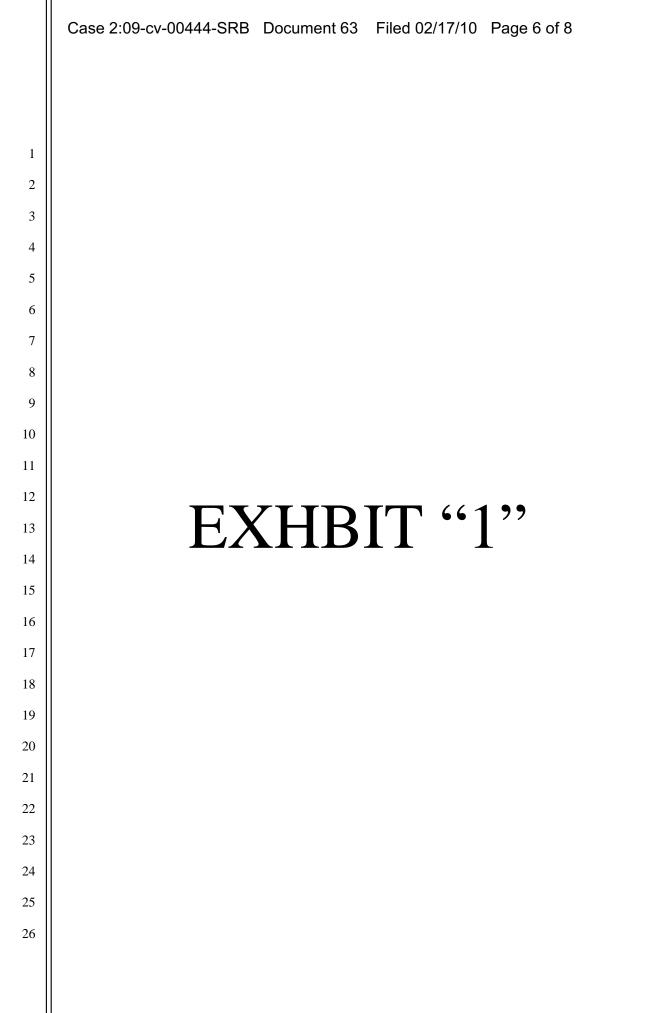
	Case 2:09-cv-00444-SRB Document 63	Filed 02/17/10 Page 1 of 8
1 2 3 4 5 6 7 8	TERRY GODDARD Attorney General Firm Bar No. 14000 DENISE ANN FAULK, 12700 Assistant Attorney General 1275 West Washington Street Phoenix, Arizona 85007-2926 Telephone: (520) 628-6647 Fax: (602) 542-1726 E-Mail: denise.faulk@azag.gov Attorney for Arizona Department of Revenu	P
9	Attorney for Arizona Department of Revent	
10 11 12	IN THE UNITED STATES D DISTRICT OF ARIZONA	
 13 14 15 16 17 18 19 20 	United States of America, Plaintiff, v. Maria D. Forman; Jimmy C. Chisum and Elmer P. Vild, also known as Phillip O'Neil, as Trustees for the DLP LT 13 Trust; and Arizona Department of Revenue, Defendants.	Civil No. 2:09-cv-00444-SRB ANSWER TO SECOND AMENDED COMPLAINT
21		
22 23	The Arizona Department of Reve	nue ("Defendant"), by and through its
24	undersigned counsel, hereby files its Answe	er to the Second Amended Complaint filed
25	February 5, 2010, by United States of Amer	ica.
26		

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1	CAUSE OF ACTION					
2	1. The Defendant admits the allegations contained in paragraph 1 of					
3	Plaintiff's Complaint.					
4						
5 6	JURISDICTION AND VENUE					
7	2. The Defendant admits the allegations contained in paragraphs 2-4 of					
8	Plaintiff's Complaint.					
9	<u>DEFENDANTS</u>					
10	3. As to paragraphs 5-7 of Plaintiff's Complaint, the Defendant has					
11	insufficient knowledge to admit or deny the allegations at this time.					
12						
13	4. The Defendant admits the allegations contained in paragraph 8 of					
14	Plaintiff's Complaint. On July 27, 2006, the Defendant recorded with the County					
15	Recorder of Maricopa County, Arizona, a Notice of State Tax Lien with respect to an					
16 17	assessment against Defendant Maria D. Forman for tax years 1995, 1996, 1997, 1998,					
17	1999, 2001, and 2002. (Attached as Exhibit 1).					
19						
20	Defendant's lien is junior to the Plaintiff's April 4, 2004 and August 25, 2005					
21	liens, but senior to the September 22, 2008 lien.					
22	As of August 24, 2009, the total amount of the Defendant's claim is computed					
23	as follows:					
24	Lien No. Tax Penalty Interest Total					
25	0601582 \$1,201.85 \$307.06 \$985.76 \$2,494.67					
26						

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1	DESCRIPTION OF REAL PROPERTY SHOUGHT TO BE FORCLOSED
2	
3	5. The Defendant admits the allegations contained in paragraph 9 of
4	Plaintiff's Complaint.
5	TAX LIABILIITES AND LIENS
6	6. As to paragraph 10 of Plaintiff's Complaint, the Defendant incorporates
7	all prior answers.
8	
9	7. As to paragraphs 11-24 of Plaintiff's Complaint, the Defendant has
10	insufficient knowledge to admit or deny the allegations at this time.
11	TRANSFERS OF THE SUBJECT PROPERTY
12	8. As to paragraphs 25-28 of Plaintiff's Complaint, the Defendant has
13	
14	insufficient knowledge to admit or deny the allegations at this time.
15 16	<u>COUNT I</u>
10	REDUCE TO JUDGMENT FEDERAL INCOME TAX
18	<u>ASSESSMENTS</u>
19	9. As to paragraph 29 of Plaintiff's Complaint, the Defendant incorporates
20	
21	all prior answers.
22	10. As to paragraphs 30-32 of Plaintiff's Complaint, the Defendant has
23	insufficient knowledge to admit or deny the allegations at this time.
24	
25	
26	

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1	<u>COUNT II</u>
2	SET ASIDE FRADULENT CONVEYANCE OF THE SUBJECT
3	PRPERTY OR ESTABLISH DLP LT 13 TRUST AS NOMINEE
4	11. As to paragraph 33 of Plaintiff's Complaint, the Defendant incorporates
5 6	all prior answers.
7	12. As to paragraphs 34-39 of Plaintiff's Complaint, the Defendant has
8	insufficient knowledge to admit or deny the allegations at this time.
9	<u>COUNT III</u>
10	FORECLOSE THE FEDERAL TAX LIENS AGAINST THE SUBJECT
11 12	PROPERTY
13	
14	13. As to paragraph 40 of Plaintiff's Complaint, the Defendant incorporates
15	all prior answers.
16	14. As to paragraphs 41-44 of Plaintiff's Complaint, the Defendant has
17	insufficient knowledge to admit or deny the allegations at this time. Affirmatively
18 19	allege that Defendant's lien is senior to Plaintiff's September 22, 2008 lien and its lien
20	attached to the property and should be paid prior to the September 22, 2008 lien.
21	AFFIRMATIVE DEFENSES
22	15. Defendant's lien is senior to Plaintiff's September 22, 2008 lien.
23	
24	16. Defendant reserves the right to set forth additional affirmative defenses
25	that appear in Rules 12(b) and 8(c) of the Federal Rules of Civil Procedure that
26	

	Case 2:09	-cv-00444-SRB Document 63 Filed 02/17/10 Page 5 of 8
1	conform to e	evidence revealed by disclosure and discovery.
2	WHE	EREFORE, the Defendant requests that this Court:
3		
4	A.	Determine that Defendent has a valid lien against Defendent Maria D
5 6	A.	Determine that Defendant has a valid lien against Defendant Maria D.
7		Forman.
8	В.	That the Defendant's lien is senior to the Plaintiff's September 22, 2008
9	lien and sho	uld be paid prior to this junior lien.
10	C.	That the Defendant be awarded its costs and other such relief as is just
11	and proper.	
12 13	D.	Grant such further relief as the Court may deem proper.
14	RESI	PECTFULLY SUBMITTED: February 16, 2010.
15		TERRY GODDARD
16		Attorney General
17		_/s/ Denise Ann Faulk
18		DENISE ANN FAULK Assistant Attorney General
19		
20		
21		
22		
23		
24 25	# 719576 / BC	CE09-2269
25		
-		



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STATE OF ARIZONA

Department of Revenue



Janice K Brewer Governor

Gale Garriott

Director

Date August 26, 2009

Name FORMAN, MARIA Address 5640 E DUANE LN CAVE CREEK, AZ 85331

Name(s):

ID Number(s): xxx-xx-0302

RE: PAYOFF REQUEST

Pursuant to your inquiry, we submit the following summary of the amount required paying the referenced lien(s) listed below:

LIEN ID	LIABILITY # TAX	PENALTY	INTEREST	TOTAL	PER DIEM	TO DATE
0004500	\$4.004.07	****	6005 70	* 0.404.07	#0.00	00101100
0601582	\$1,201.85	\$307.06	\$985.76	\$2,494.67	\$0.23	08/24/09

Upon receipt of a cashier's check or certified funds in the amount of <u>\$2,494.67</u> (interest through <u>August 24, 2009</u>) this office will process a release of this lien(s) immediately. Payment made by any other method will require a sixty (60) day waiting period for release of lien.

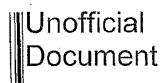
To ensure proper credit please include the taxpayer identification number, license number and lien number. Please remit payment to the Arizona Department Of Revenue at the above address.

Sincerely,

Arizona Department of Revenue



ARIZONA DEPARTMENT OF REVENUE P.O. BOX 29070 PHOENIX, ARIZONA 85038-9070



NOTICE OF STATE TAX LIEN

FORMAN MARIA 5640 E DUANE LN CAVE CREEK ΑZ 85331

IMPORTANT RELEASE INFORMATION:

For each assessment listed below, unless this Notice of Lien is extended by the date given in column (2), this notice shall, on the day following such date, operate as a Certificate of Release.

Pursuant to the Arizona Revised Statutes Section 42-1152, Notice is hereby given that the following named taxpayer owes the Arizona Department of Revenue such unpaid amounts as are herein set forth and that pursuant to Section 42-1151 the Department has a lien against all the property or rights to property belonging to the taxpayer for such unpaid amount, plus accruing interest.

TYPE OF TAX: INCOME

ID NUMBERS:



PLACE OF FILING: MARICOPA

LIEN NUMBER: 0601582							
DATE OF ASSESSMENT	LAST DAY TO EXTEND LIEN	TAX PERIOD	TAX BALANCE	PENALTY	INTEREST THRU 08/31/06	UNPAID BALANCE OF ASSESSMENT	
12/22/00 12/22/00 06/25/04 06/25/04 02/27/04 02/27/04	12/22/06 12/22/06 06/25/10 06/25/10 02/27/10	01/96-12/96 01/97-12/97 01/98-12/98 01/95-12/95 01/99-12/99 01/01-12/01 01/02-12/02	325.90 352.83 506.28 293.94 360.25 247.00 327.00	81.48 88.21 126.57 73.49 90.06 61.75 81.76	285.28 254.20 302.28 305.63 172.19 66.32 65.25	692.66 695.24 935.13 673.06 622.50 375.07 474.01	
					TOTAL.	4,467.67	

A 6 0 1 6 0 0

PAGE 1 OF 1 DAY OF JULY 2006 DATED AT PH Signature

Title: Administrator

For additional information call: Phoenix (602) 542-5551 / Tucson (520) 628-6442 East Valley (480) 545-3500