

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN J. TOLMACHOFF; NINA V.
TOLMACHOFF; LOVE TRUST, BY
KENNETH F. BLAKELY, TRUSTEE, AND BY
ELISHA TOLMACHOFF, TRUSTEE;
CALIFORNIA FRANCHISE TAX BOARD;

Defendants.

Civil No. 1:11-CV-01697 SKO

ORDER FOR ENTRY OF JUDGMENT

Pursuant to the agreement of the parties, the Clerk of Court is DIRECTED to enter judgment in this case pursuant to the following terms:

1. John J. Tolmachoff and Nina V. Tolmachoff are jointly and severally indebted to the United States in the amount of \$50,200.27 for individual income tax for the taxable periods ending for the taxable periods ending December 31, 1997, 1998, 1999, 2007, and 2008 (the "tax years at issue"), plus interest according to 28 U.S.C. § 1961(c) and 26 U.S.C. §§ 6601, 6621(a)(2), from September 6, 2013, until the judgment is paid.

2. The United States will abate any tax, penalty, and interest assessments for the tax years at issue in excess of the amount set forth in the paragraph above.

3. The real property that is the subject of this action is located at 11911 West Central

1 Avenue (herein referred to as "11911 West Central Avenue"), in the County of Fresno, State of
2 California, and is more particularly described as follows:

3 THE NORTH 267 FEET OF THE WEST 407.87 FEET OF THE WEST HALF OF
4 THE NORTHWEST QUARTER OF SECTION 34 T.14 S., R.18 E., M.D.B. & M., IN
5 THE COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE
6 OFFICIAL PLAT THEREOF;

7 EXCEPTING THEREFROM AN UNDIVIDED ½ INTEREST IN AND TO ALL OIL,
8 GAS AND OTHER MINERALS IN AND UNDER THE SAID LANDS. TOGETHER
9 WITH THE RIGHT TO PROSPECT, EXPLORE AND DRILL FOR AND TO
10 PRODUCE AND MARKET THE SAME AND WITH FULL AND FREE RIGHTS OF
11 INGRESS AND EGRESS AT ANY TIME AND FROM TIME TO TIME FOR ALL OR
12 ANY OF SAID PRUPOSES, AS RESERVED IN THE DEED FROM THE ANGLO
13 CALIFORNIA NATIONAL BANK OF SAN FRANCISCO, A NATIONAL BANKING
14 ASSOCIATION, TO J.G. GREGORY AND HETTA C. GREGORY, HIS WIFE,
15 RECORDED FEBRUARY 7, 1942 IN BOOK 2009 PAGE 383 OF OFFICIAL
16 RECORDS, DOCUMENT NO. 57994;

17 ALSO EXCEPTING THEREFROM AN UNDIVIDED ½ INTEREST IN ALL OIL, GAS
18 AND MINERAL RIGHTS, AS RESERVED IN THE DEED FROM J.G. GREGORY
19 AND HETTA C. GREGORY, HIS WIFE, TO KENNETH E. HANSEN, AND MILDRED
20 ANN HANSEN, HIS WIFE, RECORDED FEBRUARY 4, 1947 IN BOOK 2492 PAGE
21 380 OF OFFICIAL RECORDS, DOCUMENT NO. 7145;

22 AND ALSO EXCEPTING THEREFROM AN UNDIVIDED ½ INTEREST IN ALL OIL,
23 GAS, MINERALS AND HYDROCARBON SUBSTANCES THEREIN AND
24 THEREUNDER, TOGETHER WITH THE RIGHT TO ENTER UPON SAID LAND TO
25 EXPLORE FOR, DRILL FOR, PRODUCE AND STORE UPON, AND REMOVE ALL
26 SUCH SUBSTANCES THEREFROM, AS RESERVED BY MILDRED ANN HANSEN
27 IN THE DEED RECORDED MAY 20, 1968 IN BOOK 5571 PAGE 506 OF OFFICIAL
28 RECORDS, DOCUMENT NO. 35481.

CONTAINING 2.50 ACRES, A LITTLE MORE OR LESS.

APN: 025-110-50

4. The Love Trust is the alter ego of defendants John J. Tolmachoff and Nina V.
Tolmachoff.

5. Title to 11911 West Central Avenue is hereby transferred from the board of trustees
of the Love Trust to "John J. Tolmachoff and Nina V. Tolmachoff, husband and wife, as joint
tenants."

6. The parties have an agreement as to the enforcement of this judgment, one term of
which is that 11911 West Central Avenue will not be sold by judicial sale for 180 days from the
date of entry of this judgment.

1 7. After the time set forth above in paragraph 6, the United States will be entitled to
2 foreclose its liens against 11911 West Central Avenue and that property will be sold, if necessary,
3 pursuant to further order of this Court.

4 8. The California Franchise Tax Board disclaimed any interest in 11911 West Central
5 Avenue on November 21, 2011 (Doc. No. 7); and

6 9. Each party shall be liable for its own costs of litigation and attorneys' fees.

7
8 IT IS SO ORDERED.

9 **Dated:** October 8, 2013

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28