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12 JOHN S. LEONARDO
13 United States Attorney
14 District of Arizona
15 *Of Counsel*

16 IN THE UNITED STATES DISTRICT COURT
17 DISTRICT OF ARIZONA

18 UNITED STATES OF AMERICA,

19 Plaintiff,

20 v.

21 JOSEPH J. LIPARI, EILEEN H. LIPARI and
22 EXETER TRINITY PROPERTIES, L.L.C.,

23 Defendants.

Civ. No. 10-CV-08142-JWS

**UNITED STATES' MOTION TO STRIKE
(1) THE NOTICE OF APPEARANCE
AND (2) THE MOTION TO INTERVENE
FILED ON BEHALF OF TIMELESS
WINDSOR VENTURES**

24 The United States hereby moves to strike the Notice of Appearance and Motion to Intervene
25 that was filed on March 25, 2013 by and on behalf of Timeless Windsor Ventures ("Timeless"),
26 which apparently is a Nevada Trust, since Timeless must be represented by counsel to participate in
27
28

1 this case. Support for this motion is set forth in the accompanying Memorandum in Support and the
2 Declaration of Charles M. Duffy.

3 DATED this 3rd day of April, 2013.

4
5 KATHRYN KENEALLY
6 Assistant Attorney General, Tax Division
7 U.S. Department of Justice

8 By: /s/ Charles M. Duffy
9 CHARLES M. DUFFY
10 Trial Attorney, Tax Division

11 Of Counsel:

12 JOHN S. LEONARDO
13 United States Attorney
14 (Attorneys for the United States)
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of April, 2013, I served the subject document through the Court's CM/ECF system and, on the same day, I mailed by U.S. Postal Service the foregoing to the following:

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

Timeless Windsor Ventures
Elmer P. Vild, Trustee
989 S. Main Street, #A-269
Cottonwood, AZ 86326

John Friedeman, P.C.
5103 E. Thomas Rd.
Phoenix, Arizona 85018-7914

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

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Civ. No. 10-CV-08142-JWS

**MEMORANDUM IN SUPPORT OF THE
UNITED STATES' MOTION TO STRIKE
(1) THE NOTICE OF APPEARANCE
AND (2) THE MOTION TO INTERVENE
FILED ON BEHALF OF TIMELESS
WINDSOR VENTURES**

24 **I.**

25 **STATEMENT**

26 On March 25, 2013, Elmer P. Vild, who is a trustee of Timeless Windsor Ventures
27 (“Timeless”), which apparently is a Nevada Trust, moved to intervene in this case on behalf of
28 Timeless. The purported basis for the motion to intervene is that Timeless recently “purchased” the
real property that the United States is seeking to foreclose its tax liens on in this case from defendant
Exeter Trinity Properties, L.L.C. (“Exeter”). *See e.g.*, Court docket number 65 (page 6 of 6).

On March 25, 2013, Mr. Vild and Mike Macek also filed a Notice of Appearance (“the
notice”) on behalf of Timeless. In the notice, Vild and Macek - who are the trustees of Timeless -

1 state that they are “non-lawyer[s].”

2 The Court - citing *Rowland v. California Men’s Colony*, 506 U.S. 194, 201-02 (1993) -
3 previously ruled in this matter that Timeless can not participate in this case without counsel. *See* the
4 Court’s July 18, 2012 order. It is notable that the Court also denied Mr. Vild’s attempts to represent
5 Exeter (which is a corporation) in this case. *See* Court docket numbers 19, 71 and 84.

6 As additional background, Mr. Vild has filed numerous tax cases against the United States
7 in this District and has been described by the Court has a “tax protester.” *See* Court docket number
8 37-2, at ¶¶ 48-61 and 66-68. He has also sued various Arizona State Court judges. *Id.*, at ¶ 69.

9 II.

10 THE COURT SHOULD STRIKE (1) THE NOTICE OF 11 APPEARANCE AND (2) THE MOTION TO INTERVENE 12 FILED ON BEHALF OF TIMELESS BECAUSE IT MUST BE 13 REPRESENTED BY COUNSEL TO PARTICIPATE IN THIS CASE

14 Exeter’s attorney John Friedeman is seeking to withdraw as counsel in this case (*see* Court
15 docket number 99) and it appears that Mr. Vild is trying to get around applicable lawyer
16 representation requirements by arguing that a trust - like Timeless - can represent itself in Federal
17 Court based on State of Arizona law. *See* the notice, at 3-5. But, as explained above, the Court has
18 already ruled that Timeless must be represented by Counsel to participate in this matter. *See* the
19 Court’s July 18, 2012 order.

20 It is notable also that Terry Major, who is/was involved with Exeter and Vild (*see e.g.*, Court
21 docket number 37-2, at ¶¶ 62-65 and 73-75), similarly tried to rely on State of Arizona law when he
22 sought to represent a trust in another tax case litigated in this District. *See* Major’s notice of
23 appearance filed in *United States v. Reading et al.*, Civ. No. 11-698 (D. Ariz.) (copy attached as
24 Exhibit A to the Declaration of Charles M. Duffy filed herewith (“Duffy dec.”)). District Judge
25 Frederick Martone rejected Mr. Major’s arguments and ruled that only an attorney could represent
26 a trust. *See* Exhibit B attached to the Duffy dec. (copy of Judge Martone’s Order).

27 Even assuming *arguendo* that Vild or Macek could properly represent Timeless in this matter,
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1 intervention would not be proper. For example, Timeless can not prove that all four of the following
2 requirements for intervention as a matter of right are present, which are: “(1) the intervention
3 application is timely; (2) the applicant has a significant protectable interest relating to the property
4 or transaction that is the subject of the action; (3) the disposition of the action may, as a practical
5 matter, impair or impede the applicant’s ability to protect its interest; and (4) the existing parties may
6 not adequately represent the applicant’s interest.” *Citizens for Balanced Use v. Montana Wilderness*
7 *Ass’n*, 647 F.3d 893, 897 (9th Cir. 2011) (citations omitted). In this regard, in its complaint, the
8 United States alleged that Joseph and Eileen Lipari (“the Liparis”) fraudulently transferred their
9 residence to Exeter to avoid paying their federal income tax liabilities. Timeless had nothing to do
10 with the transfer to Exeter and its recent “purchase” of the property is not relevant for purposes of
11 the issues to be resolved in this suit. To the extent that Exeter prevails at the trial in this case, it can
12 likely effectuate a transfer of the real property at that point.

13 It should be noted also that Vild - the alleged trustee for Timeless - knew that the subject real
14 property was subject to the United States’ tax liens when Timeless supposedly “purchased” it. In
15 this regard, Mr. Vild has been involved in this case since its early stages (*see e.g.*, Court docket
16 number 10) and also, in August, 2010, the United States filed a Notice of Lis Pendens with the
17 appropriate county recorder indicating that the real property was at issue in this litigation. *See*
18 Exhibit C attached to the Duffy dec.

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III.

CONCLUSION

The Court should strike the Motion to Intervene and Notice of Appearance filed on behalf of Timeless since Timeless must be represented by counsel to participate in this case.

DATED this 3rd day of April, 2013.

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

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

Of Counsel:

JOHN S. LEONARDO
United States Attorney
(Attorneys for the United States)

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/s/ Charles M. Duffy
Charles M. Duffy
Trial Attorney, Tax Division
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IN THE UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

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JOSEPH J. LIPARI, EILEEN H. LIPARI and
EXETER TRINITY PROPERTIES, L.L.C.,

Defendants.

Civ. No. 10-CV-08142-JWS

ORDER

BASED ON THE United States’ Motion to Strike filed on April 3, 2013 and good cause appearing therefore, the Notice of Appearance and the Motion to Intervene that was filed on March 25, 2013 by and on behalf of Timeless Windsor Ventures (“Timeless”) by certain non-attorney individuals are hereby stricken since Timeless, which appears to be a trust, must be represented by counsel to participate in this case.

IT IS SO ORDERED,

DATE

HONORABLE JOHN W. SEDWICK
United States District Judge

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