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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

**UNITED STATES' MOTION TO STRIKE
NOTICE OF APPEARANCE BY THE
TRUSTEE OF THE FOX GROUP TRUST**

26 On June 28, 2012, the Trustee of the Fox Group Trust (“the trust”), Terry I. Major, filed a
27 notice of appearance on behalf of the trust and seeks to represent the trust in this matter. It is well
28 accepted under federal law that the trust must be represented by a duly qualified attorney to proceed
in this case. *See C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697-98 (9th Cir. 1987);
Knoefler v. United Bank of Bismarck, 20 F.3d 347, 348 (8th Cir. 1994). In *C. E. Pope*, the United
States Court of Appeals for the Ninth Circuit confronted an Oregon statute that is similar in pertinent
part to the Arizona statute that Mr. Major is relying on and pointed out that “[n]owhere in the
statutory authority to prosecute claims for the protection of trust assets [quoting the Oregon statute]

1 can be found authority for a nonlawyer to represent a trust.” *C. E. Pope. supra.*, at 698. Thus, Mr.
2 Major - who is admittedly not an attorney - cannot represent the trust in this case and his notice of
3 appearance should be stricken or otherwise denied.

4 Regarding Mr. Major, it should also be noted that he filed a petition with the United States
5 Tax Court in which he argued that amounts received in exchange for computer work that he
6 performed was not “taxable income compensation.” *See Major v. Commissioner*, 2005 WL 1405978
7 *2 (U.S. Tax Court 2005). In that case, the Tax Court described Mr. Major’s arguments as “tax
8 protester arguments.” *Id.*, at *3. Mr. Major is also a trustee of a trust at issue in a federal tax case
9 in this District (*United States v. Lipari, et al.*, Civil Number 10-08142) in which the United States
10 is seeking to foreclose its federal tax liens on a residence that was purchased and lived in by
11 taxpayers at issue therein. *See* Exhibit A attached hereto, at 3 and the “Sales Agreement” attached
12 thereto.

13 DATED this 29th day of June, 2012.

14
15 KATHRYN KENEALLY
16 Assistant Attorney General, Tax Division
17 U.S. Department of Justice

17 By: /s/ Charles M. Duffy
18 CHARLES M. DUFFY
19 Trial Attorney, Tax Division

20 Of Counsel:
21 ANN SCHEEL
22 Acting United States Attorney

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 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
McCarthy, Holthus, Levine Law Firm
8502 E. Via de Ventura, Suite 200
Scottsdale, Arizona 85258

TOMMY K. CRYER
Attorney at Law
7330 Fern Avenue
Shreveport, Louisiana 71105

I also certify that on this 29th day of June, 2012, I served the foregoing on the undersigned by first class mail:

James Leslie Reading
Clare Louise Reading
2425 East Fox Street
Mesa, Arizona 85213

Fox Group Trust
P. O. Box 2023
Cottonwood, Arizona 86326

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



1 JOHN FRIEDEMANN, P.C. (#3607)
2 5103 E. Thomas Road
3 Phoenix, Arizona 85018
4 (602) 840-0314
5 e-mail: john@friedeman.com
6 Attorney for Exeter Trinity Properties

7 **IN THE UNITED STATES DISTRICT COURT**
8 **DISTRICT OF ARIZONA**

<p>7 UNITED STATES OF AMERICA,</p> <p>8 Plaintiffs,</p> <p>9 vs.</p> <p>10 JOSEPH J. LIPARI, EILEEN H. LIPARI and EXETER TRINITY PROPERTIES, 11 L.L.C.,</p> <p>12 Defendants.</p>	<p>No. 3:10-CV-08142 JWS</p> <p>MOTION TO JOIN and MOTION TO SUBSTITUTE</p> <p>Honorable John W. Sedwick</p>
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13 Defendant Exeter Trinity Properties, LLC, [Exeter] respectfully requests that
14 Timeless Windsor Ventures [Windsor], a Nevada trust, be joined as a party Defendant. It is
15 further requested that Exeter either be dismissed as a party defendant or that Windsor be
16 substituted as a party defendant in its stead. These Motions are supported by the attached
17 Memorandum.

18 Dated: June 14, 2012.

19 RESPECTFULLY SUBMITTED,

20 /s/

21 John Friedeman
22 5103 E. Thomas Road
23 Phoenix, AZ 85018
24 Attorney for Defendant Exeter

25 **MEMORANDUM OF POINTS AND AUTHORITIES**

26 Defendant Exeter Trinity Properties, LLC ,(Exeter) has reached a point beyond
which it is unable to financially continue in this litigation. Therefore, for the purpose of
defending the rights of the beneficiary of the trusts that constitute the members of Exeter,

JOHN FRIEDEMANN, P.C.
5103 East Thomas Road
Phoenix, Arizona 85018-7914
(602) 840-0314

1 Exeter has sold its interest in the subject real property to Timeless Windsor Ventures
2 (Windsor).

3 Windsor has purchased Exeter's interest in the subject real property subject to
4 this lawsuit and Notices of Federal Tax Lien currently clouding the title to said property. A
5 copy of the Sales Agreement between Exeter and Windsor and a copy of the Deed
6 transferring legal title to the subject property to Windsor are attached to this Motion. This
7 purchase is not intended to delay or confuse these proceedings. Its sole purpose is to preserve
8 the rights of the beneficiary by clearing the cloud on the title. Windsor intends to proceed to
9 trial.

10 The only beneficiary of Windsor is the Guiding Eyes for the Blind, which is the
11 same beneficiary named by the two trusts that are the only members of Exeter. The
12 beneficiary's rights are the prime concern of Windsor and of the trustees that will be acting
13 on behalf of Windsor. According to Windsor's Trust documents, any of its trustees may
14 represent the trust in litigation, as may be required.

15 Windsor has paid reasonable compensation sum to Exeter to acquire Exeter's
16 interest in the subject real property.

17 The expense of trial would be unbearable to Exeter, and thus the Court is
18 requested to accept the substitution of Windsor for Exeter.

19 Pursuant to Rule 25(c) of the Federal Rules of Civil Procedure:

20 If an interest is transferred, the action may be continued by or against the
21 original party unless the court, on motion, orders the transferee to be substituted
in the action or joined with the original party.

22 Windsor is requesting that it be substituted as a party defendant for Exeter pursuant to Rule
23 25(c) by virtue of its purchase of Exeter's interest in the subject real property. Windsor
24 intends to be represented in this action by its trustees.

25 A.R.S. § 14-10815(A)(1) states in relevant part: "A trustee, without
26 authorization by the court, may exercise powers conferred by the terms of the trust."

JOHN FRIEDEMANN, P.C.
5103 East Thomas Road
Phoenix, Arizona 85018-7914
(602) 840-0314

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A.R.S. § 14-10816(24) states in relevant part: “Without limiting the authority conferred by section 14-10815, a trustee may: . . . 24. Prosecute or defend an action, claim or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties.”

Windsor requests this substitution, regardless of whether it will be represented by its trustees.

Regardless of the rulings on these Motions, Exeter has consented that the undersigned may withdraw as attorney of record. Windsor will not retain the undersigned.

The address and telephone of Windsor are:

P.O. Box 2023
Cottonwood, AZ 86326
928-634-7023

The Trustees of Windsor are:

Elmer P. Vild
Terry I. Major
Mike Macek

Dated: June 14, 2012.

RESPECTFULLY SUBMITTED,

/s/

John Friedeman
5103 E. Thomas Road
Phoenix, AZ 85018
Attorney for Exeter Trinity Properties, LLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this December 22, 2011, I electronically filed the foregoing with the Clerk of Court and served the following attorney of record using the CM/ECF system:

Charles M. Duffy
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044-0683

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 Lipari
156 Johnson Hill Drive
Waynesville, NC 28786
Defendant, pro per

/s/

John Friedeman

JOHN FRIEDEMANN, P.C.
5103 East Thomas Road
Phoenix, Arizona 85018-7914
(602) 840-0314

SALES AGREEMENT

Seller: Exeter Trinity Properties LLC

Buyer: Timeless Windsor Ventures

Whereas **Exeter Trinity Properties LLC** is an Arizona Limited Liability Company, and **Timeless Windsor Ventures** is an irrevocable Trust formed in Nevada and operating in Arizona, and

Whereas Exeter owns the real property located at **1001 S. 6th St., Cottonwood, AZ 86326**, and legally described as:

The West one-half of the West one-half of Lot 9, VERDE PALISADES, Plat 2, according to the plat of record on file in the Office of the County Recorder of Yavapai County, Arizona, in Book 7 of Maps, page 31,

and,

Whereas, **Windsor is willing to step into the shoes of Exeter** by purchasing the land and substituting as a defendant in the litigation, with the intention of realizing a profit from the land,

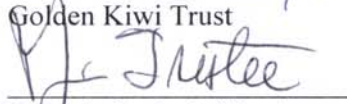
IT IS THEREFORE AGREED, by and between the parties undersigned as follows:

1. **Windsor will purchase** all of Exeter's right, title and interest in and to the land. The purchase price will be **\$1,000.00**.
2. Windsor will agree to name as its sole beneficiary the **Guiding Eyes for the Blind**, which is the charity that is presently identified as the sole beneficiary of the two trusts which constitute the members of Exeter (Golden Kiwi Trust and Iron Insulator Trust). Windsor further agrees that it shall not change this beneficiary designation so long as it has any interest in the land or the proceeds of the land.
3. Exeter agrees to cooperate fully with the **substitution of Windsor for Exeter** as a defendant in the current litigation. The parties envision that the litigation will proceed with Windsor as a defendant.
4. Exeter confirms that upon this sale it will have no remaining assets, other than its checking account, and that all funds in that account will promptly be used to **pay bills** and the account will be closed.
5. Windsor acknowledges that it is purchasing the land **subject to the claims of the IRS**. By this purchase Windsor is not seeking to disregard or avoid any *proper* claims of the IRS. These claims, if any, are the subject of the current litigation.

Agreed this 1st day of June, 2012:

Members of **Exeter Trinity Properties LLC**



Elmer P. Vild, Trustee

Golden Kiwi Trust


Patrick Janisch, Trustee
Iron Insulator Trust

Trustees of **Timeless Windsor Ventures**


Elmer P. Vild, Trustee


Terry I. Major, Trustee


Mike Macek, Trustee

Leslie M. Hoffman
OFFICIAL RECORDS OF YAVAPAI COUNTY \$10.00
TIMELESS WINDSOR TRUST 2012-0030785

B: 4884 P: 646 06/04/2012 03:13:09 PM QCD
\$10.00 Page: 1 of 1 2012-0030785

When recorded, mail to:

Timeless Windsor Trust
PO Box 2023
Cottonwood, AZ 86326

FEE
\$ 5
\$4
\$5
\$1
\$10

og

UNOFFICIAL - COMBINED COPY

Space above this line for Recorder's use

QUITCLAIM DEED

Executed this 1st day of June, 2012

Grantor: (First Party)

Exeter Trinity Properties LLC
PO Box 2023, Cottonwood, AZ 86326

Grantee: (Second Party)

Timeless Windsor Ventures
PO Box 2023, Cottonwood, AZ 86326

Property: (Abbreviated Description): 1001 S. 6th St., Cottonwood, AZ 86326

WITNESSETH that the said first party, for good consideration and for the sum of One Thousand Dollars (\$1000.00) paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim unto said second party forever, all right, title, interest and claim, which said first party has in and to the following described parcel of land, and improvements and appurtenances thereto in the County of Coconino, State of Arizona, to wit:

The West one-half of the West one-half of Lot 9, VERDE PALISADES, plat 2, according to the plat of record on file in the Office of the County Recorder of Yavapai County, Arizona, in Book 7 of Maps, Page 31.

The trustees listed below, with full legal authority to title, register, record, and perform all duties related to the Exeter Trinity Properties, LLC, as required by A.R.S. § 33-404, hereby disclose the beneficiary(s) of said trust as follows: Guiding Eyes for the Blind, Inc. at 611 Granite Springs Road, Yorktown Heights, NY 10598-0709.

EXCEPT all oil, minerals, ores and metals of every kind, as reserved in Deed recorded in Book 187, page 331, Records of Yavapai County, Arizona.

EXEMPT: No transfer fee necessary; ARS §11-1134 (B)(8) and the Garn - St. Germain Depository Institutions Act of 1982 (Pub L. 97-320) passed by Congress.

Exeter Trinity Properties LLC

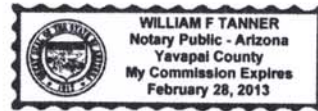
Elmer P. Vild
by: Elmer P. Vild, Trustee
Golden Kiwi Trust, Member

Patrick Janisch
by: Patrick Janisch, Trustee
Iron Insulator Trust, Member

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of June, 2012.

{Seal}

William F. Tanner
NOTARY PUBLIC



STATE OF ARIZONA
County of Yavapai

LESLIE M. HOFFMAN, County Recorder, in and for the County of Yavapai, State of Arizona, and custodian of the records of such office, do hereby certify that the foregoing is a full, true and correct copy of the record as same appears in my office.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the City of Prescott, County of Yavapai, State of Arizona, on this the 4th day of June, A.D. 2012

Leslie M. Hoffman
Deputy Recorder

SEAL