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5 Attorneys for Defendant
 U.S. DEPARTMENT OF EDUCATION

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

10 THE COUNCIL FOR EDUCATION, a nonprofit
 11 corporation, and HAROLD HUGGINS,

12 Plaintiffs,

13 v.

14 U.S. DEPARTMENT OF EDUCATION and
 INTERNAL REVENUE SERVICES [sic],

15 Defendants.

2:09-cv-1503 FCD KJN

**PARTIES' STIPULATION AND
 ORDER OF DISMISSAL WITH
 LIMITED LEAVE TO AMEND**

17 The parties, through their undersigned counsel of record, and subject to the approval of
 18 the Court as provided for hereon, hereby stipulate as follows.

19 1. The "Proposed First Amended Complaint for a Notice of Claim of
 20 Unconstitutionality of State Law (Local Rule 24-132(b))," filed July 28 2009, Clerk's Record
 21 ("CR") 8, is ACCEPTED as of July 28, 2009. That complaint is the complaint before the
 22 Court.

23 2. The next five paragraphs dispose of the defendants' motion filed October 19 and
 24 November 4, 2009, CR 25-2 (points and authorities) and 27 (motion and exhibits), to dismiss
 25 the complaint now before the Court, CR 8.

26 3. The U.S. Department of Education's motion to dismiss the claim against it for lack
 27 of jurisdiction because of the anti-injunction provision in the Higher Education Act, 20 U.S.C.
 28 § 1082(a)(2), is GRANTED.

1 4. The United States' motion to dismiss for lack of subject matter jurisdiction, on
2 behalf of the Internal Revenue Service, for lack of a waiver of sovereign immunity under 26
3 U.S.C. § 7408(a) and for plaintiffs' lack of standing to challenge a third-party organization's
4 tax-exempt status, is GRANTED.

5 5. The United States' motion on behalf of the Internal Revenue Service to dismiss all
6 remaining claims against the Internal Revenue Service for lack of subject matter jurisdiction,
7 for failure to show an applicable waiver of sovereign immunity, is GRANTED.

8 6. Because the Council for Education now is represented by counsel, the motion to
9 dismiss it as a plaintiff for lack of counsel is WITHDRAWN.

10 7. The complaint now before the Court, CR 8, is DISMISSED for the reasons stated
11 above.

12 8. Plaintiffs' motion filed November 4, 2009, CR 30, to recuse an Assistant United
13 States Attorney and award monetary sanctions including attorney's fees and expert witness's
14 fees, based on an asserted conflict of interest and on the proposition that the motion to
15 dismiss, CR 27, was frivolous, lacked merit, was extortion, and violated 42 U.S.C. § 1983, is
16 DENIED WITH PREJUDICE.

17 9. The plaintiffs shall have 30 days' leave to amend. Should the plaintiffs amend, the
18 defendants do not waive any possible ground for challenging the amended complaint.

19 10. If the plaintiffs do not file an amended complaint by the 30th day from the filing
20 date of this order, without further order of the Court the action is DISMISSED WITH
21 PREJUDICE as to the federal defendants.

22 Dated: May 13, 2010

IVIE McNEILL & WYATT

23 By: /s/ Rickey Ivie
24 RICKEY IVIE

25 Dated: May 7, 2010

BENJAMIN B. WAGNER
United States Attorney

26 By: /s/ Colin C. Sampson
27 COLIN C. SAMPSON
28 Trial Attorney, Tax Division

1 Dated: May 7, 2010

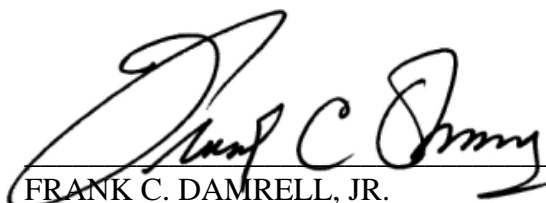
BENJAMIN B. WAGNER
United States Attorney

2
3 By: /s/ Y H T Himel
YOSHINORI H. T. HIMEL
Assistant United States Attorney

4
5
6 ORDER

7 It is APPROVED and SO ORDERED.

8
9 DATED: May 20, 2010

10
11 
12 FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE