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

UNITED STATES OF AMERICA,

Plaintiff,

No. CIV S-10-2805 KJM EFB

vs.

TERESA MARTY,

Defendant.

ORDER AND  
FINDINGS AND RECOMMENDATIONS

This case was referred to the undersigned pursuant to Eastern District of California Local Rule 302(c)(19) and 28 U.S.C. § 636(b)(1) for hearing on plaintiff’s second motion for entry of default judgment against defendant Teresa Marty. Dckt. No. 13.

On July 20, 2011, the court heard plaintiff’s original motion for default judgment. Dckt. No. 7. Attorneys Yoshinori Himel and Guy Jennings appeared at the hearing on plaintiff’s behalf; defendant appeared in pro se. The court construed defendant’s appearance at the hearing as a motion pursuant to Federal Rule of Civil Procedure 55(c) to set aside the clerk’s entry of default and as an opposition to plaintiff’s motion for default judgment. Dckt. No. 11. At the hearing, plaintiff’s counsel indicated that it would withdraw the motion for default judgment and would stipulate to set aside the clerk’s entry of defendant’s default. The court then gave defendant a deadline for filing an answer to plaintiff’s complaint, and stated that once defendant

1 filed an answer, the clerk’s entry of default against her would be set aside. *Id.* However, on  
2 August 1, 2011, defendant filed a notice with the court indicating that she is “choosing not to file  
3 an objection” to the case. Dckt. No. 12. Accordingly, on August 3, 2011, plaintiff filed its  
4 second motion for default judgment, and noticed the motion for hearing on September 14, 2011.  
5 Dckt. No. 13.

6 For the reasons stated herein, as well as for the reasons stated at the July 20, 2011 hearing  
7 on plaintiff’s original default judgment motion, the court vacates the September 14, 2011 hearing  
8 on plaintiff’s second default judgment motion and recommends that the motion be granted.

9 I. BACKGROUND

10 On October 18, 2010, the United States filed a complaint against Teresa Marty, seeking  
11 “to obtain a judicial declaration that certain documents filed by defendant Teresa M. Marty with  
12 the Secretary of State of the State of California against certain employees of the United States  
13 are null, void and without legal effect; to expunge public records of the filings; and to enjoin the  
14 defendant from all future filings of similar documents.” Dckt. No. 1, Compl. ¶ 1. The action is  
15 brought pursuant to 26 U.S.C. § 7402.

16 The complaint alleges as follows:

- 17 • In 2009, defendant Teresa M. Marty was an Enrolled Agent preparing tax returns for  
18 herself and others using a fraudulent tax refund scheme. This Court entered an injunction  
19 against Marty to bar her from acting as a tax return preparer for others and to forbid her  
20 from making any false claims on her tax returns. *United States v. Teresa M. Marty*, Civil  
21 Case No. 2:09-CV-00600 FCD EFB (E.D. Cal. 2010) (Doc. 64) (the “injunction suit”).  
22 Compl. ¶ 5.
- 23 • “On January 25, 2009, Teresa M. Marty filed with the Secretary of State of the State of  
24 California a UCC Financing Statement, Document Number 09-7185584360, (“UCC  
25 Financing Statement”). She then filed a series of amendments to the initial filing . . . .  
26 The UCC Financing Statements had the effect of falsely describing as debtors the

1 following persons: (1) John R. Monroe, (2) Hon. Lawrence G. Brown, (3) David P. Alito,  
2 (4) Dean H. Prodromos, and (5) Richard Stefanski (hereinafter collectively, the “named  
3 persons”). The UCC Financing Statements also contain private and personal information  
4 of the named persons.” Compl. ¶ 6.

5 • “In 2009, Alito, Prodromos, and Stefanski were officers or employees of the Internal  
6 Revenue Service who were involved in (1) obtaining an injunction against Marty or (2)  
7 the collection of unpaid tax from defendant Marty. John R. Monroe is an attorney in the  
8 United States Department of Justice, Tax Division, who litigated the injunction suit  
9 against Marty. The Honorable Lawrence G. Brown at the time of the injunction suit was  
10 the United States Attorney for the Eastern District of California. Lawrence G. Brown is  
11 now a judge for the Sacramento Superior Court.” Compl. ¶ 7.

12 • “The UCC Financing Statements were filed by defendant Marty in retaliation for the acts  
13 performed by the officers and employees of the United States as part of their official  
14 duties, under their authority as officers, or under the direction of officers, of the United  
15 States of America.” Compl. ¶ 8.

16 • “The UCC Financing Statements, which purport to encumber the real and personal  
17 property of the named persons in a lien amount exceeding \$84,000,000, are specifically  
18 designed to cause substantial interference with the enforcement of the laws of the United  
19 States pertaining to the internal revenue and to molest, interrupt, hinder, intimidate or  
20 impede employees or officers of the United States in the good faith performance of their  
21 official duties.” Compl. ¶ 9.

22 • “The UCC Financing Statements are without any legal basis whatsoever, and are solely  
23 designed to harass federal officers and employees in their personal lives for the  
24 performance of their official duties, and thus impose immediate and irreparable harm  
25 upon them.” Compl. ¶ 10.

26 • “The UCC Financing Statements impose an immediate and irreparable injury upon the

1 United States of America by impeding, obstructing and impairing the execution of the  
2 official duties of its employees or officers.” Compl. ¶ 11.

3 • “The public interest will be served by an order declaring the UCC Financing Statements  
4 to be null and void, and permanently enjoining the defendant, Teresa M. Marty, and all  
5 those in active concert or participation with her from filing, or attempting to file, any  
6 document or instrument which (1) purports to create a nonconsensual lien against the  
7 property of any federal officer or employee, or which (2) contains any personal  
8 information (such as the social security number or the residence address) of any federal  
9 officer or employee.” Compl. ¶ 12.

10 The motion for default judgment also contends that Dean Prodromos, named in the UCC  
11 Financing Statements, is a Revenue Officer for the Internal Revenue Service who was assigned  
12 to collect a fraudulently-obtained refund from defendant. Dckt. No. 7-5, Decl. of Dean  
13 Prodromos in Supp. of Mot. for Default J., ¶¶ 1-2. Officer Prodromos had no contact or  
14 relationship with Marty other than in his official capacity with the Internal Revenue Service, and  
15 there are no facts which would support the filing by Marty of a UCC Financing Statement  
16 against Prodromos. *Id.* ¶¶ 3-4. Prodromos is concerned that the disclosures of his personal  
17 information in the UCC filings may have exposed him to identity theft and that the UCC filings  
18 may have a negative impact on his credit record. *Id.* ¶ 5.

19 Additionally, John R. Monroe is an attorney in the United States Department of Justice,  
20 Tax Division, who litigated the injunction suit against Marty. Dckt. No. 7-3, Decl. of John  
21 Monroe in Supp. of Mot. for Default J., ¶¶ 1-2. As with Officer Prodromos, Monroe had no  
22 contact or relationship with Marty other than in Monroe’s official capacity as a trial attorney for  
23 the United States Department of Justice, and there are no other facts which would support the  
24 filing by Marty of a UCC Financing Statement against Monroe. *Id.* ¶¶ 3-4. Monroe is concerned  
25 that the UCC filings may have a negative impact on his credit record. *Id.* ¶ 5.

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1 A certificate of service, filed November 15, 2010, demonstrates that the summons and  
2 complaint were personally served on defendant Marty on November 10, 2010. Dckt. No. 4. On  
3 February 4, 2011, pursuant to plaintiff's request, the Clerk of Court entered the default of  
4 defendant Marty. Dckt. Nos. 5, 6. On June 6, 2011, plaintiff filed a motion for default  
5 judgment, and mail served a copy of the motion on defendant. Dckt. No. 7. Defendant appeared  
6 at the July 20, 2011 hearing on that motion, but thereafter indicated that she would not be filing  
7 an answer to plaintiff's complaint. Dckt. No. 12. Plaintiff then filed a second motion for default  
8 judgment, which was also mail served on defendant. Dckt. No. 13. Defendant has not filed any  
9 opposition to the motion.

10 Plaintiff's second motion for default judgment seeks a declaration that the following  
11 UCC Financing Statements and amendments are null, void, of no legal effect, and shall be  
12 expunged by the California Secretary of State so that the personal identity and information on  
13 the filings cannot be retrieved electronically:

- 14 • UCC-1 – Filing No. 09-7185584360 – filed on January 25, 2009;
- 15 • UCC-3 – Filing No. 09-72182211 – filed on March 12, 2009;
- 16 • UCC-3 – Filing No. 09-72178432 – filed on December 23, 2009;
- 17 • UCC-3 – Filing No. 09-72178435 – filed on December 23, 2009;
- 18 • UCC-3 – Filing No. 09-72178468 – filed on December 23, 2009;
- 19 • UCC-3 – Filing No. 09-72178499 – filed on December 23, 2009;
- 20 • UCC-3 – Filing No. 09-72178511 – filed on December 23, 2009; and
- 21 • UCC-3 – Filing No. 09-72178528 – filed on December 23, 2009.

22 Plaintiff also seeks an order permanently enjoining “Defendant Teresa M. Marty, her  
23 agents, employees, and any other affiliated persons . . . from filing or attempting to file any  
24 document or instrument which purports to create any non-consensual lien or encumbrance  
25 against the person or property of any officer or employee of the United States, unless this Court  
26 permits the filing.” Dckt. No. 7-6.

1 II. DISCUSSION

2 A. Standards

3 It is within the sound discretion of the district court to grant or deny an application for  
4 default judgment. *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980). In making this  
5 determination, the court considers the following factors:

6 (1) the possibility of prejudice to the plaintiff, (2) the merits of  
7 plaintiff's substantive claim, (3) the sufficiency of the complaint,  
8 (4) the sum of money at stake in the action, (5) the possibility of a  
9 dispute concerning the material facts, (6) whether the default was  
due to excusable neglect, and (7) the strong policy underlying the  
Federal Rules of Civil Procedure favoring decisions on the merits.

10 *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986). "In applying this discretionary  
11 standard, default judgments are more often granted than denied." *Philip Morris USA, Inc. v.*  
12 *Castworld Products, Inc.*, 219 F.R.D. 494, 498 (C.D. Cal. 2003) (quoting *PepsiCo, Inc. v.*  
13 *Triunfo-Mex, Inc.*, 189 F.R.D. 431, 432 (C.D. Cal. 1999)).

14 As a general rule, once default is entered, the factual allegations of the complaint are  
15 taken as true, except for those allegations relating to damages. *TeleVideo Systems, Inc. v.*  
16 *Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987) (citations omitted). However, although well-  
17 pleaded allegations in the complaint are admitted by defendant's failure to respond, "necessary  
18 facts *not* contained in the pleadings, and claims which are *legally insufficient*, are *not* established  
19 by default." *Cripps v. Life Ins. Co. of N. Am.*, 980 F.2d 1261, 1267 (9th Cir. 1992).

20 B. Entitlement to Default Judgment

21 Here, the court finds that the majority of the *Eitel* factors weigh in favor of granting  
22 default judgment to plaintiff.

23 1. Possibility of Prejudice to Plaintiff

24 The first *Eitel* factor considers whether the plaintiff would suffer prejudice if default  
25 judgment is not entered, and such potential prejudice to the plaintiff militates in favor of entering  
26 default judgment. *See PepsiCo, Inc.*, 238 F. Supp.2d at 1177. Here, plaintiff would potentially

1 face prejudice if the court did not enter default judgment because absent entry of default  
2 judgment, plaintiff would be without another recourse for recovery. Also, if the UCC Financing  
3 Statements are not expunged, the harassment of the government employees will continue.  
4 Accordingly, the first *Eitel* factor favors the entry of default judgment.

5 2/3. Merits of Plaintiff's Substantive Claim/Sufficiency of the Complaint

6 The second and third factors also favor the entry of default judgment. As a general rule,  
7 once default is entered, the factual allegations of the complaint are taken as true, except for those  
8 allegations relating to the damages. *TeleVideo Systems, Inc.*, 826 F.2d at 917-18. Here, Marty  
9 has filed a series of sham UCC Financing Statements with the State of California purporting to  
10 impose liens on the personal property of employees of the United States. The filings are false  
11 and intended to harass government employees engaged in their official duties.

12 Section 7402(a) of the Internal Revenue Code (Title 26) provides that “[t]he district  
13 courts of the United States at the instance of the United States shall have such jurisdiction to  
14 make and issue in civil actions, writs and orders of injunction, . . . and such other orders and  
15 processes, and to render such judgments and decrees as may be necessary or appropriate for the  
16 enforcement of the internal revenue laws.” 26 U.S.C. § 7402(a). Section 7402 demonstrates  
17 “congressional intention to provide the district courts with a full arsenal of powers to compel  
18 compliance with the internal revenue laws.” *Brody v. United States*, 243 F.2d 378, 384 (1st Cir.),  
19 *cert. denied*, 354 U.S. 923 (1957). “[T]here need not be a showing that a party has violated a  
20 particular Internal Revenue Code section in order for an injunction to issue [under § 7402(a)].  
21 The language of § 7402(a) encompasses a broad range of powers necessary to compel  
22 compliance with the tax laws.” *United States v. Edwards*, 2008 WL 1925243, at \*3-5 (E.D. Cal.  
23 Apr. 30, 2008) (quoting *United States v. Ernst & Whinney*, 735 F.2d 1296, 1300 (11th Cir.  
24 1984)).

25 “The United States has standing to seek relief from actual or threatened interference with  
26 the performance of its proper governmental functions.” *United States v. Ekblad*, 732 F.2d 562,

1 563 (7th Cir. 1984). Section 7402(a) empowers a district court “to void common-law liens  
2 imposed by taxpayers on the property of government officials assigned to collect delinquent  
3 taxes.” *Ryan v. Bilby*, 764 F.2d 1325, 1327 (9th Cir. 1985). Bogus liens have been asserted “to  
4 harass IRS employees and deter them from enforcing the tax laws. The tax protestors, while  
5 claiming to act in the interests of freedom and personal liberty, use this weapon to harass private  
6 individuals in their private lives, as part of the tax protestors’ campaign.” *United States v. Van*  
7 *Dyke*, 568 F. Supp. 820, 821 (D. Or. 1983). Such liens “threaten substantial interference with  
8 the administration and enforcement of the internal revenue laws and are calculated to molest,  
9 interrupt, hinder and impede officials of the Internal Revenue Service in the good faith  
10 performance of their official duties as employees of the government of the United States.”  
11 *United States v. Hart*, 545 F. Supp. 470, 473 (D.N.D. 1982), *aff’d*, 701 F.2d 749 (8th Cir. 1983).

12 Under applicable California law, a lien is created by a contract between the parties or by  
13 operation of law. Cal. Civ. Code § 2881. Under California Commercial Code section  
14 9203(b)(3)(A), a security interest in personal property is created by a security agreement  
15 between a debtor and secured party. “In the absence of a valid security agreement, a financing  
16 statement does not create an enforceable security interest.” *In re Wes Dor, Inc.*, 996 F.2d 237,  
17 239 n.2 (10th Cir. 1993).

18 Here, Marty was engaged in a fraudulent tax refund scheme. IRS collection activity  
19 ensued in parallel with a district court action to enjoin Marty from further marketing the scheme.  
20 Marty retaliated against the IRS and Department of Justice employees who had no contact with  
21 her outside of their official duties. The UCC Financing Statements were filed to intimidate and  
22 harass the named persons and this, in turn, interfere with the proper administration of the internal  
23 revenue laws of the United States.

24 No facts or agreements support the filing of the false liens. Moreover, since the Clerk of  
25 Court has entered default against Marty, the allegations in the complaint are deemed admitted for  
26 purposes of default judgment. Those facts are sufficient to show the United States is entitled to



1 relief in accordance with the case authorities discussed above. Therefore, § 7402 authorizes this  
2 Court to declare the UCC Financing Statements and Amendments null and void, which they are.  
3 *See, e.g., Ryan v. Bilby*, 764 F.2d at 1327 (holding that (1) § 7402(a) empowers the district court  
4 to “void common-law liens imposed by taxpayers on the property of government officials  
5 assigned to collect delinquent taxes,” and (2) the district court thus had jurisdiction to release  
6 “baseless” “common-law liens” against judge, magistrate judges, and attorneys involved in  
7 taxpayer’s prosecution for failure to file tax returns); *Cook v. Peter Kiewit Sons Co.*, 775 F.2d  
8 1030, 1034-37 (9th Cir. 1985); *United States v. Edwards*, 2008 WL 1925243, at \*3-5 (voiding  
9 sham UCC financing statements filed by taxpayer, and permanently enjoining taxpayer from  
10 filing any document or instrument purporting to create non-consensual liens or encumbrances  
11 against employees of the United States); *United States v. Tarantino*, 2007 WL 2062930, at \*1  
12 (E.D. Cal. July 16, 2007) (adopting magistrate judge’s recommendation to (1) void UCC  
13 financing statements filed by taxpayer against IRS employees, and (2) permanently enjoin  
14 taxpayer from filing any documents or instruments of that kind against any employee of the  
15 federal government); *United States v. Dutson*, 2007 WL 934726, at \*1 (E.D. Cal. Mar. 27, 2007)  
16 (same); *United States v. Roy*, 2007 WL 614002, at \*1 (E.D. Cal. Feb. 27, 2007) (same); *United*  
17 *States v. Molen*, 2007 WL 587198, at \*1 (E.D. Cal. Feb. 26, 2007) (same).

#### 18 4. Sum of Money at Stake

19 Under the fourth factor cited in *Eitel*, “the court must consider the amount of money at  
20 stake in relation to the seriousness of Defendant's conduct.” *PepsiCo, Inc.*, 238 F. Supp.2d at  
21 1177; *see also Philip Morris USA, Inc. v. Castworld Prods., Inc.*, 219 F.R.D. 494, 500 (C.D. Cal.  
22 2003). Here, no monetary damages are sought. Rather, a more important issue is at stake:  
23 whether Marty’s interference with a legitimate government function will be allowed to stand.  
24 Therefore, this *Eitel* factor favors the entry of default judgment.

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1                   5. Possibility of a Dispute Concerning the Material Facts

2                   The fifth factor also weighs in favor of granting plaintiff’s request for default judgment.  
3 The facts of this case are relatively straightforward, and plaintiff has provided the court with  
4 well-pleaded allegations supporting its claims. Here, the court may assume the truth of  
5 well-pleaded facts in the complaint following the clerk’s entry of default and, thus, there is a  
6 very low likelihood that any genuine issue of material fact exists. *See, e.g., Elektra Entm't*  
7 *Group Inc. v. Crawford*, 226 F.R.D. 388, 393 (C.D. Cal. 2005) (“Because all allegations in a  
8 well-pleaded complaint are taken as true after the court clerk enters default judgment, there is no  
9 likelihood that any genuine issue of material fact exists.”); *accord Philip Morris USA, Inc.*, 219  
10 F.R.D. at 500; *PepsiCo, Inc.*, 238 F. Supp.2d at 1177.

11                   6. Whether the Default Was Due to Excusable Neglect

12                   The sixth factor also weighs in plaintiff’s favor. Marty was personally served with a  
13 copy of the summons and complaint in this case, yet she has failed to answer. In fact, even after  
14 appearing at the hearing on plaintiff’s initial default judgment motion and indicating that she  
15 intended to file an answer, Marty subsequently filed a notice with the court indicating that she  
16 did not have any “objection” to this case. Dckt. No. 12. Marty has refused to participate in this  
17 case in any meaningful manner, and there is no reason to believe that she will ever do so.

18                   7. Policy Favoring Decisions on the Merits

19                   Finally, only the seventh *Eitel* factor weighs against granting the motion for default  
20 judgment. The strong policy underlying the Federal Rules of Civil Procedure favors decisions  
21 on the merits. *Eitel*, 782 F.2d at 1472. However, district courts have concluded with regularity  
22 that this policy, standing alone, is not dispositive, especially where a defendant fails to appear or  
23 defend itself in an action. *PepsiCo, Inc.*, 238 F. Supp.2d at 1177; *see Craigslist, Inc. v.*  
24 *Naturemarket, Inc.*, 2010 WL 807446, at \*16 (N.D. Cal. Mar. 5, 2010); *ACS Recovery Servs.,*  
25 *Inc. v. Kaplan*, 2010 WL 144816, at \*7 (N.D. Cal. Jan.11, 2010); *Hartung v. J.D. Byrider, Inc.*,  
26 2009 WL 1876690, at \*5 (E.D. Cal. June 26, 2009). Accordingly, although there is a strong

1 policy favoring decisions on the merits, that policy does not by itself preclude entry of default  
2 judgment.

3 Therefore, because the *Eitel* factors weigh in favor of granting default judgment to  
4 plaintiff, the undersigned will recommend granting plaintiff’s motion for default judgment.

5 C. Injunctive Relief

6 Plaintiff seeks the issuance of an injunction permanently enjoining Marty from filing any  
7 document or instrument which purports to create a non-consensual lien or encumbrance of any  
8 kind against any employee of the federal government.

9 Under § 7402, district courts have jurisdiction to issue injunctions “as may be necessary  
10 or appropriate for the enforcement of the internal revenue laws.” 26 U.S.C. § 7402(a). “The  
11 requirements for the issuance of a permanent injunction are (1) the likelihood of substantial and  
12 immediate irreparable injury, and (2) the inadequacy of remedies at law.” *Montana v. BNSF Ry.*  
13 *Co.*, 623 F.3d 1312, 1317, n.3 (9th Cir. 2010) (quoting *G.C. and K.B. Invs., Inc. v. Wilson*, 326  
14 F.3d 1096, 1107 (9th Cir. 2003)).<sup>1</sup> Additionally, “[i]n cases where the public interest is involved,  
15 the district court must also examine whether the public interest favors the plaintiff.” *Fund for*  
16 *Animals v. Lujan*, 962 F.2d 1391, 1400 (9th Cir. 1992).

17 Here, Marty engaged in conduct subject to injunction under § 7402 and the United States  
18 will likely suffer irreparable harm in the absence of an injunction prohibiting Marty from filing  
19 non-consensual liens or encumbrances against United States employees. Absent an injunction,  
20 Marty will likely continue to violate § 7402 and interfere with the enforcement and  
21 administration of the internal revenue laws, especially since she has not acknowledged that the  
22

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23 <sup>1</sup> Although it is unclear in the Ninth Circuit whether plaintiff must only meet the criteria  
24 set forth in § 7402(a) to merit injunctive relief or whether plaintiff must also establish the  
25 traditional equitable factors for an injunction, because the equitable requirements for the  
26 issuance of a permanent injunction are met here, that issue need not be reached. *See, e.g., United*  
*States v. Estate Pres. Servs.*, 202 F.3d 1093, 1098 (9th Cir. 2000) (finding, with regard to I.R.C.  
§ 7408, that the “traditional requirements for equitable relief need not be satisfied since [the  
statute] expressly authorizes the issuance of an injunction”).

1 UCC Financing Statements and Amendments she filed were frivolous. Without the permanent  
2 injunction plaintiff seeks, government employees are likely to face substantial and immediate  
3 irreparable injury (personal distress, clouding of title to property they own, and/or damaging  
4 their credit ratings), and their ability to discharge their official duties to collect federal taxes will  
5 be interrupted and/or hindered. *See United States v. Edwards*, 2008 WL 1925243, at \*4 (finding  
6 that the defendant’s filing of frivolous UCC Financing Statements caused irreparable harm, and  
7 stating that “Government employees deserve protection from [these] reckless, frivolous  
8 filings.”); *United States v. Van Dyke*, 568 F. Supp. 820, 822 (D. Or. 1983) (defendant’s actions  
9 “in filing these lawsuits and documents, impose irreparable harm upon the employees of the  
10 federal government with whom these tax protestors quarrel”).

11         Apart from an injunction, the United States has no means, civilly, of stopping Marty from  
12 filing frivolous liens against government employees. Further, because the UCC Financing  
13 Statements and Amendments are without factual or legal basis, and thus have no force or legal  
14 effect, Marty not be injured by an injunction which provides that she cannot record similar non-  
15 consensual liens or encumbrances in the future. Additionally, the public’s interests in fair  
16 administration of federal tax laws and prevention of abuse and harassment of government  
17 employees supports the imposition of the permanent injunction plaintiff seeks. Accordingly, the  
18 permanent injunction that plaintiff seeks under § 7402 is necessary and appropriate for the  
19 enforcement of the internal revenue laws.

20 **III. CONCLUSION**

21         Based on the foregoing findings, IT IS HEREBY ORDERED that the September 14,  
22 2011 hearing on plaintiff’s second default judgment motion be vacated.

23         IT IS FURTHER RECOMMENDED that:

24         1. Plaintiff’s second motion for default judgment against defendant Teresa M. Marty,  
25 Dckt. No. 13, be GRANTED.

26 *///*

1           2. The following UCC Financing Statements and amendments be declared null, void,  
2 and of no legal effect, and be expunged by the California Secretary of State so that the personal  
3 identity and information on the filings cannot be retrieved electronically:

- 4 • UCC-1 – Filing No. 09-7185584360 – filed on January 25, 2009;
- 5 • UCC-3 – Filing No. 09-72182211 – filed on March 12, 2009;
- 6 • UCC-3 – Filing No. 09-72178432 – filed on December 23, 2009;
- 7 • UCC-3 – Filing No. 09-72178435 – filed on December 23, 2009;
- 8 • UCC-3 – Filing No. 09-72178468 – filed on December 23, 2009;
- 9 • UCC-3 – Filing No. 09-72178499 – filed on December 23, 2009;
- 10 • UCC-3 – Filing No. 09-72178511 – filed on December 23, 2009; and
- 11 • UCC-3 – Filing No. 09-72178528 – filed on December 23, 2009.

12           3. Defendant Teresa M. Marty, her agents, employees, and any other affiliated persons  
13 be permanently enjoined from filing or attempting to file any document or instrument which  
14 purports to create any non-consensual lien or encumbrance against the person or property of any  
15 officer or employee of the United States, unless this Court permits the filing.

16           4. The Clerk be directed to close this case.

17           These findings and recommendations are submitted to the United States District Judge  
18 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
19 after being served with these findings and recommendations, any party may file written  
20 objections with the court and serve a copy on all parties. Such a document should be captioned  
21 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
22 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
23 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

24 DATED: September 12, 2011.

25   
26 EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE