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Attorney for Exeter Trinity Properties

4 **IN THE UNITED STATES DISTRICT COURT**
5 **DISTRICT OF ARIZONA**

7 UNITED STATES OF AMERICA, 8 Plaintiffs, 9 vs. 10 JOSEPH J. LIPARI, EILEEN H. LIPARI and EXETER TRINITY PROPERTIES, 11 L.L.C., 12 Defendants.	No. 3:10-CV-08142 JWS ANSWER TO COMPLAINT Honorable John W. Sedwick
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13 In response to the Complaint, Exeter Trinity Properties, L.L.C., admits, denies and
14 alleges as follows:

- 15 1. In response to paragraph 1, the Complaint speaks for itself.
- 16 2. This defendant lacks sufficient information upon which to form an opinion as to the
17 truth or falsity of the allegations in paragraph 2.
- 18 3. Admits the allegations in paragraph 3
- 19 4. Admits the allegations in paragraph 4.
- 20 5. In response to paragraphs 5 and 6, denies that Joseph and/or Eileen Lipari has an
21 ownership interest in the real property [the "Property"] described in paragraph 8 of the Complaint.
22 This defendant lacks sufficient information upon which to form an opinion as to the truth or falsity of
23 the remaining allegations in paragraphs 5 and 6.
- 24 6. In response to paragraph 7, this defendant does not know the motivations of the
25 Plaintiff, but admits that this defendant claims an interest in the Property.
- 26 7. Admits the allegations in paragraph 8.
8. Admits the allegations in paragraphs 9 - 13 and 15.

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1 9. This defendant lacks sufficient information upon which to form an opinion as to the
2 truth or falsity of the allegations in paragraph 14.

3 10. This defendant lacks sufficient information upon which to form an opinion as to
4 the truth or falsity of the allegations in paragraphs 16 - 30.

5 11. This defendant lacks sufficient information upon which to form an opinion as to
6 the truth or falsity of the allegations in paragraphs 32, 34 and 36.

7 12. Denies the allegations in paragraphs 38 and 39.

8 13. Objects to the allegations in paragraph 40 to the extent they are conclusions of
9 law. Without waiving the objection, this defendant admits that it holds title to the Property and
10 denies the remaining allegations in paragraph 40.

11 14. Admits that liens for alleged unpaid tax assessment claimed against Joseph and/or
12 Eileen Lipari have been filed, but denies that those liens encumber the Property.

13 15. Objects to the allegations in paragraph 43 to the extent they are conclusions of
14 law. Without waiving the objection, this defendant denies the allegations in paragraph 43.

15 16. Objects to the allegations in paragraph 44 to the extent they are conclusions of
16 law. Without waiving the objection, this defendant denies the allegations in paragraph 44.

17 17. Objects to the allegations in paragraph 46 to the extent they are conclusions of
18 law. Without waiving this objection, this defendant denies the allegations in paragraph 46.

19 18. Denies the allegations in paragraph 47.

20 19. With regard to the allegations in paragraphs 48 - 66 this defendant denies that any
21 Notice of Federal Tax Lien filed against Joseph and/or Eileen Lipari attached to, or against, the
22 Property.

23 A. With regard to the remaining allegations in paragraphs 48 - 52, 55 - 60 and 64 -
24 65, this defendant lacks sufficient information upon which to form an opinion as to the truth or falsity
25 of those allegations.

26

1 B. With regard to the remaining allegations in paragraphs 53 - 54, 61 - 63 and 66,
2 admits that Notices of Federal Tax Lien were recorded as alleged in the name of this defendant as
3 Nominee/Alter Ego, and sometimes also as Transferee, of Joseph and/or Eileen Lipari with regard to
4 their alleged income tax obligations and related assessments.

5 20. All allegations not expressly admitted are denied.

6 21. No separate response is required to paragraphs 31, 33, 35, 37, 42 or 45.

7 22. This defendant affirmatively pleads as follows:

8 A. The Complaint fails to state a claim upon which relief may granted against this
9 defendant.

10 B. The Plaintiff's claims against this defendant are time barred by A.R.S. § 44-1009.

11 C. The Plaintiff's claims against this defendant are time barred by 28 U.S.C. § 3306.

12 D. Upon information and belief, the Plaintiff's claims against this defendant are time
13 barred by 26 U.S.C. § 6502.

14 E. Upon information and belief, the defendants Lipari were solvent when they
15 transferred the subject real property and remained solvent thereafter.

16 F. Upon information and belief, the defendants Lipari were not indebted to the
17 Plaintiff when they transferred the subject real property and for some period
18 thereafter.

19 G. Upon information and belief, when the defendants Lipari transferred the subject
20 real property they had not been sued nor threatened with suit.

21 H. Upon information and belief, the defendants Lipari transferred the subject real
22 property as part of their estate planning.

23 I. Upon information and belief, the defendants Lipari transferred the subject real
24 property in good faith without intention to defraud any creditor.

25 J. Public disclosure of the transfer of the subject real property was given through
26 recordation of the deed to Ponderosa Trust on March 24, 1993.

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K. The defendants Lipari relinquished legal control over the subject real property when they transferred title and neither title nor control has been restored to them.

L. The defendants Lipari moved out of the subject real property on November 9, 2007, and they have not returned.

M. This defendant made repairs to the house after the defendants Lipari moved out and then rented it to a third party in early 2008.

N. This defendant was created on June 4, 1999, to be a successor to the Ponderosa Trust because a limited liability company was considered to be better suited to management of the subject property than a trust.

O. This defendant does not claim a beneficial interest in the subject real property.

P. This defendant had no involvement in the defendant Lipari's transfer of the subject real property to the Ponderosa Trust.

Q. Subsequent to receiving title to the subject real property from the Ponderosa Trust on July 22, 1999, this defendant has managed the property.

WHEREFORE, this defendant requests:

1. That the plaintiff take nothing by its Complaint against this defendant.
2. That this defendant be awarded its costs and reasonable attorney's fees incurred

herein.

3. Such other relief as may be just.

Dated: October 12, 2010.

RESPECTFULLY SUBMITTED,

/s/

John Friedeman
5103 E. Thomas Road
Phoenix, AZ 85018
Attorney for Exeter Trinity Properties, L.L.C.

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1 The foregoing mailed,
2 delivered or faxed this
3 October 12, 2010, to:
4 Original to Clerk of Court
5 Sandra Day O'Connor U.S. Courthouse
6 SPC1
7 401 W. Washington St., #130
8 Phoenix, AZ 85003-2118

9 Copy to:
10 Hon. John W. Sedwick
11 Sandra Day O'Connor U.S. Courthouse
12 SPC1
13 401 W. Washington St., #130
14 Phoenix, AZ 85003-2118

15 Dennis K. Burke
16 U.S. Attorney
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19 40 North Central, #1200
20 Phoenix, Arizona 85004-4408
21 Attorney for Plaintiff

22 Charles M. Duffy
23 Trial Attorney, Tax Division
24 U.S. Department of Justice
25 P.O. Box 683
26 Ben Franklin Station
Washington, D.C. 20044-0683
Attorney for Plaintiff

18 _____

1 STATE OF ARIZONA)
2 County of Maricopa) ss. VERIFICATION

3 I, Elmer Phillip Vild, aka Phillip O’Neil, being first duly sworn upon my oath,
4 depose and state:

5 I am a trustee of the Golden Kiwi Trust which is a member of Exeter Trinity
6 Properties, L.L.C., and I have read the foregoing Answer to Complaint and know the contents
7 thereof to be true and correct to the best of my knowledge, except matters alleged upon
8 information and belief, and those matters I believe to be true.

9 DATED this 11th day of October, 2010.

10 /s/
11

12 Elmer Phillip Vild, aka Phillip O’Neil

13 SUBSCRIBED AND SWORN to before me this 11th day of October,
14 2010, by Elmer Phillip Vild, aka Phillip O’Neil.

15 My Commission Expires:
16 September 13, 2012

17 /s/ Sandy Brown
18 Notary Public

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