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7 *Attorneys for the United States of America*

8 JOHN S. LEONARDO
   United States Attorney

9 District of Arizona
   Of Counsel

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11   IN THE UNITED STATES DISTRICT COURT

12   DISTRICT OF ARIZONA

13 UNITED STATES OF AMERICA,   Civ. No. 10-CV-08142-JWS

14   Plaintiff,

15   v.

16 JOSEPH J. LIPARI, EILEEN H. LIPARI and   **UNITED STATES' MOTION TO STRIKE
    EXETER TRINITY PROPERTIES, L.L.C.,   AUGUST 29, 2012 FILING BY EXETER
17   TRINITY PROPERTIES, LLC**
           Defendants.

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20   The Court recently allowed counsel for defendant Exeter Trinity Properties, LLC ("Exeter")

21 to withdraw in this matter. Thereafter, on August 29, 2012, Elmer Vild, who states that he is the

22 "Tax Matters Trustee" for Exeter, filed a motion requesting a 90 day extension of time to find "pro

23 bono counsel" and requesting other relief such as reconsideration of the Court's August 21, 2012

24 order denying the substitution of Timeless Windsor Ventures Trust ("Timeless") for Exeter.   Mr.

25 Vild's motion should be stricken since the Court has already ruled at least four times that a non-

26 lawyer - like Mr. Vild - cannot represent Exeter in this case. *See* the orders entered as court docket

27 numbers 19, 71, 79 and 80.

28   The relief requested in the August 29, 2012 motion should also be denied on other grounds.

1   For example, Mr. Vild wants an additional 90 days to find counsel but it has been clear for at least

2   90 days that Exeter's attorney was going to withdraw in this matter. *See* court docket number 64,

3   at 1-2 (the undersigned Government attorney represented that Exeter's counsel sent a May 25, 2012

4   e-mail stating that he was planning to withdraw as counsel). Thus, Exeter has already had an

5   extended period to find new counsel and an additional period is not warranted.

6   Also, Exeter wants Timeless to be substituted as a party in this case because it (Exeter)

7   believes that a trust can represent itself in Federal Court based on State of Arizona law. *See* the April

8   29, 2012 filing, at 3:15-18. As a preliminary matter, the Court has already denied the substitution

9   request on August 21, 2012 and Mr. Vild has not shown that the Court's order was manifest error

10   or that there are new facts or legal authority to support Exeter's position. *See* Court Local Rule

11   7.2(g)(1) (regarding Motions for Reconsideration). Also, the argument that a non-attorney trustee

12   can represent a trust in Federal Court based on Arizona law was recently rejected in this District in

13   another case. *See* Exhibit A filed in court docket number 75 (a copy of Judge Frederick Martone's

14   order).

15   The Court should strike the August 29, 2012 filing or, in the alternative, deny the relief

16   requested therein.

17   DATED this __31st__ day of August, 2012.

18

19   KATHRYN KENEALLY
                       Assistant Attorney General, Tax Division

20   U.S. Department of Justice

21

22   By: /s/ Charles M. Duffy
                     CHARLES M. DUFFY
                     Trial Attorney, Tax Division

23   Of Counsel:

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25   JOHN S. LEONARDO
                     United States Attorney

26   (Attorneys for the United States)

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CERTIFICATE OF SERVICE

2   I HEREBY CERTIFY that on this 31st   day of August, 2012, I served the subject document

3   through the Court's CM/ECF system and, on the same day, I mailed by U.S. Postal Service the

4   foregoing to the following:

5

6   Joseph J. Lipari
     156 Johnson Hill Drive
     Waynesville, NC 28786

7

8   Exeter Trinity Properties, LLC
     Elmer P. Vild, Tax Matters Trustee
     989 S. Main Street, #A-269
9   Cottonwood, AZ 86326

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13   /s/ Charles M. Duffy
                                            Charles M. Duffy
14   Trial Attorney, Tax Division
                                            U.S. Department of Justice
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