

D L P LT13
Elmer P. Vild, Trustee
989 S. Main St., #A-269
Cottonwood, AZ 86326
Ph. (928) 634-5669
E-Mail: trustoneil@commspeed.net
Elmer P. Vild is the Trustee for the
D L P LT13 contractual entity.

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA**

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. CV 09-00444-PHX-SRB

MOTION FOR DISMISSAL
UNDER RULE 12(b)

COMES NOW Elmer P. Vild, Trustee for the D L P LT13 contract in the form of a trust proceeding without the assistance of counsel relying on *Haines v. Kerner* and other U.S. Supreme Court decisions that hold pro se litigants cannot be held to the same standards as an attorney and the lower courts must point out any defects and allow a pro se litigant sufficient time to correct any defects. And, that the pro se litigants' pleadings are sufficient to call for an opportunity to be heard.

JUDICIAL NOTICE: All officers of this Court are hereby placed on notice under authority of the supremacy and equal protection clauses of the United States Constitution

and the common law authorities of *Haines v Kerner*, 404 U.S. 519, *Platsky v. C.I.A.* 953 F.2d. 25, and *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000) relying on *Willy v. Coastal Corp.*, 503 U.S. 131, 135 (1992), “*United States v. International Business Machines Corp.*, 517 U.S. 843, 856 (1996), quoting *Payne v. Tennessee*, 501 U.S. 808, 842 (1991) (Souter, J., concurring). *Trinsey v. Pagliaro*, D.C. Pa. 1964, 229 F. Supp. 647, *American Red Cross v. Community Blood Center of the Ozarks*, 257 F.3d 859 (8th Cir. 07/25/2001). In re *Haines*: pro se litigants (Defendants are pro se litigants) are held to less stringent pleading standards than BAR registered attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims. In re *Platsky*: court errs if court dismisses the pro se litigant (Defendants are pro se litigants) without instruction of how pleadings are deficient and how to repair pleadings. In re *Anastasoff*: litigants’ constitutional rights are violated when courts depart from precedent where parties are similarly situated. All litigants have a constitutional right to have their claims adjudicated according the rule of precedent. See *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000). Statements of counsel, in their briefs or their arguments are not sufficient for a motion to dismiss or for summary judgment, *Trinsey v. Pagliaro*, D.C. Pa. 1964, 229 F. Supp. 647. Neither are accusations by Plaintiff’s counsel of any affect without facts and/or documents on the record to back them up.

This Defendant believes that the Court may have felt that the jurisdictional challenge promulgated by this Defendant may have been considered defective in some way and the Court therefore, did not have to comply with the strict standards of the law.

In any event, the jurisdictional question has not been adequately addressed by the Court and this motion is designed to correct that situation.

BACKGROUND

In October of 2009, this Defendant challenged the jurisdiction of the Court over D L P LT13. Defendant's challenge was filed as Doc. #25 on October 26, 2009. This Document #25 was never officially acted upon by the Court. This Defendant did, however, follow up Doc. #25 with Doc. #53 which also covered more thoroughly the jurisdiction issue. The Court dismissed Document #53 in its Order of February 5, 2010 which was entered on the Docket Sheet as Doc. #61. The dismissal of the Defendant's jurisdictional issues was made with the eloquent phrase of being "plainly without merit". There was no explanation for the dismissal and no further verbiage by the Court. This type of a denial of a motion, pleading, or in this case, a challenge to jurisdiction is unacceptable when the Defendant is a lay person and not an attorney. It is especially egregious when the lay person has given notice the Defendant expects his rights to be protected by the Court and expects assistance from the Court. See the two opening paragraphs of this motion. The words "plainly without merit" provide no explanation and are in violation of case law which states that:

"The law provides that once State and Federal Jurisdiction has been challenged, it must be proven." *Main v. Thiboutot*, 100 S. Ct. 2502 (1980).

Although an attorney authorized to practice before the bar may have to present the "Challenge to Jurisdiction" in a certain format, a lay person defendant does not. "Plainly without merit" informs a lay person of nothing and is clearly inadequate. Therefore, this Defendant will attempt to articulate more clearly its challenge to jurisdiction with a more thorough analysis of jurisdiction.

1. If the Internal Revenue Service fails to show a nexus between Maria D. Forman and DLP LT13, then the court must dismiss DLP LT13 from the instant case and may then proceed against Maria D. Forman.
2. Only if the Internal Revenue Service is able to provide substantial admissible evidence proving that DLP LT13 is the nominee and/or alter ego of Maria D. Forman may this court acquire any jurisdiction over DLP LT13.
3. Until Plaintiff provides such substantial admissible evidence to this court on the record, no jurisdiction may be acquired.

This Court must show in the record where the Plaintiff has proven that the court has both subject matter **and personal jurisdiction** regarding D L P LT13. The record to date is void of such proof. The Plaintiff barely addresses subject matter jurisdiction when the Plaintiff states the Court has jurisdiction at paragraph three of page two of its Complaint, Amended Complaint and 2nd Amended Complaint. Said paragraph states "The Court has jurisdiction over the subject matter of this action pursuant to 26 U.S.C. § 7402 and 28 U.S.C. §§ 1340 and 1345." While these Internal Revenue Code (IRC) statutes (with their accompanying regulations) may provide subject matter over Maria D. Forman's alleged tax debt, they have nothing to do with D L P LT13 regarding subject matter jurisdiction and certainly do not provide any personal jurisdiction. Where has the Plaintiff shown in the record that the quoted code section has anything to do with D L P LT13? The answer is "nowhere" except the single unproven accusation that D L P LT13 is the nominee and/or alter ego of Maria D. Forman.

Not everyone comes under the jurisdiction of the United States tax code and thus the court may not automatically acquire subject matter jurisdiction. One has to do

something and/or be involved in a taxable activity to become a "taxpayer". The Internal Revenue Code (IRC) utilizes the terms "taxpayer" and "non-taxpayer". One is a "non-taxpayer" until he/she/it does something to become a "taxpayer" subject to the IRC. For instance, most Quakers, Amish, Mennonites plus some other groups and individuals do not come under the IRC. When this lawsuit was initiated D L P LT13 was not subject to the tax code. D L P LT13 simply owns the subject property, and that by itself, does not make it subject to federal taxes and the IRC. One has to utilize a property in a certain manner before becoming subject to the IRC. Selling property at a profit may make a person or entity subject to the IRC, but such is not the case in this instant suit. Maria D. Forman is not the owner of the subject property and any connections to the subject property owned by D L P LT13 are subject to and controlled by the Trustee of D L P LT13. There is no nominee or alter ego relationship.

The Plaintiff in the instant case has quoted statutes that only apply to a taxpayer. And, although the statutes may apply to Maria D. Forman, the Plaintiff has not attempted to demonstrate how such statutes would apply to D L P LT13 except by the one allegation that D L P LT13 is the nominee or alter ego of Maria D. Forman. But that allegation must be proven, not merely alleged, before the Plaintiff would have any jurisdiction regarding D L P LT13. The Plaintiff has only made allegations against D L P LT13, but the Plaintiff has provided no substantial, admissible evidence as required by law in order to obtain jurisdiction regarding D L P LT13.

Likewise, there exists no tax lien against D L P LT13. DLP LT13 has no tax liability. The prerequisites to record a valid Notice of Federal Tax Lien must be met by the Plaintiff. There are notice requirements and a demand for payment and several other

prerequisites that must be met before the Plaintiff may attempt to make D L P LT13 subject to the IRC. There have been no facts or documents presented to this Court to suggest that a valid lien exists against D L P LT13.

The Plaintiff has not directly alleged that D L P LT13 comes under the statutes that it quoted as having subject matter jurisdiction in this case. Only Maria D. Forman may be affected by the statutes quoted by the Plaintiff. If the Plaintiff were to allege that D L P LT13 comes under the statutes it quoted, it would mean that the IRS considers D L P LT13 a separate taxpayer and a separate entity. Then D L P LT13 could not be considered a nominee and/or alter ego of Maria D. Forman. The Plaintiff cannot have it both ways. D L P LT13 must be a separate entity or a nominee and/or alter ego.

Therefore, the only way the Plaintiff can involve D L P LT13 in the instant case is as the nominee or alter ego of Maria D. Forman. However, in order to do that case law demands that the Plaintiff PROVE to the Court by a preponderance of the evidence through facts and documents that D L P LT13 is a nominee or alter ego. This has not been accomplished and this Court is legally barred from assuming and/or claiming it has jurisdiction. See *United States v. Reed*, 168 F. Supp.2d 1266 (C.D. Utah 2001).

The only theory under which the United States can prevail is the theory that D L P LT13 is a nominee or alter ego. However, there are no statutes regarding or controlling this theory. It is only a theory of law which is permitted when proven by a preponderance of the evidence, *States v. Reed*, supra. Jurisdiction must be proven on the record and this has not been accomplished and this Court is in jeopardy of proceeding without jurisdiction which is a very serious offense. Since no substantial, admissible

evidence has been produced by Plaintiff to this Court, the Court is obligated to grant the dismissal of DLP LT13 from this case.

This Defendant, D L P LT13, has prepared, through its Trustee, Elmer P. Vild, an affidavit attesting to the fact that D L P LT13 is not a nominee or alter ego of Maria D. Forman. See the attached **Exhibit A**.

The Plaintiff has claimed jurisdiction and Defendant D L P LT13 through former Trustee Jimmy C. Chisum and current Trustee Elmer P. Vild have challenged that the Court has jurisdiction over D L P LT13. But the Court has ignored such a challenge by merely stating "Plainly without merit" regarding the jurisdiction issue.

In the Plaintiff's UNITED STATES' RESPONSE IN OPPOSITION TO DEFENDANT JIMMY C. CHISUM'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE (Doc. #84) the Plaintiff stated the following:

However, Defendant Chisum, like Defendant DLP LT 13 failed to articulate any meaningful challenge to the jurisdictional basis for this case, clearly set forth as required in both the Complaint and the Amended Complaint. See Compl. ¶¶2-3; Am. Compl. ¶¶2-3. Instead, he appears to argue that federal district courts can never have jurisdiction over cases involving the contract and property rights of individuals. (See Doc. No. 13 at 1). He does not raise any facts which would cause this Court to question its jurisdiction. (underlining added)

Note the underlined portions state that "Defendant DLP LT13 failed to articulate any meaningful challenge..." and "He [D L P LT13] does not raise any facts...". The Plaintiff clearly is indicating to the Court that the Defendant D L P LT13 must be the one to raise facts and to "articulate" that the Court does not have jurisdiction. NO, NO, NO! That would mean that the Plaintiff wants the Defendant to prove a negative. But what is worse is the Court uses the Plaintiff's argument to deny the challenge to jurisdiction. See the Court's ORDER of April 21, 2010 where the Court states "For reasons stated in

Petitioner's response the Court finds no merit in Respondent Chisum's motion and finds that it has jurisdiction in this case." Therefore, the Court seems to agree that the Defendant D L P LT13 must raise facts and articulate more.

But, this is not what case law seems to indicate. The United States is the Plaintiff and Petitioner that carries the burden of proof. Case law dictates that the Defendant does not have to prove anything and certainly does not have to **disprove** the Plaintiff's claimed jurisdiction. That would mean that D L P LT13 would have to prove the negative that the Court does not have jurisdiction.

"... as a practical matter it is never easy to prove a negative. ..." *Elkins v. United States*, 364 U. S. 206, 218 (1960) See also *Flores v. United States*, 551 F. 2d 1169, 1175 (9th Cir. 1977). *Weimerskirch v. Commissioner*

It is Plaintiff's task, to prove on the record, that the Court has both subject matter and personal jurisdiction regarding D L P LT13.

One would think that according to case law the Defendant does not have the burden of proof. However, this Defendant provides facts in the accompanying **Exhibit A** that the Plaintiff must prove on the record are incorrect or this Court should have no recourse but to declare it does not have jurisdiction over D L P LT13 in the instant case.

The above analysis and facts clearly stated in **Exhibit A** demonstrate that the Plaintiff and the Court have no jurisdiction over this Defendant. There has been no substantial, admissible evidence presented on the record to prove jurisdiction or dispute the above analysis. The only avenue left to reach D L P LT13 is the allegation that it is the nominee and/or alter ego of Maria D. Forman. D L P LT13 is not a nominee or alter ego and no facts or documents are on record to prove nominee or alter ego status. It is a merely an unproven theory. Therefore, this Court should dismiss this action against D L P LT13 for lack of proof of jurisdiction and lack of proof of nominee/alter ego status.

The United States has sued Maria D. Forman and then through Plaintiff's lawyers stated that she has an interest in the subject property. However, the Plaintiff has not provided substantial, admissible evidence to prove that Maria D. Forman has any property rights or rights to property regarding the subject property. The Defendant's affidavit states emphatically that Maria D. Forman has no rights to the subject property. See **Exhibit A** again. The Plaintiff must disprove Defendant's affidavit before this Court may proceed. The Plaintiff only attempts to draw the true owner (D L P LT13) of the subject property into the suit with unproven allegations. The allegations must be proven first before the true owner of the property (D L P LT13) may become an interested party.

In deed, this Court has no jurisdiction over D L P LT13 and none has been proven. The Plaintiff attempts to drag D L P LT13 into this action via IRC 7403(b) as an interested party. However, D L P LT13 is not an interested party in a suit which may reduce Maria D. Forman's alleged taxes to a judgment. IRC 7403(b) was written for the circumstance where the IRS or the United States is attempting to reduce a tax debt to judgment on property owned by the taxpayer. If D L P LT13 had a lien against property the alleged taxpayer Maria D. Forman owned, then D L P LT13 would become an interested party. However, state law prevails here which this Court is duty bound to follow. The subject property is legally owned by D L P LT13 and Maria D. Forman does not have an interest in that property, **until it is proven** that she owns the property and/or has **property rights** to such subject property. Likewise, D L P LT13 is not an interested party until **AFTER** it is **proven on the record** that D L P LT13 is the nominee and/or alter ego of Maria D. Forman. D L P LT13 only becomes an interested party, **if and only if**, it is proven on the record that D L P LT13 is the nominee and/or

alter ego of Maria D. Forman. Otherwise, D L P LT13 is not effected whether Maria D. Forman owes any taxes or not. Since it has not been proven that D L P LT13 is the nominee and/or alter ego of Maria D. Forman, nor proven that this Court has either subject matter or personal jurisdiction over D L P LT13, this Court is duty bound to follow the law and dismiss the instant suit against D L P LT13.

The law states that the Court cannot assume or merely declare that it has jurisdiction. The law is that the Plaintiff must prove jurisdiction. Neither, may the Court simply state that the Defendant has put forth no facts that would show that the Plaintiff does not have jurisdiction. Again, the Plaintiff must be the one to prove jurisdiction by a preponderance of the substantial, admissible evidence placed on the record. Yet, this Plaintiff has produced no facts whatsoever. Not one piece of paper that even hints that D L P LT13 is the nominee or alter ego of Maria D. Forman. Not one. With that in mind, a ruling that the Court has jurisdiction over D L P LT13 would not stand scrutiny by a higher Court.

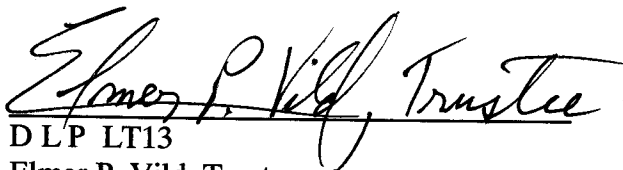
The law is that this Court may not proceed until jurisdiction is proven and not merely alleged. This Defendant reminds the Court that a statement by the Court that the "Defendant's motion is meritless" or something similar proves nothing, but instead, shows bias and prejudice by the Court. This Court is duty bound to follow case law. Case law dictates that jurisdiction, as stated above, must not be merely alleged, but proven on the record. This Defendant respectfully reminds this Court that it does not make law, but must follow it and legal precedents are quoted in this motion backed by an affidavit and memorandum of law.

However, if this Court were to somehow claim it had jurisdiction, it cannot so state with the mere phrase "Defendant's Motion is plainly without merit" or some similar phrase. Any ruling by this Court regarding jurisdiction must be spelled out with a "*Memorandum of Facts and Conclusions of Law*". The ruling must be explained in detail to the lay Defendants as dictated by previous case rulings some of which were quoted to this Court in the second paragraph entitled JUDICIAL NOTICE on the first page of this motion.

SUMMARY

In summary, the Plaintiff has sued Maria D. Forman to reduce her taxes to judgment. However, no subject matter or personal jurisdiction has been proven by the Plaintiff regarding the Defendant D L P LT13. D L P LT13 has no interest in Maria D. Forman's alleged tax debt and none has been proven. Neither is D L P LT13 an "interested party". Accusing D L P LT13 to be a nominee and/or alter ego in an unproven allegation does not legally make D L P LT13 an interested party subject to the Court's jurisdiction. The Plaintiff has alleged that D L P LT13 is the nominee and/or alter ego, but has not proven such to this Court nor on the record and there is no ruling to that effect. Therefore, D L P LT13 has no interest in this lawsuit and D L P LT13's MOTION FOR DISMISSAL UNDER RULE 12(b) should be granted.

Respectfully submitted this 8th day of June, 2010.


D L P LT13
Elmer P. Vild, Trustee

CERTIFICATE OF SERVICE

This document has been submitted into the court record as evidence by Terry I. Major, Notary Public, in and for the state of Arizona, County of Yavapai. My stamp is attached to identify me and my commission.

Original for the Clerk of the Court and one copy for the Honorable Susan R. Bolton mailed this 8TH day of July, 2010 via first class mail to:

Clerk of the Court
Sandra Day O'Connor U.S. Courthouse
SPC 1
401 W. Washington Street, Suite 130
Phoenix, AZ 85003-2118

Copies mailed this 8TH day of July, 2010 via first class mail to:

DIANE J. HUMETEWA
United States Attorney
District of Arizona
Evo A. DeConcini Courthouse
405 West Congress St., Suite 4800
Tucson, Arizona 85701-5040

ALEXIS V. ANDREWS
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683

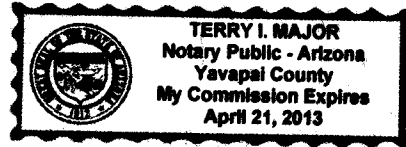
Maria D. Forman
5640 East Duane Lane
Cave Creek, Arizona 85331-6492

Jimmy Chisum, 84388-008
FCI Herlong, Satellite Camp
P.O. Box 800
Herlong, CA 96113

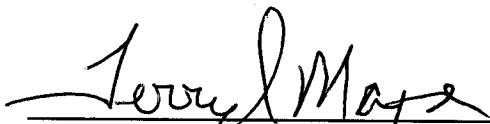
DENISE ANN FAULK
Assistant Attorney General
1275 West Washington St.
Phoenix, AZ 85007-2926

State of Arizona)
) ss.
County of Yavapai)

{Seal}



This document has thus been served.


Terry I. Major, Notary Public

SCHEDULE A AFFIDAVIT

State of Arizona)
) ss
County of Yavapai)

I, Elmer P. Vild, aka, Phillip O'Neil, as the Authorized Agent with the title of Trustee of the contractual entity, D L P LT13, the undersigned affiant, being first duly identified, depose and say:

1. that I, Elmer P. Vild, with the title of Trustee, operate and have full dominion and control of the entity known as D L P LT13.
2. that the contractual entity known as D L P LT13 was formed as a contract in the form of a trust and the rules of contract still apply.
3. that D L P LT13 as a contract is protected by Article One, Section Ten of the United States Constitution.
4. that D L P LT13 was not considered a "taxpayer" and did not have an obligation to file any tax return before the federal lawsuit known as CV 09-00444-PHX-SRB was filed in federal court.
5. that Maria D. Forman has no control over me, Elmer P. Vild, aka, Phillip O'Neil or the entity known as D L P LT13.
6. that Maria D. Forman has no property rights or rights to property regarding the property commonly know as 5640 East Duane Lane, Cave Creek, AZ 85331-6492.
7. that Maria D. Forman has no beneficial interest in the property commonly know as 5640 East Duane Lane, Cave Creek, AZ 85331-6492.
8. that the former Trustee, Jimmy C. Chisum and current Trustee, Elmer P. Vild are not related to Howard Forman or Maria D. Forman or any other member of the family.
9. that the former Trustee, Jimmy C. Chisum and current Trustee, Elmer P. Vild have no other relationship to Maria D. Forman and her family other than that contained in the contract called D L P LT13.
10. that Maria D. Forman must contact the Trustee of D L P LT13 regarding any change to the property, including repair work and maintenance for the subject property mentioned above.
11. that Maria D. Forman must contact the Trustee of D L P LT13 regarding security issues for the subject property mentioned above.

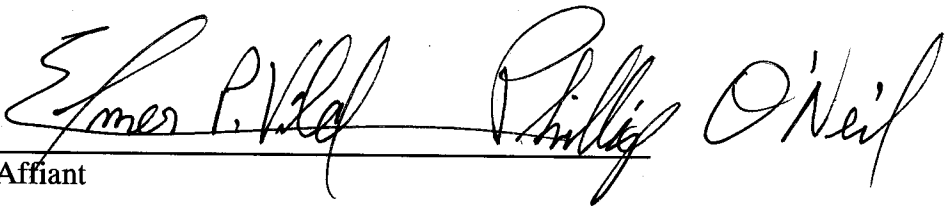
13. that there are contractual obligations imposing fiduciary responsibilities upon the Trustees of D L P LT13.
14. that D L P LT13 was formed for the legal and lawful purposes of estate planning.
15. that D L P LT13 was formed for the legal and lawful purposes of avoiding probate.
16. that D L P LT13 was formed for the legal and lawful purposes of privacy.
17. that D L P LT13 was formed for the legal and lawful purposes of receiving and holding assets for the benefit of its beneficiaries.
18. that no Court has seen or read the D L P LT13 contract and/or its supplements to determine whether any Court would have any jurisdiction over D L P LT13 for any particular set of circumstances.
19. that almost all of the above facts were in writing in 2009 when the federal court in the case of the United States v. Maria D. Forman declined to read D L P LT13's documents to verify the above facts.
20. that the current Trustee of D L P LT13, Elmer P. Vild, enforces and abides by all of the above listed principles and fiduciary duties.
21. that my (Elmer P. Vild) complete control of D L P LT13 means that as long as I conduct myself within the terms of the contractual agreement I am not obligated to answer to anyone.
22. that Maria D Forman has absolutely no control over D L P LT13 or its assets in any way.
23. that after the transfer of subject property to D L P LT13 in 1990 no individual or person had full unrestricted use of the subject property, but any and all uses of the subject property had to be cleared with the Trustee.
24. that neither the Internal Revenue Service nor any United States agency assessed D L P LT13 and sent out the required notices and/or request(s) for payment of any federal taxes to D L P LT13.
25. that no request has ever been made of D L P LT13 for the payment of any federal taxes.
26. that no notice of lien has ever been sent to D L P LT13.
27. that there has been no commingling of funds between D L P LT13 and Maria D. Forman.
28. that I, Elmer P. Vild, have not received any favors or any enumeration from Maria D. Forman for anything.
29. that Maria D. Forman is not a director, trustee, protector or beneficiary of D L P LT13.

30. that Maria D. Forman has no control or influence over D L P LT13 or its Trustee.
31. that no loans of any kind exist between Maria D. Forman and D L P LT13 or its Trustee or Protector.
32. that neither United States, the Plaintiff, the Internal Revenue Service, nor any agent thereof, has made a demand for payment of any tax liability for D L P LT13.
33. that neither United States, the Plaintiff, the Internal Revenue Service, nor any agent thereof, has made a demand of D L P LT13 for payment of any tax liability for Maria D. Forman.
34. that neither United States, the Plaintiff, the Internal Revenue Service, nor any agent thereof, has made a demand for payment of any tax liability for any beneficiary of D L P LT13.
35. that D L P LT13 is not the alter ego of Maria D. Forman.
36. that D L P LT13 is not the nominee of Maria D. Forman.
37. that I, Elmer P. Vild, am not the alter ego of Maria D. Forman.
38. that I, Elmer P. Vild, am not the nominee of Maria D. Forman.
39. that Maria D. Forman has no approval authority over Elmer P. Vild regarding any action taken by Elmer P. Vild on any subject.
40. that there is no unwritten agreement between D L P LT13, Elmer P. Vild and Maria D. Forman.
41. that D L P LT13 has no assets that are intermixed with Maria D. Forman.
42. that I, Elmer P. Vild, have no assets that are intermixed with Maria D. Forman.
43. that the Plaintiff/United States/Internal Revenue Service sent notices addressed to D L P LT13 to the wrong address while knowing the correct whereabouts of the Trustee.
44. that D L P LT13 has not received the due process of law by being notified of events before the instant lawsuit of CV 09-00444-PHX-SRB was filed.
45. that, I, Elmer P. Vild, am not in receipt of, and there are no documents in the court record, indicating the Plaintiff followed proper procedure or obtained proper approval from district counsel.
46. that no flesh and blood victim has been produced in the instant case.

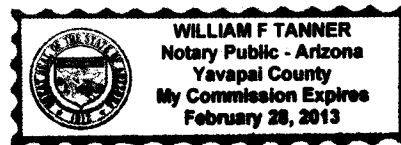
47. that, I, Elmer P. Vild, aka, Phillip O'Neil, have demanded and do hereby continue to demand that the Plaintiff produce an injured party or witness or an affidavit of such a witness.
48. that, I, Elmer P. Vild, have demanded that proof of the court's subject matter and personal jurisdiction appear on the record or the instant suit against D L P LT13 be dismissed.
49. that, I, Elmer P. Vild, demand that the Plaintiff provide proof, on the court record, that D L P LT13 is liable for any income tax by providing to D L P LT13 the statute that makes D L P LT13 liable for such tax.
50. that no probable cause has been established or presented to this court or to me that would warrant a determination that D L P LT13 is the nominee or alter ego of Maria D. Forman.
51. that no evidence has been presented that the internal policies of the IRS/United States/Plaintiff have been established or presented to this court or to me that would warrant a determination that D L P LT13 is the nominee or alter ego of Maria D. Forman.
52. that the exchange of property between Maria D. Forman and D L P LT13 was for adequate consideration according to established law.
53. that the transfer of property between Maria D. Forman and D L P LT13 was legally and lawfully recorded.
54. that no evidence or documents have been presented to me, Elmer P. Vild, by anyone which would establish that Maria D. Forman owns the real property at 5640 East Duane Lane, Cave Creek, AZ 85331-6492.
55. that no evidence or documents have been presented to me, Elmer P. Vild, by anyone which would establish that Maria D. Forman continues to have full enjoyment of the property real property at 5640 East Duane Lane, Cave Creek, AZ 85331-6492.
56. that no evidence or documents have been presented to me, Elmer P. Vild, by anyone which would establish that Howard and Maria D. Forman exchanged and/or transferred the real property at 5640 East Duane Lane, Cave Creek, AZ 85331-6492 to D L P LT13 with a specific intent on the part of Howard or Maria D. Forman to evade or defeat the payment of a known tax liability.
57. that the contractual entity known as D L P LT13 was created for the material purposes of estate planning, avoiding probate, privacy (as stated above), asset protection, conservation, plus receiving and holding assets for the benefit of the Beneficiary(s) and has been updated through revisions, amendments and supplements to reflect the original purposes in more detail.
58. that I, Elmer P. Vild, aka, Phillip O'Neil control the property located at 5640 East Duane Lane, Cave Creek, AZ 85331-6492 and do not take instructions or orders from anyone while exercising my control of the property.


- 59. that Maria D. Forman has lived at the said property from time to time only at the pleasure of the trustee(s) of D L P LT13 and may be removed at any time.
- 60. that any person occupying or living at the said property may make suggestions but that all major decisions are made by the Trustee and are final.

By: Elmer P. Vild, aka, Phillip O'Neil


Affiant

Before me, a Notary Public authorized to take acknowledgments in the State and County set forth above, personally appeared Elmer P. Vild, aka, Phillip O'Neil known to me to be the person who executed this document this 8th day of June, 2010.




Notary Public

My Commission Expires: _____