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10
11 IN THE UNITED STATES DISTRICT COURT
12 DISTRICT OF ARIZONA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

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

17 Defendants.
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Civ. No. 10-CV-08142-JWS

**UNITED STATES' OPPOSITION TO
EXETER'S MOTION TO JOIN AND
MOTION TO SUBSTITUTE**

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21 In its complaint, the United States alleged *inter alia* that the Joseph and Eileen Lipari (“the
22 Liparis”) fraudulently transferred their residence to Exeter Trinity Properties, L.L.C. (“Exeter”), an
23 entity that they were connected to, to avoid paying their federal income tax liabilities. The United
24 States filed a summary judgment motion earlier in this case and Exeter was able to defeat it by
25 arguing that the transfer was effectuated in the context of alleged estate planning by the Liparis.

26 Recently, Exeter filed a motion to join and substitute Timeless Windsor Ventures, a Nevada
27 Trust (“Windsor”) as a party. The motion is based on the assertion that approximately two weeks
28 ago, Exeter purportedly transferred the subject residence to Windsor, which is controlled by

1 individuals (*i.e.*, Elmer Vild and Terry Major) who, like the Liparis, have a history of taking
2 frivolous positions regarding federal taxes. *See* U.S. memorandum in support filed on December 1,
3 2011, at 2:17-25, 9:15-19 and 10:3-10 (describing such positions).

4 Under the facts here, the United States opposes Exeter's motions to join and substitute
5 Windsor. As a preliminary matter, it appears that the Liparis nor Eileen Lipari's estate have anything
6 to do with Windsor, which undercuts Exeter's position that the transfer of the residence was done
7 for the estate planning purposes of the Liparis. The purported transfer is no doubt another scheme
8 by Vild and Major to try to create more distance between the Liparis' federal tax obligations and the
9 residence.

10 This is not a proper use of Federal Rule of Civil Procedure 25(c), which allows substitution
11 in certain instances where a legitimate transfer occurs during the pendency of a court case. Also,
12 there would be no prejudice to Exeter or Windsor if the motions are denied since if Exeter prevails
13 on the foreclosure claim herein it could effectuate a transfer of the property at that point.

14 If the Court allows joinder and substitution, the United States requests in the alternative that
15 the Court re-open discovery so that facts concerning Windsor, the recent transfer and the control that
16 Windsor's trustees have over that trust can be ascertained. Otherwise, the United States would be
17 disadvantaged at a trial in this matter.

18 Based on their June 14, 2012 motion (at 3), it is notable that if the requested relief is granted,
19 the trustees of Windsor apparently intend to try to represent that trust themselves even though they
20 are not attorneys and even though the Court previously ordered that Exeter, which is also a trust, had
21 to be represented by counsel. *See* the Court's September 10, 2010 order. If Windsor is allowed to
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1 become a party here, the Court should also order that it needs to obtain counsel.

2 DATED this 18th day of June, 2012.

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

6
7 By: /s/ Charles M. Duffy
CHARLES M. DUFFY
8 Trial Attorney, Tax Division

9 Of Counsel:

10 ANN SCHEEL
Acting United States Attorney
11 (Attorneys for the United States)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of June, 2012, I served the following attorney of record using the Court's CM/ECF system:

John Friedeman, P.C.
5103 E. Thomas Road
Phoenix, Arizona 85018

I further certify that on the same day, I mailed by U.S. Postal Service the foregoing to the following party who is not represented by counsel:

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

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