to show that their property interests would be irreparably injured and, thus, fail to meet the requirements of the section 7426(b)(1) exception to the Anti-Injunction Act.

C. Harm to the Non-Movant

The United States would be significantly harmed by the issuance of a temporary restraining order because the Internal Revenue Service would be delayed in collecting the tax deficiencies of Christopher and Sherry Roach. Moreover, the issuance of a temporary restraining order would create a danger that Christopher and Sherry Roach may take actions that would significantly hinder the efforts of the United States to ever collect the tax deficiencies. Sherry Roach admitted that she and Christopher had used the plaintiff entities to avoid IRS collection attempts. Furthermore, Christopher has, as shown by his criminal conviction, extensive knowledge of money laundering and offshore banking. If this court were to enter a temporary restraining order, Christopher and Sherry may take actions to hide or shield their assets from the IRS.

D. Public Interest

Plaintiffs assert that the public interest will be served by a temporary restraining order because the employees of the plaintiff entities will remain employed. Keeping individuals employed, rather than drawing unemployment compensation, is certainly in the public interest. Additionally, ensuring that plaintiffs can continue to provide their services to the community is in the public interest.

However, the prompt and efficient collection of taxes is also in the public interest. *See United States v. Lee*, 455 U.S. 252, 260 (1982) (“Because the broad

public interest in maintaining a sound tax system is of such a high order, religious belief in conflict with the payment of taxes affords no basis for resisting the tax.”).

IV. CONCLUSION

In conclusion, plaintiffs fail to establish any of the four factors necessary for the issuance of a temporary restraining order and, thus, plaintiffs’ motion for a temporary restraining order is due to be, and hereby is, DENIED.

DONE this 8th day of June, 2012.



United States District Judge

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	3:12-cv-242
)	
JASON K. MAUPIN, individually and)	
d/b/a Jason's Recycling,)	
)	
Defendant.)	

ORDER

A hearing on Plaintiff's Motion for Preliminary Injunction [DE 4] is **SET** for July 13, 2012 at **10:00 a.m. Hammond/Central Time** in the Courtroom of Chief Judge Philip P. Simon, United States Federal Courthouse, 5400 Federal Plaza, Hammond, Indiana. Argument on the merits of Plaintiff's motion will be heard and Plaintiff may offer any evidence in support of its Motion. If Defendant fails to attend this hearing, the Court will still rule on the Motion based on the evidence before it.

The parties may engage in any discovery they deem necessary prior to this hearing. Any response Defendant intends to file to Plaintiff's Motion must be filed by July 6, 2012.

The clerk is instructed to send a copy of this Order to Defendant at his address on file.

SO ORDERED.

ENTERED: June 8, 2012.

s/ Philip P. Simon
PHILIP P. SIMON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civ. No. 09-752 JCH/WPL

**BILLY R. MELOT
KATHERINE MELOT,
KLM TRUST, C.D. PROPERTIES, INC.,
MELM TRUST, Q.F. MARKETING, INC.,
LEIGH CORPORATION, SUZANNE
CORPORATION, MIRROR FARMS, INC.,
and C.D. EXPRESS, INC.,**

Defendants

ORDER OF REFERENCE

THIS MATTER is before the Court on the *Motion for Leave to Intervene* by Steven M. Byers [Doc. No. 195]. The Court sua sponte refers resolution of this motion to United States Magistrate Judge Williams P. Lynch in accordance with 28 U.S.C. §636(b)(1)(B). The Magistrate Judge should submit proposed findings of fact and recommendations for disposition of the motion to this Court. The parties then will have fourteen days to serve and file written objections to the proposed findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(B).

IT IS THEREFORE ORDERED that United States Magistrate Judge William P. Lynch is designated to submit proposed findings of fact and recommendations for disposition of the *Motion for Leave to Intervene* by of Steven M. Byers [Doc. No. 195] to this Court.


UNITED STATES DISTRICT JUDGE

1 Tara J. Schleicher, OSB #954021
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Attorneys for Debtor Stephen Miles Munson

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Stephen Miles Munson,

Debtor.

Case No. 10-39795-tmb11

MOTION TO SHORTEN OBJECTION
PERIOD ON PRECAUTIONARY NOTICE OF
INTENT TO SELL TRAILER

**EXPEDITED CONSIDERATION
REQUESTED**

Debtor-in-Possession Stephen Miles Munson ("Debtor") hereby moves this Court pursuant to Bankruptcy Rule 9006(c), for an order shortening the objection period to ten (10) days for the Precautionary Notice of Intent to Sell Property (the "Notice"). A copy of the Notice is attached hereto as Exhibit A. This motion for shortened time is based upon the Declaration of Tara J. Schleicher filed herewith and the following points and authorities.

POINTS AND AUTHORITIES

1. The Court is authorized by Fed. R. Bankr. P. 9006 to reduce the time for notice. The court for cause shown may in its discretion with or without motion or notice order the period reduced. FRPB 9006(c).

2. The buyer demands that he take possession of the property no later than within ten (10) days, which is within the 21-day objection period.

3. The Debtor is moving to shorten the objection period to ten (10) days so

1 that the property may be sold. Based on the buyer's demand, good cause exists to shorten the
2 objection period.

3 WHEREFORE, the Debtor requests that this Court enter an order shortening the
4 objection period on the Precautionary Notice of Intent to Sell Property to ten (10) days.

5 Dated: June 8, 2012.

6 FARLEIGH WADA WITT

7
8 By: /s/ Jason M. Ayres
9 Jason M. Ayres, OSB #001966
10 JAyres@fwlaw.com
11 Attorneys for Debtor
12
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18
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23
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26

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Stephen Miles Munson,

Debtor.

Case No. 10-39795-tmb11

PRECAUTIONARY NOTICE OF INTENT TO
SELL PROPERTY

Debtor Stephen Miles Munson ("Debtor"), on behalf of Tumalo Ranch, LLC, proposes to take the following action:

Tumalo Ranch, LLC ("Tumalo Ranch") is an Oregon limited liability company. Debtor is its sole officer, director and member. Tumalo Ranch currently owns ten (10) Corriente Heifers (the "Cows"). Tumalo Ranch intends to sell nine (9) of the Cows to Rick Sieverson of Oregon City, Oregon (the "Buyer") for \$430 each, for a total sum of \$3,870. Debtor intends all funds from sale to be used by Tumalo Ranch for maintenance of the ranch property. To the best of the Debtor's knowledge, the Buyer has no connections with the Debtor or Tumalo Ranch.

YOU ARE NOTIFIED that unless you file an objection to this notice no later than within ten (10) days after the service date, **and set forth** the specific grounds for the objection and your relation to the case, with the Clerk of the Court, 1001 SW Fifth Avenue, Suite 700, Portland, OR 97204, and serve a copy on Tara J. Schleicher, 121 SW Morrison Street, Suite 600, Portland, OR 97204, the undersigned will proceed to take the proposed action, or apply for an order if required, without further notice or a hearing.

FARLEIGH WADA WITT

By: /s/ Jason M. Ayres

Jason M. Ayres, OSB #001966

JAyres@fwwlaw.com

(503) 228-6044

Of Attorneys for Debtor Stephen Munson

On June 8, 2012, I served copies of the above Notice on the Debtor, United States Trustee, Unsecured Creditors Committee, their respective counsel, and the parties on the mailing matrix obtained from the Court on June 8, 2012.

FARLEIGH WADA WITT

By: /s/ Jason M. Ayres

Jason M. Ayres, OSB #001966

Of Attorneys for Debtor Stephen Munson

Tara J. Schleicher, OSB #954021
TSchleicher@fwwlaw.com
Jason M. Ayres, OSB #001966
JAyres@fwwlaw.com
Farleigh Wada Witt
121 SW Morrison Street, Suite 600
Portland, Oregon 97204-3136
Telephone: (503) 228-6044

Attorneys for Debtor Stephen Miles Munson

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Stephen Miles Munson,

Debtor.

Case No. 10-39795-tmb11

DECLARATION OF JASON M. AYRES IN
SUPPORT OF MOTION TO SHORTEN
OBJECTION PERIOD ON
PRECAUTIONARY NOTICE OF INTENT TO
SELL PROPERTY

I, Jason M. Ayres, hereby make this declaration, and declare under penalty of perjury as follows:

1. I am one of the attorneys for Debtor, Stephen Miles Munson ("Debtor").
2. The shortened objection period and expedited consideration is necessary to allow the property to be sold to the buyer after ten (10) days notice.
3. The buyer demands that he will allow for ten (10) days notice or he will not purchase the property.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

Dated: June 8, 2012.

/s/ Jason M. Ayres
Jason M. Ayres, OSB #001966

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Stephen Miles Munson,

Debtor.

Case No. 10-39795-tmb11

ORDER SHORTENING OBJECTION
PERIOD ON PRECAUTIONARY NOTICE OF
INTENT TO SELL PROPERTY

This matter came before the Court on Stephen Miles Munson's ("Debtor") Motion to Shorten Objection Period on Precautionary Notice of Intent to Sell Property. After reviewing the Motion and Declaration of Jason M. Ayres, and the Court being fully advised in the premises, it is hereby

ORDERED that the objection period on the Precautionary Notice of Intent to Sell Property is shortened to ten (10) days.

#

PRESENTED BY:

FARLEIGH WADA WITT

By: /s/ Jason M. Ayres

Jason M. Ayres, OSB #001966

JAyres@fwlaw.com

(503) 228-6044

Of Attorneys for Debtor

cc: Interested Parties

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2012, I electronically filed the foregoing **MOTION TO SHORTEN OBJECTION PERIOD ON PRECAUTIONARY NOTICE OF INTENT TO SELL PROPERTY, DECLARATION OF JASON M. AYRES IN SUPPORT OF MOTION AND PROPOSED ORDER SHORTENING OBJECTION PERIOD** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- KIM T BUCKLEY buckley@eslerstephens.com, mec@eslerstephens.com
- JEANNE M CHAMBERLAIN jeanne.chamberlain@tonkon.com, leslie.hurd@tonkon.com;andy.haro@tonkon.com
- LINDSAY L CLAYTON lindsay.l.clayton@usdoj.gov
- TRACY M CLEMENTS tclements@kksrr.com, tmoore@kksrr.com
- TIMOTHY J CONWAY tim.conway@tonkon.com, nancy.kennedy@tonkon.com
- CHRISTOPHER N COYLE vbcattorney4@yahoo.com, chris@vbcattorneys.com
- GARRETT W CRAWSHAW crawshawg@lanepowell.com, barkerd@lanepowell.com;docketing-pdx@lanepowell.com
- CHARLES R EKBERG ekbergc@lanepowell.com, budigank@lanepowell.com
- LAWRENCE W ERWIN lwerwin@lwerwin.com, rheta@lwerwin.com
- DAVID B GRAY david@swensenandgray.com, dgrayattorney@gmail.com
- KEITH D KARNES kkarnes@caspaclaw.com, caspaclaw@gmail.com;kkarnesnotices@gmail.com
- LANN D LESLIE lleslie@luvaascobb.com, mgoette@luvaascobb.com
- HOWARD M LEVINE hlevine@sussmanshank.com, janine@sussmanshank.com
- MICHAEL W LLOYD michael.w.lloyd@irscounsel.treas.gov, porbkemail@irscounsel.treas.gov
- R GIBSON MASTERS gib.masters@klgates.com, mary.raymond@klgates.com;bankruptcyecf@klgates.com
- WILSON C MUHLHEIM scooke@luvaascobb.com
- P SCOTT McCLEERY scottm@gartlandnelsonlaw.com, kassiea@gartlandnelsonlaw.com
- PETER C McKITTRICK pmckittrick@ml-llp.com, ecf@ml-llp.com
- LEE C NUSICH nusichl@lanepowell.com, barkerd@lanepowell.com;docketing-pdx@lanepowell.com
- ERIC W OLSEN eolsen@olsendaines.com, mreinen@olsendaines.com;rdorman@olsendaines.com;noticeood@gmail.com;notice@olsendaines.com;noticesod@gmail.com;sdelgado@olsendaines.com
- CHRISTOPHER L PARNELL cparnell@dunncarney.com, ctolle@dunncarney.com
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- AVA L SCHOEN ava.schoen@tonkon.com, larissa.stec@tonkon.com

- 1 • LEON SIMSON leon.simson@tonkon.com,
laura.lindberg@tonkon.com;tina.carey@tonkon.com
- 2 • TIMOTHY A SOLOMON ecf.timothy.solomon@sussmanshank.com,
janine@sussmanshank.com
- 3 • ADAM D STRAIT adam.d.strait@usdoj.gov, Western.Taxcivil@usdoj.gov
- 4 • US Trustee, Portland USTPRegion18.PL.ECF@usdoj.gov
- 5 • ROBERT J VANDEN BOS vbcservice@yahoo.com, sara@vbcattorneys.com
- 6 • CAROLYN G WADE carolyn.g.wade@doj.state.or.us
- JENNIFER ^ASPAAS2 ecfor@rcflegal.com, ecfor@rcflegal.com

7 and I hereby certify that I have mailed by United States Postal Service the document to the
8 following non-CM/ECF participants:

9 Stephen Miles Munson
65725 Gerking Market Road
10 Bend, OR 97701

ODR Bkcy
955 Center St NE
Salem, OR 97301-2555

11 RK Short & Associates Inc
975 Oak Street, Suite 700
12 Eugene, OR 97401

Jesse B Schneider
Davis & Gilbert, LLP
1740 Broadway
New York, NY 10019

13 Nancy Young
14 Moss Adams, LLP
805 SW Broadway, St 1200
15 Portland, OR 97205

Joe B. Richards
Luvaas Cobb
777 High Street, Suite 300
Eugene, OR 97401

16 Jeffrey Perry
851 SW 6th Ave Ste 1500
17 Portland, OR 97204

18 Dated: June 8, 2012.

19 FARLEIGH WADA WITT

21 By: /s/ Jason M. Ayres

22 Tara J. Schleicher, OSB #954021

tschleicher@fwwlaw.com

23 Jason M. Ayres, OSB #001966

jayres@fwwlaw.com

24 (503) 228-6044

25 Of Attorneys for Debtor

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

ST. TAMMANY PARISH

CIVIL ACTION NO. 11-1472

V.

SECTION "G" (1)

OMNI PINNACLE, L.L.C., ET AL

HONORABLE NANNETTE
JOLIVETTE BROWN

ORDER

THE FOREGOING Clerk of Court for the Parish of St. Tammany's Motion for Leave to File Motion and Memorandum in Support of Request for Payment of Outstanding Court Costs being considered,

IT IS HEREBY ORDERED that the Motion for Leave to File Motion and Memorandum in Support of Request for Payment of Outstanding Court Costs is GRANTED.

New Orleans, Louisiana, this 7th day of June 2012.


NANNETTE JOLIVETTE BROWN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	1:11-cv-02080 LJO DLB
)	
)	
Plaintiff,)	ORDER GRANTING PLAINTIFF'S MOTION
)	FOR LEAVE TO FILE AMENDED
v.)	COMPLAINT
)	(Document 26)
ANDRE PAUL PROVOST, JR.,)	
)	
)	
Defendant.)	

On April 16, 2012, Plaintiff United States of America ("Plaintiff") filed the instant motion for leave to file an amended complaint. The motion was heard on June 1, 2012, before the Honorable Dennis L. Beck, United States Magistrate Judge. Colin Christopher Sampson appeared telephonically on behalf of Plaintiff. Defendant Andre Paul Provost, Jr., proceeding pro se and in forma pauperis, did not appear.

BACKGROUND

On December 16, 2011, Plaintiff initiated this action to reduce to judgment outstanding federal income taxes owed by Defendant Provost for tax years 1995 through 1997.

Plaintiff served Defendant Provost with a summons and a copy of the complaint on January 28, 2012. Despite the filing of various documents, many of which were ordered stricken

1 from the record, Defendant Provost did not file an answer to the complaint in compliance with
2 the Federal Rules of Civil Procedure and the Court's express orders.

3 On April 16, 2012, Plaintiff filed the instant motion for leave to amend the complaint.
4 Defendant Provost did not file an opposition to the motion.

5 DISCUSSION

6 Federal Rule of Civil Procedure Rule 15(a) provides that a district court "should freely
7 give leave [to amend] when justice so requires." The United States Supreme Court has stated:

8 [i]n the absence of any apparent or declared reason – such as undue delay, bad faith or
9 dilatory motive on the part of the movant, repeated failure to cure deficiencies by
10 amendments previously allowed, undue prejudice to the opposing party by virtue of
allowance of the amendment, futility of amendment, etc. – the leave sought should, as the
rules require, be "freely given."

11 Foman v. Davis, 371 U.S. 178, 182 (1962). The Ninth Circuit has summarized these factors to
12 include the following: (1) undue delay; (2) bad faith; (3) prejudice to the opponent; and (4)
13 futility of amendment. Loehr v. Ventura County Cmty. Coll. Dist., 743 F.2d 1310, 1319 (9th Cir.
14 1984). Granting or denial of leave to amend rests in the sound discretion of the trial court.
15 Swanson v. United States Forest Serv., 87 F.3d 339, 343 (9th Cir. 1996). Despite the policy
16 favoring amendment under Rule 15, leave to amend may be denied if the proposed amendment is
17 futile or would be subject to dismissal. Saul v. United States, 928 F.2d 829, 843 (9th Cir. 1991).

18 By the proposed amendment, Plaintiff seeks to include additional penalties against
19 Defendant Provost pursuant to 26 U.S.C. § 6702 (Frivolous Tax Submissions) in the amount of
20 \$15,425.47, while also increasing the total amount assessed for outstanding federal income taxes
21 for the tax years 1995 through 1997. Plaintiff requests recovery in the total amount of
22 **\$208,330.04** (plus interest and other statutory additions). Defendant Provost did not oppose the
23 motion and there is no evidence of undue delay, bad faith, prejudice or futility of amendment.

24 ORDER

25 Accordingly, IT IS HEREBY ORDERED as follows:

- 26 1. Plaintiff's motion for leave to file a first amended complaint is GRANTED;
- 27 2. Plaintiff shall file the first amended complaint within seven (7) days of the date of
28 this order;

3. Plaintiff shall serve the first amended complaint on Defendant Provost within fourteen (14) days of the date of filing. Plaintiff may serve the first amended complaint by mail; and
4. Defendant Provost shall file an answer to the first amended complaint within twenty (20) days of the date of service of this order. Defendant Provost is admonished that his answer must comply with Rule 8 of the Federal Rules of Civil Procedure, other applicable Federal Rules of Civil Procedure and this Court's Local Rules.

IT IS SO ORDERED.

Dated: June 8, 2012

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CRIMINAL ACTION
v.)	
)	No. 10-464-01-KHV
GINO CARLUCCI,)	
)	
Defendant.)	
_____)	

ORDER AND ORDER TO SHOW CAUSE

This matter comes before the Court on the government's Motion To Dismiss The Petition Of Tamar Koharig Demirjian filed April 24, 2012 (Doc. #375) filed May 18, 2012. The government notes that Demirjian seeks an interest in property forfeited by this Court, specifically, a Dodge one ton pickup truck with Vehicle Identification Number (VIN) 7457, as displayed on Arizona Title Number 3003, issued January 23, 2012. As of today, the motion is unopposed.

IT IS THEREFORE ORDERED that on or before June 15, 2012, Tamar Demirjian shall show cause in writing why the government's motion should not be sustained.

IT IS FURTHER ORDERED that the Clerk is directed to mail a certified copy of this order to Tamar Koharig Demirjian, 1904 W. Vineyard Plains Drive, Queen Creek, Arizona, 85242.

Dated this 8th day of June, 2012 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge

June 08, 2012

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

0004276826

4 PAGES

Gregory C. Nuti (CSBN151754)

gnuti@schnader.com

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SCHNADER HARRISON SEGAL & LEWIS LLP

One Montgomery Street, Suite 2200

San Francisco, California 94104-5501

Telephone: 415-364-6700

Facsimile: 415-364-6785

Attorneys for

Chapter 11 Trustee, Bradley D. Sharp

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

IN RE:

Case No. 09-29162-D-11

SK FOODS, L.P., A CALIFORNIA LIMITED
PARTNERSHIP,

Chapter 11

DEBTOR.

BANK OF MONTREAL, as Administrative
Agent,

Adv. Proc. No. 09-02543

DCN: MSS-2

Plaintiff,

v.

**ORDER SHORTENING TIME FOR
HEARING ON JOINT OMNIBUS
MOTION TO VACATE STAYS**CSSS, LP, a California Limited Partnership d/b/a
Central Valley Shippers,

Date: [no hearing required]

Time: [no hearing required]

Place: Courtroom 34

501 I Street,

Sacramento, CA

Judge: Hon. Robert S. Bardwil

Defendants.

SCHNADER HARRISON SEGAL & LEWIS LLP
ONE MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO, CALIFORNIA 94104-5501
TELEPHONE: 415-364-6700
FACSIMILE: 415-364-6785

RECEIVED

June 07, 2012

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
0004276826

1

SHORTENING TIME RE MOTION TO VACATE STAYS

PHDATA 3831916_1

SCHNADER HARRISON SEGAL & LEWIS LLP
 ONE MONTGOMERY STREET, SUITE 2200
 SAN FRANCISCO, CALIFORNIA 94104-5501
 TELEPHONE: 415-364-6700
 FACSIMILE: 415-364-6785

1 BRADLEY SHARP, *et. al.*,
 2
 3 Plaintiff,

4 v.

5 SSC FARMS I, LLC, *et. al.*,
 6 Defendants.

Adv. Proc. No. 09-02692
 DCN: MSS-2

7 BRADLEY SHARP, *et. al.*,
 8 Plaintiff,

9 v.

10 SCOTT SALYER, as trustee of the Scott
 11 Salyer Revocable Trust, *et al.*,
 12 Defendants.

Adv. Proc. No. 10-02014
 DCN: MSS-2

13 BANK OF MONTREAL, as Administrative
 14 Agent, successor by Assignment to Debtors
 15 SK Foods, L.P. and RHM Industrial Specialty
 Foods, Inc., a California corporation, d/b/a
 Colusa County Canning Co.,

16 Plaintiff,

17 v.

18 SCOTT SALYER, *et al.*,
 19 Defendants.

Adv. Proc. No. 10-02015
 DCN: MSS-2

20 BRADLEY SHARP, *et. al.*,
 21 Plaintiff,

22 v.

23 SKF AVIATION, LLC, *et. al.*,
 24 Defendants

Adv. Proc. No. 10-02016
 DCN: MSS-2

SCHNADER HARRISON SEGAL & LEWIS LLP
 ONE MONTGOMERY STREET, SUITE 2200
 SAN FRANCISCO, CALIFORNIA 94104-5501
 TELEPHONE: 415-364-6700
 FACSIMILE: 415-364-6785

BRADLEY SHARP, *et al.*,

Plaintiff,

v.

FRED SALYER IRREVOCABLE TRUST, *et al.*,

Defendants.

Adv. Proc. No. 10-02017
DCN: MSS-2

BANK OF MONTREAL, as Administrative
Agent, successor by Assignment to Debtors SK
Foods, L.P. and RHM Industrial Specialty
Foods, Inc., a California corporation, d/b/a
Colusa County Canning Co.,

Plaintiff,

v.

Internal Revenue Service, *et al.*

Defendants.

Adv. Proc. No. 10-02117
DCN: RSJ-1

BANK OF MONTREAL, as Administrative
Agent, successor by Assignment to Debtors SK
Foods, L.P. and RHM Industrial Specialty
Foods, Inc., a California Corporation, d/b/a
Colusa County Canning Co.,

Plaintiff,

v.

CALIFORNIA FRANCHISE TAX BOARD, *et al.*

Defendants.

Adv. Proc. No. 11-02339
DCN: MSS-1

BANK OF MONTREAL, as Administrative
Agent, successor by Assignment to Debtors SK
Foods, L.P. and RHM Industrial Specialty
Foods, Inc., a California Corporation, d/b/a
Colusa County Canning Co.,

Plaintiff,

v.

CARY SCOTT COLLINS, *et al.*,

Defendants.

Adv. Proc. No. 11-02340
DCN: NMM-1

1 BRADLEY SHARP, *et. al.*,

2 Plaintiff,

3 v.

4 BLACKSTONE RANCH CORPORATION, *et.*
5 *al.*,

6 Defendants.

Adv. Proc. No. 11-02348
DCN: NMM-1

7
8 The Court has duly considered the *Ex Parte* Application for Order Shortening Time for
9 Hearing on Joint Omnibus Motion to Vacate Stays of Adversary Proceedings and Contested
10 Matters (the "Motion to Vacate"), filed by Bradley D. Sharp, the duly appointed and acting
11 Chapter 11 Trustee for SK Foods, L.P., a California limited partnership, and RHM
12 Industrial/Specialty Foods, Inc., a California corporation, d/b/a Colusa County Canning Co.
13 (collectively, the "Debtors"), and good cause appearing therefore,

14 IT IS ORDERED THAT,

15 1. The request for order shortening time is GRANTED.

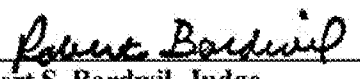
16 2. The hearing on the Motion to Vacate shall take place on June 21, 2012, at 10:00
17 a.m. in the courtroom of the Hon. Robert S. Bardwil, United States Bankruptcy Court, 501 I
18 Street, 6th Floor, Sacramento, California.

19 3. The time for service of the Motion to Vacate is shortened. Service of this order
20 and the Motion, including all supporting documents, shall be accomplished by electronic mail or
21 overnight mail no later than June 11, 2012 at 5:00 p.m.

22 4. Opposition to the Motion to Vacate may be made up to the time of the hearing.

23 5. Proof of service of the motion and this Order and must be filed no later than June
24 19, 2012.

25 **Dated:** June 08, 2012

26
27 
28 Robert S. Bardwil, Judge
United States Bankruptcy Court

SCNADER HARRISON SEGAL & LEWIS LLP
ONE MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO, CALIFORNIA 94104-5501
TELEPHONE: 415-364-6700
FACSIMILE: 415-364-6785

FILED

SEP - 2 2010

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

ENTERED

SEP - 2 2010

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

STANDING ORDER IN RE:

**ASSIGNMENT AND REFERRAL OF CIVIL ACTIONS
AND MATTERS TO MAGISTRATE JUDGES**

Pursuant to Title 28, United States Code, Section 636, it is hereby **ORDERED** that certain types of civil actions and matters shall be assigned and referred as follows:

For the Beckley and Bluefield Divisions, to the Honorable R. Clarke VanDervort,
United States Magistrate Judge;

For the Charleston and Parkersburg Divisions, to the Honorable Mary E. Stanley, United
States Magistrate Judge; and

For the Huntington Division, to the Honorable Cheryl A. Eifert, United States Magistrate
Judge.

The matters referred in all civil cases are:

1. Applications to proceed in forma pauperis;
2. Discovery disputes; and
3. Discovery disputes which arise post-judgment (e.g., interrogatories in aid of execution, judgment debtor examinations, motions to compel answers to suggestions).

The types of civil cases which are referred for total pretrial management and submission of proposed findings of fact and recommendations for disposition are: actions for judicial review of an administrative determination under the Social Security Act.

The types of jury or non-jury civil matters assigned for all proceedings, including entry of judgment are:

1. Actions in which all parties have consented to proceed before a magistrate judge; and

2. Applications for award of attorneys' fees and expenses under the Social Security Act or the Equal Access to Justice Act.

Actions filed by persons who are proceeding pro se, whether or not they are in custody (until such person is represented by retained counsel) and actions filed by persons pursuant to 28 U.S.C. §§ 2241, 2254, or 2255, whether or not they are represented by counsel, are referred for total pretrial management and submission of proposed findings of fact and recommendations for disposition as follows:

Charleston and Parkersburg Divisions cases shall be referred to Magistrate Judge Stanley.

Bluefield Division cases shall be referred to Magistrate Judge VanDervort.

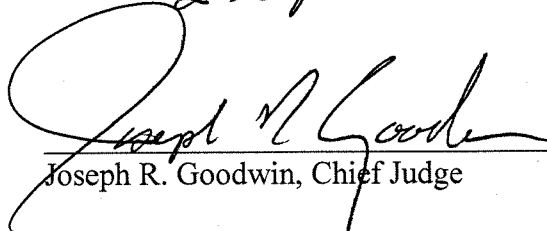
Beckley Division cases shall be referred to both Magistrate Judge Stanley and Magistrate Judge VanDervort.

Huntington Division cases shall be referred to Magistrate Judge Eifert.

The Clerk is directed to enter this Order in each action filed on or after September 2, 2010, and to transmit copies to counsel of record and to any unrepresented parties.

ENTER:

2 September 2010

A handwritten signature in black ink, appearing to read "Joseph R. Goodwin", is written over a horizontal line.

Joseph R. Goodwin, Chief Judge



IT IS ORDERED as set forth below:

Date: June 8, 2012

Wendy L. Hagenau

Wendy L. Hagenau
U.S. Bankruptcy Court Judge

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re:

JUDY W. TALLEY, and
JOHN W. TALLEY,

Debtors.

Bk. No. 10-92269-wlh

Chapter 7

JUDY W. TALLEY, and
JOHN W. TALLEY,

Plaintiffs,

v.

Adversary No. 11-05062-wlh

UNITED STATES INTERNAL
REVENUE SERVICE,

Defendant.

CONSENT JUDGMENT

A Joint Motion for Entry of Consent Judgment (Doc. 18) has been filed in this case. The premises thereof having been considered, it is **ORDERED** that the Motion is GRANTED.

It is **ADJUDGED** that Plaintiffs, John W. Talley's and Judy W. Talley's outstanding federal income tax liabilities for the years 1996, 1997, 1998, 1999, and 2000 are excepted from discharge by the provisions of 11 U.S.C. § 523(a)(1).

It is **FURTHER ADJUDGED** that Plaintiffs' outstanding federal income tax liabilities for the years 2001, 2002, 2005, and 2006 are not excepted from discharge.

Each side will bear its own costs and fees.


END OF DOCUMENT

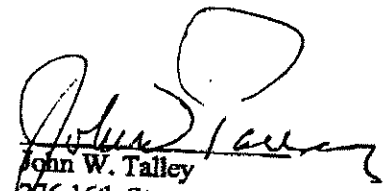
PREPARED BY:

/s/ Michael W. May
MICHAEL W. MAY
Texas Bar No. 24054882
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 14198
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 616-1857
Facsimile: (202) 514-9868
michael.w.may@usdoj.gov
Attorney for Defendants

CONSENTED TO BY:

/s/ William A. Rountree
WILLIAM A. ROUNTREE
Georgia Bar No. 616503


Judy W. Talley
276 16th Street
Atlanta, GA 30363


John W. Talley
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Atlanta, GA 30363

230 Peachtree Street, N.W.
Suite 2700
Atlanta, Georgia 30303-1561
Telephone: (404) 584-1200
Facsimile: (404) 681-4355
wrountree@maceywilensky.com
Attorney for Plaintiffs

Distribution List

Counsel for Plaintiffs

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Atlanta, Georgia 30303-1561
wrountree@maceywilensky.com

Counsel for Defendant

Michael W. May
Post Office Box 14198
Ben Franklin Station
Washington, D.C. 20044
michael.w.may@usdoj.gov

[Handwritten Signature]



Honorable Gregg W. Zive
United States Bankruptcy Judge

Entered on Docket
June 08, 2012

Jeffrey L. Hartman, Esq. #1607
HARTMAN & HARTMAN
510 West Plumb Lane, Ste. B
Reno, Nevada 89509
Telephone: (775) 324-2800
Telecopier: (775) 324-1818
E-mail: notices@bankruptcyreno.com

E-Lodged 6/7/2012

Attorneys for Official Committee of
Unsecured Creditors

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:

Case No. BK-10-52248 (Chapter 11)
Jointly Administered with:

ALFRED J.R. VILLALOBOS, an
individual.

10-52249	Arvco Capital Research, LLC
10-52251	Arvco Financial Ventures, LLC
10-52252	Arvco Art, Inc.

- ☐ Affects this Debtor,
☒ Affects all Debtors.
☐ Affects Arvco Capital Research, LLC
☐ Affects Arvco Financial Ventures, LLC
☐ Affects Arvco Art, Inc.

**ORDER AUTHORIZING SALE OF
REAL PROPERTY; PAYMENT OF
REAL ESTATE COMMISSION
(121B Holly Lane, Stateline, Nevada)**

Hearing Date: May 29, 2012
Hearing Time: 2:00 p.m.

The matter came before the Court on the motion by Debtor A.J. Villalobos ("Debtor"), and the Unsecured Creditors' Committee ("UCC") for an order authorizing the sale of 121B Holly Lane, Stateline, Nevada for \$500,000 and payment of a sales commission to Andy Chisari and Sierra Sotheby's ("Sale Motion"). Jeffrey Hartman appeared on behalf of the UCC. Proposed purchasers Lorie Gunner and Karla Robbins ("Gunner and Robbins") appeared by telephone. John Peel of Thane McCall Realty appeared on behalf of potential bidders James Randall and Fabienne Herold ("Herold").

1 Other appearances, if any, were noted on the record. Based upon the record and in lieu of
2 written findings of fact and conclusions of law, the Court stated its findings of fact and
3 conclusions of law on the record as permitted by F.R.Bankr.P. 7052. In addition, the Court
4 makes the following specific findings of fact and conclusions of law:

5 1. Notice of hearing on the Sale Motion was proper having been given in accordance
6 with applicable rules.

7 2. One of the assets owned by the Debtor estate is a town home located at 121 B
8 Holly Lane in Stateline, Nevada (the "Property").

9 3. The Debtor scheduled the value of the Property at \$1,250,000. There is no
10 indebtedness encumbering the Property.

11 4. The Property has been listed for sale with Sierra Sotheby's. The Court entered an
12 order authorizing employment of Sierra Sotheby's on June 10, 2011. **DE 978**. The initial
13 list price was \$800,000. The listing with Sierra Sotheby's was extended by the Debtor with
14 the Committee's consent on December 11, 2011.

15 5. The listing price was reduced to \$625,000.

16 6. On March 2, 2012 the Debtor received an offer to purchase the Property for
17 \$500,000 cash with no contingencies. This offer was received following an initial offer of
18 \$450,000, and a counteroffer of \$550,000. With the consent of the UCC, the Debtor
19 accepted the \$500,000 offer. The terms of the Offer and Acceptance are incorporated herein
20 by reference

21 7. The listing agreement with Sierra Sotheby's contemplates a sale commission of
22 6%.

23 8. Sales of property, other than in the ordinary course of business, may be approved,
24 after notice and a hearing. § 363(b).

25 9. The Court is aware that the real estate market in Northern Nevada, including the
26 Lake Tahoe region, has suffered a serious decline in values over the past several years. The
27 exposure of the Property to the marketplace over the course of the last nine months has
28 resulted in only one offer and the counteroffer process resulted in an agreed upon sale price

1 of \$500,000, subject to Court approval. The proposed purchasers are Gunner and Robbins
2 and are found to be good faith purchasers for value.

3 10. At the hearing, the Court called for persons interested in bidding on the Property
4 to come forward. Mr. Peel, of McCall Realty entered an appearance on behalf of Mr. And
5 Mrs. Herold as potential bidders. Thereupon, the Court called for an overbid of the offered
6 price of \$500,000. Bidding ensued in which Gunner and Robbins were the successful
7 bidders at \$555,000. The Herold's last bid was \$550,000. Mr. Peel confirmed to the Court
8 that the Herolds would agree to be a back-up purchaser in the event Gunner and Robbins
9 failed to close escrow.

10 11. The UCC and the Debtor also requested approval of a commission to Sierra
11 Sotheby's in the amount of 6% of the sale price to be paid at close of escrow. Based upon
12 the forgoing and good cause appearing,

13 **IT IS ORDERED** that the Sale Motion is granted; and

14 **IT IS FURTHER ORDERED** that, as the successful bidders, Gunner and Robbins
15 are approved as good faith purchasers for value at a purchase price of \$555,000 cash with
16 escrow to close not later than Friday, June 15, 2012; and

17 **IT IS FURTHER ORDERED** that Gunner and Robbins are entitled to the safe
18 harbor provisions of §363(m); and

19 **IT IS FURTHER ORDERED** that, in the event Gunner and Robbins fail to close
20 escrow on or before June 15, 2012, Herold is authorized as a back-up purchaser at a price of
21 \$550,000 and shall have an additional 15 days to close escrow at that price. All other terms
22 and conditions of the sale transaction are as set forth in the Offer and Acceptance filed with
23 the Sale Motion; and

24 ///

25 ///

26 ///

27 ///

28 ///

1 **IT IS FURTHER AND FINALLY ORDERED** that the sale commission of 6% of
2 the sale price is approved and shall be paid to Sierra Sotheby's at close of escrow.

3 Submitted by:

4 **HARTMAN & HARTMAN**

5 /s/ Jeffrey L. Hartman
6 Jeffrey L. Hartman, Esq.
7 Attorney for the Committee

8 **APPROVED / DISAPPROVED**

9 /s/ Lorie Gunner
10 Lorie Gunner, Purchaser

11 /s/ Karla Robbins
12 Karla Robbins, Purchaser

13 /s/ John Peel
14 Agent for James Randall and
15 Fabienne Herold, back-up
purchasers

16 **HARRIS-PETRONI LTD.**

17 /s/ Chris D. Nichols
18 Chris D. Nichols, Esq.
19 Attorneys for the Debtor

20 #####

ALTERNATIVE METHOD Re: RULE 9021

In accordance with Local Rule 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

☐ The court has waived the requirement set forth in LR 9021(b)(1).

☐ No party appeared at the hearing or filed an objection to the motion.

☒ I have delivered a copy of the proposed order to all counsel who appeared at the hearing, any trustee appointed in this case and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond as indicated below.

Debtor's Counsel:

☒ Approved the form of this order

☐ Waived the right to review the order and/or

☐ Appeared at the hearing, waived the right to review the order

☐ Matter unopposed, did not appear at the hearing, waived the right to review the order

☐ Disapproved the form of this order

☐ Failed to respond to the document

Trustee:

☐ Approved the form of this order

☐ Disapproved the form of this order

☐ Waived the right to review the order and/or

☐ Failed to respond to the document

☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

I declare under penalty of perjury that the foregoing is true and correct.

Submitted by:

HARTMAN & HARTMAN

/S/ Jeffrey L. Hartman

Jeffrey L. Hartman


FERRILL VOLPICELLI,) 3:03-cv-00090-HDM-VPC
)
Plaintiff,)
) ORDER
vs.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)
)

Accordingly, and good cause showing, the defendant shall have fourteen (14) days from the date of this order to file a response to Logan's motion to vacate (#67).

DATED: This 8th day of June, 2012.

UNITED STATES DISTRICT JUDGE

Below is an Order of the Court.



FRANK R. ALLEY
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

WHITSELL MANUFACTURING, INC.,
Debtor.

Case No. 09-65831-fra11

ORDER SHORTENING TIME TO
OBJECT TO JOINT MOTION TO
CONTINUE

Whitsell Manufacturing, Inc., and the United States have jointly moved to shorten the time in which to object to their Joint Motion to Continue Evidentiary Hearing. Upon review of the Motion, the Court finds that good cause exists to shorten the objection period on that motion to five days. Therefore, it is hereby ORDERED:

1. The Joint Motion to Shorten Time is GRANTED.
2. Any objections to the Joint Motion to Continue Evidentiary Hearing shall be filed within five days of the date that this Order is entered.

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KATHRYN KENEALLY
Assistant Attorney General
U.S. Department of Justice, Tax Division

/s/ Adam Strait
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Attorneys for Debtor-in-Possession

Below is an Order of the Court.



FRANK R. ALLEY
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

WHITSELL MANUFACTURING, INC.,
Debtor.

Case No. 09-65831-fra11

ORDER RESCHEDULING
EVIDENTIARY HEARING TO
SEPTEMBER 5 AND 6

Whitsell Manufacturing and the United States have jointly moved to postpone the evidentiary hearing currently set for June 27, 2012, to allow settlement negotiations to continue and due to scheduling conflicts. (Joint Mot. Continue Evidentiary Hrg.) For good cause shown, it is hereby ORDERED:

1. The Joint Motion to Continue Hearing is GRANTED.
2. The evidentiary hearing on the Debtor's Objection to Final Version of Amended Claim of IRS is continued to September 5 and 6, 2012.

#

KATHRYN KENEALLY
Assistant Attorney General
U.S. Department of Justice, Tax Division

/s/ Adam Strait
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