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14 IN THE UNITED STATES DISTRICT COURT
15 DISTRICT OF ARIZONA

16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 JAMES LESLIE READING, ET AL.

20 Defendants.

Civ. No. 11-0698-PHX-FJM

**UNITED STATES' AMENDED
OPPOSITION TO CORRECTED
MOTION TO THE MOTION TO
COMPEL FILED BY JAMES AND
CLARE READING AND THE FOX
GROUP TRUST**

21 James and Clare Reading have taken various frivolous positions previously in federal tax
22 cases. *See e.g.*, Exhibits A, B and E to the Declaration of Charles Duffy ("Duffy Dec.") filed on
23 April 10, 2012. They also have clearly expressed that compensation earned by James Reading, such
24 as the over \$117,000 that he received in 1995, is not subject to federal income taxes. *See* Duffy Dec.
25 Ex. C, at 2-3 and Ex. D (Form 1099-MISC produced in this case by third party Pilot Catastrophe).

26 The Readings and the Fox Group Trust recently filed a motion to compel regarding the
27 Government's responses to two sets of interrogatories and requests for production of documents that
28 they served. Previously, on March 2, 2012, the United States responded to the interrogatories
pursuant to Federal Rule of Civil Procedure 33(d) by citing to specific documents that it produced.

1 It also raised various proper objections to the referenced discovery.

2 In their corrected motion to compel (at ¶ 3), the Readings/Trust contend that the United States
3 “has failed and refused to answer any of the interrogatories and has failed and refused to produce any
4 of the requested documents, numerous and extensive efforts by Readings' counsel to persuade
5 plaintiff otherwise.” That allegation is false. The Government has been more than responsive to the
6 discovery but the Readings/Trust refuse to analyze the documents that were produced to them. In
7 a letter dated March 9, 2012 (Exhibit 3 in court docket number 40-1, at 2), the Government provided
8 specific examples of how the documents produced are responsive to the discovery requests in
9 question and also gave other explanatory information about other discovery that was requested, such
10 as that the Internal Revenue Code’s notice of deficiency procedures (that the Readings/Trust are
11 focused on) do not apply to the twenty-one frivolous return penalty assessments that are at issue in
12 the fourth and fifth claims in the complaint. Examples of responsive documents that were produced
13 are attached as Exhibits C, G, H, I, J, K, L and O to the Duffy Declaration. Because of their general
14 refusal to fully consider the documents and other information that were provided to them, the
15 Readings/Trust have not conferred in good faith and it is also notable that it appears that they failed
16 to submit a certification under Rule 37(a)(1) of good faith conferral.

17 For all of the reasons set forth above, the motion to compel should be denied.

18 DATED this 30th day of April, 2012.

19
20 KATHRYN KENEALLY
21 Assistant Attorney General, Tax Division
22 U.S. Department of Justice

23 By: /s/ Charles M. Duffy
24 CHARLES M. DUFFY
25 Trial Attorney, Tax Division

26 Of Counsel:
27 ANN SCHEEL
28 Acting United States Attorney

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of April, 2012, I served the foregoing through the Court’s electronic filing system:

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