1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 UNITED STATES OF AMERICA, 11 Case No.: 1:17-cv-00173 DAD JLT 12 Plaintiff, ORDER GRANTING STIPULATION BETWEEN PLAINTIFF AND THE FRANCHISE TAX 13 v. BOARD EDGARD COURI, et al., 14 (Doc. 12-2) 15 Defendants. ORDER CLOSING CASE AS TO THE FRANCHISE TAX BOARD ONLY 16 On July 21, 2017, the plaintiff and the Franchise Tax Board filed a stipulation setting forth the 17 lien priorities between them. (Doc. 12-2) This stipulation resolves the matter between these parties. 18 Thus, the Court **ORDERS**: 19 The stipulation setting forth the lien priorities between the United States of American and the 20 Franchise Tax Board is **GRANTED** as follows: 21 The Stipulation between the United States and the California Franchise Tax Board (Doc. 22 12-2) is approved; 23 If the Court permits the sale of the Subject Property, the United States shall submit to b. 24 the Court a proposed Order of Foreclosure and Judicial Sale consistent with the Stipulation; 25 The California Franchise Tax Board agrees to be bound by the judgment in this case, c. 26 which shall incorporate the terms of the Stipulation; 27

The United States and the California Franchise Tax Board agree to bear own costs and

attorney's fees, except the costs incurred in selling the Subject Property, which are to be reimbursed

d.

28

from the proceeds of the sale of the Subject Property prior to satisfying the outstanding liens on the Subject Property; e. The FTB is excused from further participation in this action, until, and if, the Court permits the sale of the Subject Property 2. Rule 41 of the Federal Rules of Civil Procedure permits the plaintiff to dismiss an action in part without a court order before parties have appeared. Here, the Franchise Tax Board has not appeared in this matter but, even still, it and the plaintiff agree that the matter may be closed as to the Franchise Tax Board (Doc. 12-2). The notice of request for voluntary dismissal filed by the plaintiff "automatically terminate[s] the action" as to the FTB. Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997). Accordingly, the Clerk of Court is DIRECTED to close this action as to the Franchise Tax Board only. IT IS SO ORDERED. /s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE Dated: **July 24, 2017**