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11 *Attorneys for the United States of America*

12 ANN SCHEEL
13 Acting United States Attorney
14 District of Arizona
15 *Of Counsel*

16 IN THE UNITED STATES DISTRICT COURT
17 DISTRICT OF ARIZONA

18 UNITED STATES OF AMERICA,

19 Plaintiffs,

20 v.

21 JAMES LESLIE READING, CLARE L.
22 READING, FOX GROUP TRUST,
23 MIDFIRST BANK, CHASE, FINANCIAL
24 LEGAL SERVICES, STATE OF ARIZONA

25 Defendants.

Civ. No. 11-0698-PHX-FJM

DECLARATION OF ELIZABETH MARRIAGA

26 I, ELIZABETH MARRIAGA, declare that:

- 27 1. I am a Revenue Agent for the Internal Revenue Service (“IRS”) in Mesa, Arizona.
- 28 2. As part of my duties as an IRS Revenue Agent, I have personal knowledge concerning facts, described below, relating to James Reading and Clare Reading (hereafter “the Readings”).

1 3. As part of my official duties, I made adjustments to assessments made for the 1994
2 income tax year of Clare Reading and the 1993 and 1994 income tax years of James Reading.

3 4. The adjustments were made in 2011 based on information that was presented to the IRS
4 after the due dates of the returns for 2003 and 2004 by one or both of the Readings concerning
5 certain stock transactions in those years.

6 5. Attached hereto as Exhibit A is a copy of IRS Form 4549 that I prepared in or about
7 April, 2011 that relates to the adjustments that I made regarding Clare Reading's 2004 tax year.
8 Exhibit C is a true and correct copy of the corrected IRS Form 4549 that I prepared in early May,
9 2012 regarding Clare Reading's 2004 tax year. Based on Exhibit C, Clare Reading's tax liability for
10 2004 was decreased by \$2,916.00. *See* Exhibit C, page 1 (line 16).

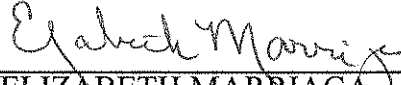
11 6. Attached hereto as Exhibit B is a copy of IRS Form 4549 that I prepared in or about
12 April, 2011 that relates to the adjustments that I made regarding James Reading's 2003 and 2004 tax
13 years. Based on Exhibit B, James Reading's 2003 tax liability was decreased by \$32,866.00 and his
14 2004 tax liability was decreased by \$3,092.00. *See* Exhibit B, page 1 (line 16).

15 7. Attached hereto as Exhibits D and F (Attachment B) are copies of supporting
16 documents that relate to the IRS Form 4549, a copy of which is attached hereto as Exhibit C.

17 8. Attached hereto as Exhibits E and F (Attachments A and B) are copies of supporting
18 documents that relate to the IRS Form 4549, a copy of which is attached hereto as Exhibit B.

19 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
20 correct.

21
22 5-3-2012
23 Date

24 
25 ELIZABETH MARRIAGA
26 IRS Revenue Agent
27 Mesa, Arizona
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of May, 2012, I served the foregoing through the Court’s electronic filing system:

ROBERT P. VENTRELLA
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007-2926

PAUL M. LEVINE, ESQUIRE
LAKSHMI JAGANNATH, ESQUIRE
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/s/ Charles M. Duffy
Charles M. Duffy
Trial Attorney, Tax Division
U.S. Department of Justice

EXHIBITS TO SECOND DECLARATION OF ELIZABETH MARRIAGA (INDEX)

- | | |
|------------|--|
| Exhibit A | IRS Examination changes for Clare Reading's 1994 year. |
| Exhibit B | IRS Examination changes for James Reading's 1993 and 1994 years. |
| Exhibit C | IRS Examination changes for Clare Reading's 1994 year (corrected). |
| Exhibit D | Capital Gains Lead Sheet (Clare Reading) |
| Exhibit E | Capital Gains Lead Sheet (James Reading) |
| Exhibits F | Attachments A and B |

Marriaga Declaration Exhibit A

Form **4549**
(Rev. May 2008)

Department of the Treasury-Internal Revenue Service
Income Tax Examination Changes

Page 1 of 2

Name and Address of Taxpayer

CLARE L READING

Taxpayer Identification Number

4550

Return Form No.:

1040

Person with whom examination changes were discussed.

Name and Title:



1. Adjustments to Income	Period End 12/31/1994	Period End	Period End
a. Capital Gain or Loss	(8,022.00)		
b. Exemptions	(294.00)		
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
o.			
p.			
2. Total Adjustments	(8,316.00)		
3. Taxable Income Per Return or as Previously Adjusted	84,971.00		
4. Corrected Taxable Income	76,655.00		
Tax Method	TAX TABLE		
Filing Status	Married Separate		
5. Tax	20,255.00		
6. Additional Taxes / Alternative Minimum Tax			
7. Corrected Tax Liability	20,255.00		
8. Less a.			
Credits b.			
c.			
d.			
9. Balance (Line 7 less Lines 8a through 8d)	20,255.00		
10. Plus a.			
Other b.			
Taxes c.			
d.			
11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d)	20,255.00		
12. Total Tax Shown on Return or as Previously Adjusted	23,243.00		
13. Adjustments to: a.			
b.			
c.			
14. Deficiency-Increase in Tax or (Overassessment-Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c)	(2,988.00)		
15. Adjustments to Prepayment Credits - Increase (Decrease)			
16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Excluding interest and penalties)	(2,988.00)		

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Name of Taxpayer: CLARE L READING
 Taxpayer Identification Number: [REDACTED]-4550
 Return Form No.: 1040

17. Penalties/ Code Sections	Period End 12/31/1994	Period End	Period End
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
18. Total Penalties			
Underpayment attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underpayment attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underpayment attributable to Tax Motivated Transactions (TMT). The interest will accrue and be assessed at 120% of the underpayment rate in accordance with IRC §6621(c)		0.00	
19. Summary of Taxes, Penalties and Interest:			
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)		(2,988.00)	
b. Penalties (Line 18) - computed to 04/12/2011			
c. Interest (IRC § 6601) - computed to 05/12/2011		0.00	
d. TMT Interest - computed to 05/12/2011 (on TMT underpayment)		0.00	
e. Amount due or (refund) - (sum of Lines a, b, c and d)		(2,988.00)	

Other information:

Examiner's Signature: Elizabeth A. Marriaga
 Employee ID: [REDACTED]
 Office: Mesa, AZ
 Date: 04/12/2011

Consent to Assessment and Collection- I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

PLEASE NOTE: If a joint return was filed, BOTH taxpayers must sign

Signature of Taxpayer: _____ Date: _____
 Signature of Taxpayer: _____ Date: _____

By: _____ Title: _____ Date: _____

Marriaga Declaration Exhibit B

Form 4549 (Rev. May 2008)		Department of the Treasury-Internal Revenue Service Income Tax Examination Changes		Page <u>1</u> of <u>2</u>
Name and Address of Taxpayer JAMES L READING		Taxpayer Identification Number [REDACTED] 8531		Return Form No.: 1040
		Person with whom examination changes were discussed.	Name and Title:	
1. Adjustments to Income		Period End 12/31/1993	Period End 12/31/1994	Period End
a. Capital Gain or Loss		(86,103.59)	(7,807.00)	
b. Exemptions		(2,350.00)		
c.				
d.				
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
o.				
p.				
2. Total Adjustments		(88,453.59)	(7,807.00)	
3. Taxable Income Per Return or as Previously Adjusted		158,749.00	159,567.00	
4. Corrected Taxable Income		70,295.00	151,760.00	
Tax Method		TAX TABLE	TAX RATE	
Filing Status		Married Separate	Married Separate	
5. Tax		18,063.00	48,249.00	
6. Additional Taxes / Alternative Minimum Tax				
7. Corrected Tax Liability		18,063.00	48,249.00	
8. Less	a.			
Credits	b.			
	c.			
	d.			
9. Balance (Line 7 less Lines 8a through 8d)		18,063.00	48,249.00	
10. Plus	a. Self Employment Tax	3,666.00	11,708.00	
Other	b.			
Taxes	c.			
	d.			
11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d)		21,729.00	59,957.00	
12. Total Tax Shown on Return or as Previously Adjusted		54,595.00	63,049.00	
13. Adjustments to:	a.			
	b.			
	c.			
14. Deficiency-Increase in Tax or (Overassessment-Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c)		(32,866.00)	(3,092.00)	
15. Adjustments to Prepayment Credits - Increase (Decrease)				
16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Excluding interest and penalties)		(32,866.00)	(3,092.00)	



The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Form 4549 (Rev. May 2008)	Department of the Treasury-Internal Revenue Service Income Tax Examination Changes	Page <u>2</u> of <u>2</u>	
Name of Taxpayer JAMES L READING	Taxpayer Identification Number [REDACTED] 8531	Return Form No.: 1040	
17. Penalties/ Code Sections	Period End 12/31/1993	Period End 12/31/1994	Period End
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
18. Total Penalties			
Underpayment attributable to negligence: (1981-1987) <i>A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.</i>			
Underpayment attributable to fraud: (1981-1987) <i>A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.</i>			
Underpayment attributable to Tax Motivated Transactions (TMT). The interest will accrue and be assessed at 120% of the underpayment rate in accordance with IRC §6621(c)	0.00	0.00	
19. Summary of Taxes, Penalties and Interest:			
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)	(32,866.00)	(3,092.00)	
b. Penalties (Line 18) - computed to 04/11/2011			
c. Interest (IRC § 6601) - computed to 05/11/2011	0.00	0.00	
d. TMT Interest - computed to 05/11/2011 (on TMT underpayment)	0.00	0.00	
e. Amount due or (refund) - (sum of Lines a, b, c and d)	(32,866.00)	(3,092.00)	

Other Information:

Examiner's Signature: Elizabeth A. Marriaga	Employee ID: [REDACTED]	Office: Mesa, AZ	Date: 04/11/2011
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Consent to Assessment and Collection- I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

PLEASE NOTE: If a joint return was filed, BOTH taxpayers must sign.			
Signature of Taxpayer	Date:	Signature of Taxpayer	Date:
By:		Title:	Date:

Marriaga Declaration Exhibit C

Form **4549**
(Rev. May 2008)

Department of the Treasury Internal Revenue Service

Income Tax Examination Changes

Page 1 of 2

Name and Address of Taxpayer

Taxpayer Identification Number

Return Form No.:

CLARE L READING

██████████ - 4550

1040

Person with whom examination changes were discussed.

Name and Title:

1. Adjustments to Income	Period End 12/31/1994	Period End	Period End
a. Capital Gain or Loss	(7,807.00)		
b. Exemptions	(294.00)		
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
o.			
p.			
2. Total Adjustments	(8,101.00)		
3. Taxable Income Per Return or as Previously Adjusted	84,971.00		
4. Corrected Taxable Income	76,870.00		
Tax Method	TAX TABLE		
Filing Status	Married Separate		
5. Tax	20,327.00		
6. Additional Taxes / Alternative Minimum Tax			
7. Corrected Tax Liability	20,327.00		
8. Less Credits			
a.			
b.			
c.			
d.			
9. Balance (Line 7 less Lines 8a through 8d)	20,327.00		
10. Plus Other Taxes			
a.			
b.			
c.			
d.			
11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d)	20,327.00		
12. Total Tax Shown on Return or as Previously Adjusted	23,243.00		
13. Adjustments to:			
a.			
b.			
c.			
14. Deficiency Increase in Tax or (Overassessment Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c)	(2,916.00)		
15. Adjustments to Prepayment Credits Increase (Decrease)			
16. Balance Due or (Overpayment) (Line 14 adjusted by Line 15) (Excluding interest and penalties)	(2,916.00)		



The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120 day period.

Form **4549**
(Rev. May 2008)

Department of the Treasury Internal Revenue Service

Income Tax Examination Changes

Page 2 of 2

Name of Taxpayer
CLARE L READING

Taxpayer Identification Number
[REDACTED]-4550

Return Form No.:
1040

17. Penalties/ Code Sections	Period End 12/31/1994	Period End	Period End
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
18. Total Penalties			
Underpayment attributable to negligence: (1981 1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underpayment attributable to fraud: (1981 1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underpayment attributable to Tax Motivated Transactions (TMT). The interest will accrue and be assessed at 120% of the underpayment rate in accordance with IRC §6621(c)	0.00		
19. Summary of Taxes, Penalties and Interest:			
a. Balance due or (Overpayment) Taxes (Line 16, Page 1)	(2,916.00)		
b. Penalties (Line 18) computed to 05/01/2012			
c. Interest (IRC § 6601) computed to 05/31/2012	0.00		
d. TMT Interest computed to 05/31/2012 (on TMT underpayment)	0.00		
e. Amount due or (refund) (sum of Lines a, b, c and d)	(2,916.00)		

Other Information:

Examiner's Signature: ELIZABETH A MARRIAGA	Employee ID: [REDACTED]	Office:	Date: 05/01/2012
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Consent to Assessment and Collection I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

PLEASE NOTE: If a joint return was filed, **BOTH** taxpayers must sign

Signature of Taxpayer	Date:	Signature of Taxpayer	Date:
By:		Title:	Date:

Marriaga Declaration Exhibit D

Taxpayer Name: READING, CLARE L

Examiner: Marriaga, Elizabeth

TIN: [REDACTED]-4550

Tax Form: 1040

Date: April 8, 2011

Tax Year (s): 199312, 199412

Capital Gains Lead Sheet

Tax Period	Per Return	Per Exam	Adjustment	Reference
199412	11,948.00	4,140.53	(7,807.47)	Attachment B

Conclusion: *(Reflects the final determination on the issue.)*

Upon collection enforcement, Clare Reading provided support for basis in her stock sales from American Services Company. 1994 STCG is adjusted per Attachment B. 1993 was considered; however, since there is no tax assessed or collected due to CSED, no adjustment is being pursued for that module.

Law: *(Tax Law, Regulations, court cases, and other authorities. If Unagreed.)*

IRC Section: 1202, 1211 & 1212

Specific citations:

Taxpayer Position: *(If applicable)*



Marriaga Declaration Exhibit E

Taxpayer Name: READING, JAMES L
 TIN: ██████████-8531
 Tax Form: 1040
 Tax Year (s): 199312, 199412

Examiner: Marriaga, Elizabeth
 Date: April 7, 2011

Capital Gains Lead Sheet				
Tax Period	Per Return	Per Exam	Adjustment	Reference
199312	85,869.00	(214.59)	(86,103.59)	
199412	11,948.00	4,140.53	(7,807.47)	
Conclusion: <i>(Reflects the final determination on the issue.)</i>				
<p>Under Collection Enforcement, James Reading provided support for his stock sales from American Services Company. 1993 and 1994 STCG are adjusted per Attachments A and Attachment B.</p>				
Law: <i>(Tax Law, Regulations, court cases, and other authorities. If Unagreed, include Argument.)</i>				
IRC Section: 1202, 1211 & 1212				
Specific citations:				
Taxpayer Position: <i>(If applicable)</i>				



Marriaga Declaration Exhibit F

Reading
1993 Form 1040

1993 Capital Gains

eam
4-8-11

Clare Reading Prior Adjustment	Clare Reading Recon	Clare Reading Adjustment	James Reading Prior Adjustment	James Reading Recon	James Reading Adjustment
84,167.00	(214.59)	84,381.59	85,889.00	(214.59)	86,103.59

American Cap Funds Detail						
Date	Buy	Sell	Gain	Loss	STCG	Other
04/30/93	18,000.00					
05/03/93	17.00					
05/21/93		16,597.11		(1,419.89)		
05/24/93					968.70	
05/29/93	17,630.39					
06/01/93	11.58					
08/04/93		17,587.45		(54.52)		
08/30/93	17,587.45					
08/31/93	31.37					
09/07/93		17,510.33		(108.49)		
09/27/93	17,510.33					
09/28/93	23.25					
10/14/93		17,826.68	293.10			
10/27/93	7,826.68					
10/28/93	10.69					
11/22/93		6,864.95		(972.42)		
11/22/93				whiteout	18.74	754.44
11/29/93	7,688.89					
11/30/93	3.60					
12/14/93		7,783.65	91.16			
Multiple	Cash Management Trust					
***	Total Gain (Loss)		384.26	(2,555.32)	987.44	754.44
						(429.18)

Government Exhibit
MarriagaExF

1993 Capital/Gain Loss	(429.18)
Community Property 1/2	(214.59)
Allocation to Each	<u>(214.59)</u>

Attachment A

eam
4-08-11

1994 Capital Gain (Loss) Computation

Reading
1994 Form 1040

	James R	Clare R
Per Prior Adjustment	11,948.00	11,948.00
Per Reconsideration Adjustment	4,140.53	4,140.53
	<u>7,807.47</u>	<u>7,807.47</u>

American Cap Funds

Date	Buy	Sell	Gain	Loss	STCG	Total	
12/17/93	7,783.65						
12/20/93	1.63						
02/14/94		40.41					
02/18/94		7,809.98	65.11				
02/22/94					6.00		
02/23/94	7,809.98	28.31					
03/03/94		7,660.93		(149.05)			
Multiple	Cash Management Trust						
<hr/>							
Total Gain (Loss)					65.11	(149.05)	6.00
<hr/>						<u>(77.94)</u>	

	Per Adjustment	Per Re-consideration
Merrill Lynch Pierce Fenner & Smith	8,359.00	8,359.00
American Services Company	15,537.00	(77.94)
	<u>23,896.00</u>	<u>8,281.06</u>
Less Allocation to Spouse:	(11,948.00)	(4,140.53)
	<u>11,948.00</u>	<u>4,140.53</u>

Attachment B