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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALAN SCHWEMMER,
ESTHER SCHWEMMER,
ERAC, INC., LUTHER J. WILSON and
RICHARD M. SCHWEMMER as trustees of
THE SWEETBUSH, and DAVID KEITH
JACOBS as trustee of RED BARN,

Defendants.

Case No. 1:14-cv-00286-LJO-SAB

ORDER AND JUDGMENT

Pursuant to the stipulation between the parties, and good cause showing, the Court
ORDERS as follows:

1. The claims against defendants Luther J. Wilson and Richard M. Schwemmer, as
trustees of the Sweetbush, and David Keith Jacobs, as trustee of Red Barn are DISMISSED from
this action WITHOUT PREJUDICE;

2. The Clerk is directed to enter JUDGMENT as follows:

a. In favor of the United States and against defendants Alan and Esther Schwemmer,
jointly, for the unpaid assessed balances on individual federal income taxes and accrued interest

1 and penalties for tax years 1998, 2000, and 2001 in the amount \$126,113.01 as of June 2, 2014,
2 plus accrued interest under 28 U.S.C. § 1961(c)(1) and 26 U.S.C. §§ 6601, 6621;

3 b. In favor of the United States and against defendant Alan Schwemmer, individually, for
4 the unpaid assessed balance on individual federal income taxes and accrued interest and penalties
5 for tax year 2002 in the amount \$5,155.02 as of June 2, 2014, plus accrued interest under 28
6 U.S.C. § 1961(c)(1) and 26 U.S.C. §§ 6601, 6621;

7 c. In favor of the United States and against defendants Alan and Esther Schwemmer, and
8 ERAC, Inc. that ERAC, Inc. holds title to real property located at 5532 E. National Ave., Fresno,
9 CA 93727, situated in the County of Fresno, State of California (hereinafter the “Residence”), as
10 mere nominee of Alan and Esther Schwemmer;

11 d. In favor of the United States and against defendants Alan and Esther Schwemmer, and
12 ERAC, Inc., that the federal tax liens arising from the federal tax liabilities of Alan and Esther
13 Schwemmer for tax years 1998, 2000 and 2001 have, since the dates of assessment of those
14 liabilities, attached, and continue to attach, to the property and rights to property of Alan and
15 Esther Schwemmer, including the Residence, and that and that these federal tax liens are
16 foreclosed on the Residence;

17 e. In favor of the United States and against defendants Alan and Esther Schwemmer and
18 ERAC, Inc., that the federal tax lien arising from the federal tax liabilities of Alan Schwemmer
19 for tax year 2002 have, since the dates of assessment of those liabilities, attached, and continue
20 to attach, to the property and rights to property of Alan Schwemmer, including the Residence,
21 and that this federal tax lien is foreclosed on the Residence;

22 f. The United States is entitled to seek an order of sale of the Residence upon the first to
23 occur of: (1) the death of both Alan and Esther Schwemmer, (2) the date that neither Alan nor

1 Esther Schwemmer continues to reside in the Residence for a continuous period of one hundred
2 (100) days, or (3) in the event Alan and/or Esther Schwemmer fail to maintain the Residence in
3 accordance with the prevailing standards of the immediate neighborhood, fail to pay property
4 taxes on the Residence as they come due or fail to maintain fire and casualty insurance on the
5 Residence, and they do not cure such failure within forty-five (45) days of notice thereof; and

6 g. Each party shall bear its own respective costs and attorney's fees incurred with respect
7 to this litigation.

8 IT IS SO ORDERED.

9 Dated: August 13, 2014

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE