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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,

Plaintiffs,

v.

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

Defendants.

Civ. No. 10-CV-08142-JWS

**MEMORANDUM IN SUPPORT OF
THE UNITED STATES' MOTION TO
STRIKE THE ANSWER FILED BY
EXETER TRINITY PROPERTIES
L.L.C.**

This memorandum is filed in support of the United States' Motion to Strike the Answer filed by Exeter Trinity Properties, L.L.C. on September 13, 2010.

I.

STATEMENT AND DISCUSSION

In its September 10, 2010 order, the Court ruled that Elmer P. Vild, “who is not known to be a lawyer,” can not represent defendant Exeter Trinity Properties LLC (hereafter “Exeter”) in this matter. In support of its ruling, the Court relied on *Rowland v. California Men’s Colony*, 506 U.S. 194, 201-02 (1993) which stands for the proposition that corporations and other artificial entities may appear in federal courts only through licensed counsel.

On September 13, 2010, Mr. Vild filed a document titled “Verified Answer and Affirmative Defenses” (hereafter “the answer”) on behalf of Exeter. Mr. Vild signed the answer on September 11, 2010. The answer should be stricken based on the Court’s September 10, 2010 order since it was not signed by a licensed counsel.

Regarding Mr. Vild, it should be noted that he apparently sometimes acts under the name “Phillip O’Neil,” which is the trade name that he registered with the Maricopa County, Arizona Recorder’s Office in 1996.¹ The trade name is relevant since Phillip O’Neil is listed as “trustee” of the Golden Kiwi Trust, which is a “member” of Exeter.²

Mr. Vild has apparently also litigated two court cases against Arizona State Court

¹See Exhibit B (titled “Affidavit of Trade Name Use”) attached to the Declaration of Charles M. Duffy (“the Duffy declaration”), which is filed herewith.

²See Exhibit A attached to the Duffy declaration, which is a copy of the Articles of Amendment filed with the Arizona Corporation Commission on or about March 18, 2008 on behalf of Exeter.

Judges³ and he has litigated other federal cases as well.⁴

CONCLUSION

The Court should strike Exeter's Answer that was filed on September 13, 2010.

DATED this 22nd day of September, 2010.

DENNIS K. BURKE
United States Attorney

/s/ Charles M. Duffy
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³See *Vild v. Judge Armando de Leon*, 1996 WL 154441 (9th Cir. 1996) and *Vild v. Judge C. Kimball Rose and Judge Alan S. Kamin*, 1997 WL 345154 (9th Cir. 1997).

⁴See *Vild v. Internal Revenue Service*, 1996 WL 265803 (D. Ariz. 1996) and *Vild v. United States*, 1999 WL 503833 (9th Cir. 1999).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of September, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and certify that I have mailed by U.S. Postal Service the foregoing to the following non-CM/ECF participants:

Exeter Trinity Properties L.L.C.
1001 S. 6th Street
Cottonwood, Arizona 86326

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/s/ Charles M. Duffy
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