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

11 United States of America,

12 Plaintiff,

13 v.

14 Maria D. Forman et al.,

15 Defendants.
16

Civil No. 09-CV-444-PHX-SRB

UNITED STATES' RESPONSE IN
OPPOSITION TO TRUSTEE ELMER P.
VILD'S MOTION FOR DISMISSAL
UNDER RULE 12(B)

17 The United States of America, through undersigned counsel, hereby responds to
18 Trustee Elmer P. Vild's Motion for Dismissal under Rule 12(b) (Doc. No. 89) as follows:

19 Trustee Vild renews his contention that that the Court lacks jurisdiction over the
20 case. However, as stated in the United States' previous pleadings, the jurisdictional
21 basis for this case is clearly set forth as required in both the Complaint and the
22 Amended Complaint. See Compl. ¶¶2-3; Am. Compl. ¶¶2-3. This Court has repeatedly

1 confirmed its jurisdiction over this case. *See* Order dated Feb. 5, 2010 (Doc. No. 61) and
2 Order dated April 21, 2010 (Doc. No. 88).

3 Although Trustee Vild argues that DLP LT 13 is not subject to the jurisdiction of
4 this court, he does not raise any “facts which would cause this Court to question its
5 jurisdiction.”¹ *See* Order dated Feb. 5, 2010 (Doc. No. 61). Indeed, he admits that DLP
6 LT 13 purports to hold an interest in the real property at issue in this case; it is thus
7 manifestly a proper party, and the United States properly included DLP LT 13 as a
8 defendant.

9 For the foregoing reasons, the United States respectfully requests that Defendant
10 Trustee Elmer P. Vild’s Motion for Dismissal under Rule 12(b) (Doc. No. 89) be denied.

11 Respectfully submitted this 28th day of June, 2010.

12 DENNIS K. BURKE
13 United States Attorney

14 By: /s/ Alexis V. Andrews
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20 ¹ The cases cited by Trustee Vild often do not contain the language quoted in the Motion. *See, e.g., Main v.*
21 *Thiboutot*, 100 S.Ct. 2502 (1980). In addition, some of the cases refer to *diversity jurisdiction*, which must be
22 proved, *see, e.g., Town of Lantana Fla. v. Hopper*, 102 F.2d 118 (5th Cir. 1939); as opposed to jurisdiction
under 28 U.S.C. § 1345 (United States as plaintiff), which is the jurisdictional basis for this case. *See*
Compl. at ¶ 3, Am. Compl. at ¶ 3, Sec. Am. Compl. at ¶ 3. It appears that Trustee Vild lifted much of the
jurisdiction argument from materials available on various tax defier websites. *See, e.g.,*
<http://irwinschiff.homestead.com/jurisdictioncases.html> (Irwin Schiff is a noted tax defier currently
imprisoned for tax crimes) (text of website attached hereto as Exhibit A).

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing TRUSTEE ELMER P. VILD'S MOTION FOR DISMISSAL UNDER RULE 12(B) has been made this 28th day of June, 2010, by placing copies in the U. S. Mail addressed to the following:

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