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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Golden West Holdings Trust, et al., Plaintiffs, v. United States of America, and Internal Revenue Service, Defendants.	No. CV-05-2237-PHX-SMM (Lead) No. CV-05-2239-PHX-JAT (Consol.) No. CV-05-2238-PHX-JAT (Consol.) **ORDER**

Under Rule 41(b) of the Federal Rules of Civil Procedure, "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action . . ." In Link v. Wabash Railroad Co., 370 U.S. 626, 629-31 (1962), the Supreme Court recognized that a federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute, even though the language of Rule 41(b) of the Federal Rules of Civil Procedure appears to require a motion from a party. Moreover, in appropriate circumstances, the Court may dismiss a complaint for failure to prosecute even without notice or hearing. Id. at 633.

Plaintiffs have the general duty to prosecute this case. Fidelity Phila. Trust Co. v. Pioche Mines Consol., Inc., 587 F.2d 27, 29 (9th Cir. 1978). On September 26, 2008, Defendants filed a motion for summary judgment (Dkt. 66). The Court granted Plaintiffs' request to extend the time for filing a response to Defendants' motion for summary

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judgment and ordered that the last day for Plaintiffs to file a response was December 4, 2008 (Dkt. 80, Order dated October 28, 2008). Plaintiffs have not filed the required response or answering memoranda to Defendants' motion for summary judgment. See LRCiv 7.2(i). Plaintiffs shall show cause why this matter should not be dismissed for failure to prosecute or to comply with these rules or a court order. Accordingly,

IT IS HEREBY ORDERED setting a show cause hearing before the Honorable Stephen M. McNamee for **Monday, February 2, 2009 at 9:30 a.m.** in Courtroom 605, 401 West Washington Street, Phoenix, Arizona 85003.

IT IS FURTHER ORDERED that Defendants' counsel may appear telephonically at the show cause hearing. Defendant's counsel shall telephone Judge McNamee's chambers at (602) 322-7555, no later than **9:25 a.m.**, on February 2, 2009.

DATED this 8th day of January, 2009.

Stephen M. McNamee
United States District Judge