1	KATHRYN KENEALLY Assistant Attorney General	· 50
2 3	CHARLES M. DUFFY Trial Attorney, Tax Division	
4	U.S. Department of Justice P.O. Box 683	
5	Ben Franklin Station	
6	Washington, D.C. 20044-0683 Telephone: (202) 307-6406 Email: charles.m.duffy@usdoj.gov Western.taxcivil@usdoj.gov	
7	Western.taxcivil@usdoj.gov  Attorneys for the United States of America	
8	ANN SCHEEL	
9	Acting United States Attorney District of Arizona	
10	Of Counsel	
11	IN THE LIMITED STAT	TES DISTRICT COURT
12		F ARIZONA
13		ı
	UNITED STATES OF AMERICA,	Civ. No. 11-0698-PHX-FJM
14	Plaintiffs,	
15	v.	
16 17	JAMES LESLIE READING, CLARE L. READING, FOX GROUP TRUST, MIDFIRST BANK, CHASE, FINANCIAL LEGAL SERVICES, STATE OF ARIZONA	DECLARATION OF ELIZABETH MARRIAGA
18	LEGAL SERVICES, STATE OF ARIZONA	
	Defendants.	
19		
20		
21	I, ELIZABETH MARRIAGA, declare that	
22	1. I am a Revenue Agent for the Inter	nal Revenue Service ("IRS") in Mesa, Arizona.
23	2. As part of my duties as an IRS Reve	nue Agent, I have personal knowledge concerning
24	facts, described below, relating to James Reading	g and Clare Reading (hereafter "the Readings").
25		
26		
27		
28		6655934.1

- 3. As part of my official duties, I made adjustments to assessments made for the 1994 income tax year of Clare Reading and the 1993 and 1994 income tax years of James Reading.
- 4. The adjustments were made in 2011 based on information that was presented to the IRS after the due dates of the returns for 2003 and 2004 by one or both of the Readings concerning certain stock transactions in those years.
- 5. Attached hereto as Exhibit A is a copy of IRS Form 4549 that I prepared in or about April, 2011 that relates to the adjustments that I made regarding Clare Reading's 2004 tax year. Exhibit C is a true and correct copy of the corrected IRS Form 4549 that I prepared in early May, 2012 regarding Clare Reading's 2004 tax year. Based on Exhibit C, Clare Reading's tax liability for 2004 was decreased by \$2,916.00. *See* Exhibit C, page 1 (line 16).
- 6. Attached hereto as Exhibit B is a copy of IRS Form 4549 that I prepared in or about April, 2011 that relates to the adjustments that I made regarding James Reading's 2003 and 2004 tax years. Based on Exhibit B, James Reading's 2003 tax liability was decreased by \$32,866.00 and his 2004 tax liability was decreased by \$3,092.00. *See* Exhibit B, page 1 (line 16).
- 7. Attached hereto as Exhibits D and F (Attachment B) are copies of supporting documents that relate to the IRS Form 4549, a copy of which is attached hereto as Exhibit C.
- 8. Attached hereto as Exhibits E and F (Attachments A and B) are copies of supporting documents that relate to the IRS Form 4549, a copy of which is attached hereto as Exhibit B.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

 $\frac{5-3-201}{\text{Date}}$ 

ELIZABETH MARRIAGA IRS Revenue Agent

Mesa, Arizona

1 **CERTIFICATE OF SERVICE** I HEREBY CERTIFY that on this 11th day of May, 2012, I served the foregoing through 2 the Court's electronic filing system: 3 4 ROBERT P. VENTRELLA Assistant Attorney General 1275 West Washington Street Phoenix, Arizona 85007-2926 5 6 PAUL M. LEVINE, ESQUIRE LAKSHMI JAGANNATH, ESQUIRE McCarthy, Holthus, Levine Law Firm 8 8502 E. Via de Ventura, Suite 200 Scottsdale, Arizona 85258 9 10 TOMMY K. CRYER Attorney at Law 7330 Fern Avenue 11 Shreveport, Louisiana 71105 12 13 14 15 /s/ Charles M. Duffy Charles M. Duffy Trial Attorney, Tax Division 16 U.S. Department of Justice 17 18 19 20 21 22 23 24 25 26 27

28

#### EXHIBITS TO SECOND DECLARATION OF ELIZABETH MARRIAGA (INDEX)

Exhibit A IRS Examination changes for Clare Reading's 1994 year.

Exhibit B IRS Examination changes for James Reading's 1993 and 1994 years.

Exhibit C IRS Examination changes for Clare Reading's 1994 year (corrected).

Exhibit D Capital Gains Lead Sheet (Clare Reading)

Exhibit E Capital Gains Lead Sheet (James Reading)

Exhibits F Attachments A and B

# **Marriaga Declaration Exhibit A**

Case 2:11-cv-00<u>698-FJM Document</u> 53-1 Filed 05/11/12 Page 3 of 4 Form 4549 Dopartment of the Treasury-Internal Revenue Service Income Tax Examination Changes (Rev. May 2008) Name and Address of Taxpayer Taxpayer Identification Number Return Form No.: 4550 1040 CLARE L READING Name and Title: Person with whom examination changes were discussed. 1. Adjustments to income Period End Period End Period End 12/31/1994 Capital Gain or Loss (8,022.00) b. Exemptions (294.00) C. d. Government f. **Exhibit** g. MarriagaExA h. m. n. ٥. p. 2. **Total Adjustments** (8,316.00) Taxable income Per Return or as Previously Adjusted 84,971.00 Corrected Taxable Income 76,655.00 Tax Method TAX TABLE Filing Status Married Separate 5. Tax 20,255.00 6. Additional Taxes / Alternative Minimum Tax 7. Corrected Tax Liability 20,255.00 8. Less Credits Ъ. c. d. 9. Balance (Line 7 less Lines 8a through 8d) 20,255.00 10. Plus a. b. Other ¢, Taxes ď. 11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d) 20,255.00 12. Total Tax Shown on Return or as Previously Adjusted 23,243.00 13. Adjustments to: a. 14. Deficiency-Increase in Tax or (Overassessment-Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c) (2,988.00) 15. Adjustments to Prepayment Credits - Increase (Decrease) 16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Excluding interest and penalties) (2,988.00)

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

	e 2·11-cv-00698-F			1/12 Pa	age 4 c	of 4
Form <b>4549</b>		nt of the Treasury-Inter				
(Rev. May 2008)	Income	I ax Examina	ation Changes		Page 2 of 2	
Name of Taxpayer CLARE L READING			Taxpayer Identification	on Number 550	Return Form No.: 1040	
17. Penalties/ Code Section	on5		Period End 12/31/1994	Period I	End	Period End
a.				, , , , , , , , , , , , , , , , , , ,		
b.						
c. d.						
e. ·						
f,			:			
g.						
h,					ļ	
ł.						-
1						
k.						
l. _						
m. a						
n. 18. Total Penalties						
			~~~			
A tax addition of 50 per	able to negligence: (1981-15 rcent of the interest due on t rue until it is paid or assesse	he		NAJAN AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA		
A tax addition of 50 per	able to fraud: (1981-1987) reent of the interest due on t rue until it is paid or assesse	the ed.	**************************************			<del>na Chaidh a Caille</del> ann an Aire ann an Aire an Aire ann an Aire
	able to Tax Motivated Trans					
The Interest will accrui	e and be assessed at 120% ance with IRC §6621(c)	of the under-	0.00			
19. Summary of Taxes, P						
a. Balance due or (Overp	ayment) Taxes - (Line 16, F	Page 1)	(2,988.00)			
b. Penalties (Line 18) - cc c. Interest (IRC § 6601) -	omputed to 04/12/2011 computed to 05/12/2011					
d. TMT Interest - compute		(on TMT underpaym	0.00		ļ	
	) - (sum of Lines a, b, c and	d) (on twittingerpaym				
Other Information:			(2,988.00)	<u> </u>		olekining and the second secon
Examiner's Signature:		Employee ID:	Office:			Date:
Elizabeth A. Mar	riaga		Mesa	. ΔZ		04/12/2011
accept any decrease in tax acceptance by the Area Din	d Collection- I do not wish to s report. Therefore, I give n and penalties shown above, ector, Area Manager, Specia PLEASE NOTI	ny consent to the imme , plus additional interes alty Tax Program Chief	t as provided by law. It is up	as Service or to ation of any inc aderstood that ons.		n the United States
Signature of Taxpayer		Date:	Signature of Taxpayer	And the second s		Date:
By:	The state of the s		îtle:	Andrew Commission of the Commi		Date:

# **Marriaga Declaration Exhibit B**

#### Case 2:11-cv-00698-FJM Document 53-2 Filed 05/11/12 Page 2 of 3

	m <b>4549</b> /. May 2008)	Pad	e 1 of 2		
	c and Address	Income Tax Examinati	Taxpayer Identification	n Number Retu	rn Form No.:
JAM	ES L READI	rG		531	1040
			Person with whom examination ohanges were discussed.	Name and Title:	
1.	Adjustments t	Income	Period End 12/31/1993	Period End 12/31/1994	Period End
	Capital Gai Exemptions	or Poss	(86,103.59) (2,350.00)	(7,807.00	<b>&gt;</b>
c. d. e. f. g. h.		Government Exhibit MarriagaExB			
j. k. l.					
n. o. p.					
	Total Adjustm	nts Per Return or as Previously Adjusted	(88,453.59)	(7,807.00	1
10 h man	Corrected Tax		158,749.00 70,295.00	159,567.0 151,760.0	
	Ta: Fili	Method g Status	TAX TABLE  Married Separate	TAX RATE  Married Separate	
-	Tax	( Alternative & Colorest Ways	18,063.00	48,249,0	0
	Corrected Tax	Alternative Minimum Tax	18,063.00	48,249.0	
	Less a. Credits b. c. d.				
9.	Balance (Line	less Lines 8a through 8d)	18,063.00	48,249.(	0
10.	Plus a. se b. Taxes c. d.	f Employment Tax	3,666.00	11,708.0	10
11.	Total Correcte	Tax Liability (Line 9 plus Lines 10a through 10d)	21,729.00	59,957.0	00
		n on Return or as Previously Adjusted	54,595.00	63,049.0	l .
13.	Adjustments to	a. b. c.		A particular and a part	
	(Line 11 less	ease in Tax or (Overassessment-Decrease in Tax) ine 12 adjusted by Lines 13a through 13c) Prepayment Credits - Increase (Decrease)	(32,866.00)	(3,092.00	))
	Balance Due	r (Overpayment) - (Line 14 adjusted by Line 15) est and penalties)	(32,866.00)	(3,092.0	))

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amond your state return by filling the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or Interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

#### Case 2:11-cv-00698-FJM Document 53-2 Filed 05/11/12 Page 3 of 3

	n <b>4549</b> . May 2008)	Department of the Treasury-Internal Re Income Tax Examinatio		Page_	Page 2 of 2	
Name of Taxpayer JAMBS L READING  7. Penalties/ Code Sections		Taxpayer Identification I		Form No.: 1040		
7. F	analties/ Code Section	ns	Period End 12/31/1993	Period End 12/31/1994	Period End	
١.				# P		
•						
157						
١.		·		L. Carrier and Car		
,				***		
}. }.	85					
fr.		8	and the same of th			
m.						
n.						
18.	Total Penalties	444	ORT 192-044 (MARCOL -4 -4 PARCOL)			
	A tax addition of 50 pen	ble to negligence: (1981-1987) cent of the interest due on the ue unfil it is paid or assessed.				
	A tax addition of 50 per	ble to fraud: (1981-1987) cent of the interest due on the ue until it is pald or assessed.				
	Underpayment attributa The interest will accrue payment rate in accorda	ble to Tax Motivated Transactions (TMT). and be assessed at 120% of the under- ance with IRC §6621(c)	0.00	0.00		
	Summary of Taxes, P					
		syment) Taxes - (Line 16, Page 1)	(32,866.00)	(3,092.00)		
		mputed to 04/11/2011				
90		computed to 05/11/2011	0.00	0.00		
	TMT Interest - compute		0.00	0.00		
₩,	Amount due or (retund)	- (sum of Lines a, b, c and d)	(32,866.00)	(3,092.00)		

Examiner's Signature:	Employee ID:	Office:	Date:
Elizabeth A. Marriaga		Mesa, AZ	04/11/2011
Consent to Assessment and Collection- I do not v Tax Court the findings in this report. Therefore, I	vish to exercise my appeal give my consent to the imm	rights with the Internal Revenue Service or to lediate assessment and collection of any incre	contest in the United States ease in tax and penalties, and

accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

PLEASE NOTI	E: If a joint return w	as filed. BOTH taxpayers must sign	
Signature of Taxpayer	Date:	Signature of Taxpayer	Date:
Ву:		Title:	Date:
		angergangganggang pino wys sarys. II s. sam-panggangan at annanangans, namanahama dhey jalifakka (J. J. J. 1800) (1800) (T. J. 1800)	AND A THE PERSON OF THE PERSON

Catalog Number 23105A

www.irs.gov

Form 4549 (Rev. 5-2008)

# **Marriaga Declaration Exhibit C**

Department of the Treasury Internal Revenue Service Form **4549** Income Tax Examination Changes (Rev. May 2008) **Taxpayer Identification Number** Name and Address of Taxpayer Return Form No.: 4550 1040 CLARE L READING Name and Title: Person with whom examination changes were discussed. **Period End Period End** Period End 1. Adjustments to Income 12/31/1994 a. Capital Gain or Loss (7,807.00)Exemptions (294.00)C. Government d. **Exhibit** e MarriagaExC f. h. ١. m. n. 0. p. 2. Total Adjustments (8,101.00)Taxable Income Per Return or as Previously Adjusted 84,971.00 **Corrected Taxable Income** 76,870.00 Tax Method TAX TABLE Filing Status Married Separate 5. **Tax** 20,327.00 6. Additional Taxes / Alternative Minimum Tax 7. Corrected Tax Liability 20,327.00 8. Less Credits b. C. d. 9. Balance (Line 7 less Lines 8a through 8d) 20,327.00 10. Plus h. Other Taxes C. d. 11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d) 20,327.00 12. Total Tax Shown on Return or as Previously Adjusted 23,243.00 13. Adjustments to: a. b. C. 14. Deficiency Increase in Tax or (Overassessment Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c) (2,916.00)15. Adjustments to Prepayment Credits Increase (Decrease) 16. Balance Due or (Overpayment) (Line 14 adjusted by Line 15)

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

(2,916.00)

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120 day period.

(Excluding interest and penalties)

Department of the Treasury Internal Revenue Service Form **4549** Income Tax Examination Changes (Rev. May 2008) **Taxpayer Identification Number** Name of Taxpayer CLARE L READING Return Form No.: 4550 1040 **Period End** Period End **Period End** 17. Penalties/ Code Sections 12/31/1994 a. b. C. d. f. I. m. 18. Total Penalties Underpayment attributable to negligence: (1981 1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed. Underpayment attributable to fraud: (1981 1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed. Underpayment attributable to Tax Motivated Transactions (TMT). The interest will accrue and be assessed at 120% of the under 0.00 payment rate in accordance with IRC §6621(c) 19. Summary of Taxes, Penalties and Interest: a. Balance due or (Overpayment) Taxes (Line 16, Page 1) (2,916.00)b. Penalties (Line 18) computed to 05/01/2012 c. Interest (IRC § 6601) computed to 05/31/2012 0.00 d. TMT Interest computed to 05/31/2012 (on TMT underpayment) 0.00 e. Amount due or (refund) (sum of Lines a, b, c and d) (2,916.00)Other Information: Examiner's Signature: Office: Employee ID: Date: 05/01/2012 ELIZABETH A MARRIAGA Consent to Assessment and Collection I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations. PLEASE NOTE: If a joint return was filed. BOTH taxpayers must sign Signature of Taxpayer Date: Signature of Taxpayer Date: By: Title: Date:

# Marriaga Declaration Exhibit D

Case 2:11-cv-00698-FJM Document 53-4 Filed 05/11/12 Page 2 of 2

Taxpayer Name:

READING, CLARE L

Examiner:

TIN:

4550

Marriaga, Elizabeth

Tax Form:

1040

Date:

Tax Year (s):

199312, 199412

April 8, 2011

	Capita	l Gains Lead	Sheet	
Tax Period	Per Return	Per Exam	Adjustment	Reference
199412	11,948.00	4,140.53	(7,807.47)	Attachment B

Conclusion: (Reflects the final determination on the issue.)

Upon collection enforcement, Clare Reading provided support for basis in her stock sales from American Services Company. 1994 STCG is adjusted per Attachment B. 1993 was considered; however, since there is no tax assessed or collected due to CSED, no adjustment is being pursued for that module.

Law: (Tax Law, Regulations, court cases, and other authorities. If Unagreed,

Government **Exhibit** 

IRC Section: 1202, 1211 & 1212

MarriagaExD

Specific citations:

Taxpayer Position: (If applicable)

# **Marriaga Declaration Exhibit E**

#### Case 2:11-cv-00698-FJM Document 53-5 Filed 05/11/12 Page 2 of 2

Taxpayer Name:

READING, JAMES L

Examiner:

Marriaga, Elizabeth

TIN:

Tax Form:

-8531 1040

April 7, 2011

Tax Year (s):

199312, 199412

Date:

	Capita	al Gains Lead	Sheet	at a second seco
Tax Period	Per Return	Per Exam	Adjustment	Reference
199312	85,889.00	(214.59)	(86,103.59)	
TGGATE	11,948.00	4,140.53	(7,807.47)	Government

Conclusion: (Reflects the final determination on the issue.)

**Exhibit** MarriagaExE

Under Collection Enforcement, James Reading provided support for his stock American Services Company. 1993 and 1994 STCG are adjusted per Attachments A and Attachment B.

Law: (Tax Law, Regulations, court cases, and other authorities. If Unagreed, include Argument.)

IRC Section: 1202, 1211 & 1212

Specific citations:

Taxpayer Position: (If applicable)

# **Marriaga Declaration Exhibit F**

	James Reading Adjustment
1993 Capital Gains	James Reading Recon
1993 Cap	James Reading Prior Adjustment
	Clare Reading Adjustment
	Clare Reading Recon
Reading 1993 Form 1040	Clare Reading Prior Adjustment

86,103.59

(214.59)

85,889.00

84,381.59

(214.59)

84,167.00

		Americ	American Cap Funds Detail	nds Detail			
Date	Buy	Sell	Gain	Loss	STCG	Other	Total
04/30/93	18,000.00						
05/03/93	17.00						
05/21/93		16,597.11		(1,419.89)			
05/24/93	91				968.70		3
05/29/93	17,630.39						
06/01/93	11.58						10.30
08/04/93		17,587.45		(54.52)	_		
08/30/93	17,587.45						
08/31/93	31.37				Ex		
09/07/93		17,510.33		(108.49)	eri khi		
09/27/93	17,510.33				ibi		
09/28/93	23.25				t		
10/14/93		17,826.68	293.10		nt —		
10/27/93	7,826.68						
10/28/93	10.69						
11/22/93		6,864.95		(972.42)		13	
11/22/93				whiteout	18.74	754.44	
11/29/93	7,688.89						
11/30/93	3.60	Automotive manufacture and a post-	,				
12/14/93		7,783.65	91.16				
Multiple	Multiple Cash ManagementTrust	ementTrust					
*	Total Gain (Loss)	oss)	384.26	(2,555.32)	987.44	754.44	(429.18)

Attachment A

(429.18) (214.59) (214.59)

1993 Capital/Gain Loss Community Property 1/2 Allocation to Each

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1994 Capital Gain (Loss) Computation	Clare R	11,948.00 4,140.53 7,807.47		Total			(77.94)		
994 Capital G	James R (	11,948.00 4,140.53 7,807.47		STCG	00		9.00	Per Re- consideratí on	8,359.00 (77.94) 8,281.06 (4,140.53) 4,140.53
2,		7 1		Loss		(149.05)	(149.05)	Per Adjustment	8,359.00 15,537.00 23,896.00 (11,948.00) 11,948.00
ž.		ustment Ieration	ap Funds	Gain	65.11	W 2	65.11		Spouse:
		Per Prior Adjustment Per Reconsideration Adjustment	American Cap Funds	Sell	40.41	7,809.98 28.31 7,660.93 Cash Management Trust	ross)		Merrill Lynch Pierce Fenner & Smith American Services Company Less Allocation to Spouse:
1040				Buy	7,783.65	7,809.98 Cash Mana	Total Gain (Loss)	th.	Merrill Lynch Pierce Fenner & American Services Company Less Alloc
Reading 1994 Form 1040				Date	12/17/93 12/20/93 02/14/94 02/18/94	02/23/94 02/23/94 03/03/94 Multiple		á	Merrill Lync American \$