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

12 UNITED STATES OF AMERICA)	Civil No. 2:10-CV-03241-KJM-CMK PS
13 Plaintiff,)	
14 v.)	STIPULATION AND ORDER
15 STANLEY R. KRUTE, COLETTE)	REGARDING LIEN PROPERTY
16 GELINAS COWLES, STATE OF)	BETWEEN THE UNITED STATES, THE
17 CALIFORNIA FRANCHISE TAX)	STATE OF CALIFORNIA FRANCHISE
18 BOARD, SISKIYOU COUNTY)	TAX BOARD AND THE COUNTY OF
19 Defendants.)	SISKIYOU

20 The United States of America, the California Franchise Tax Board (“FTB”), and County of
 21 Siskiyou, through their respective attorneys, hereby stipulate and agree as follows:

- 22 1. This stipulation is made with regard to the following:
 - 23 a. The parcel of real property located at 18617 Camp Creek Road, Hornbrook,
 24 California, situated in the County of Siskiyou, State of California, (hereinafter
 25 Parcel 1) and more particularly described as follows:
 26 Lot 33, according to the Parcel Map Survey for Mr. Jack Nathan and Mr. Joe
 27 Gorrone of a portion of Township 48 North, Range 5 West, M.D.M., filed July 21,
 28 1970 in Parcel Map Book 1, pages 37 through 39 inclusive, Siskiyou County
 Recorder’s Office. APN: 041-010-320

b. The parcel of real property located in the Unincorporated Area situated in the County of Siskiyou, State of California, (hereinafter Parcel 2) and more particularly described as follows:

The Northwest quarter of Section 28, Township 48 North, Range 5 West, M.D.M. Excepting therefrom the East half of the Northeast quarter of the Northwest quarter of Section 28. Together with a non-exclusive 60 foot wide road and utilities right of way over the road as shown on the Parcel Map on file in the Siskiyou County Recorder's Office in Parcel Map Book 1, pages 37 through 39. APN: 041-040-040.

c. The parcel of real property located in the Unincorporated Area situated in the County of Siskiyou, State of California, (hereinafter Parcel 3) and more particularly described as follows:

Parcel 34 according to the Parcel Map Survey for Mr. Jack Nathan and Mr. Joe Gorrone of a portion of Township 48 North, Range 5 West, M.D.M., filed July 21, 1970 in Parcel Map Book 1, pages 37 through 39 inclusive, Siskiyou County Recorder's Office. APN: 041-010-330.

2. The County of Siskiyou has real property tax liens on Parcel 1, Parcel 2, and Parcel 3.

3. On the following dates, the FTB made tax assessments against Stanley R. Krute, for the tax years listed below, creating state tax liens:

Tax Year	Assessment Date
1998	May 22, 2000
1999	December 8, 2001
2004	March 18, 2006
1998	November 18, 2006
1999	November 18, 2006
2006	May 31, 2008

4. On the following dates, a duly authorized delegate of the Secretary of the Treasury made assessments against Stanley R. Krute for federal income taxes, penalties, interest, and other statutory additions for the tax years listed below, creating federal tax liens:

Tax Year	Assessment Date
1999	June 3, 2002
1998	November 26, 2007

5. On April 21, 2010, the Internal Revenue Service (“IRS”) recorded a Notice of Federal Tax Lien against Stanley R. Krute with respect to his unpaid tax liabilities for tax years 1998 through 1999 with the County Recorder, Siskiyou County.

6. The United States, the FTB and Siskiyou County agree as follows:

- a. Siskiyou County’s real property tax liens are senior to and have priority over the United States’ federal tax liens and the FTB’s state tax liens;
- b. The FTB's assessment against Stanley R. Krute made on May 22, 2000 for tax year 1998, plus statutory interest and penalties, which as of January 20, 2011 had a balance due of \$8,747.66, as well as the FTB's assessment against Stanley R. Krute made on December 8, 2001 for tax year 1999, plus statutory interest and penalties, which as of January 20, 2011 had a balance due of \$15,236.48, are senior to and have priority over the United States' federal tax liens and the remainder of the FTB's state tax liens;
- c. The United States' assessment against Stanley R. Krute made on June 3, 2002 for tax year 1999, plus statutory interest and penalties, which as of December 31, 2010 had a balance due of \$121,227.88, is senior to and has priority over the FTB's remaining state tax liens and the United States' remaining federal tax liens;
- d. The FTB's assessment against Stanley R. Krute made on March 18, 2006 for tax year 2004, plus statutory interest and penalties, which as of January 20, 2011 had a balance due of \$963.78, is senior to and has

1 priority over the FTB's remaining state tax liens and the United States'
2 remaining federal tax liens;

3 e. The FTB's assessment against Stanley R. Krute made on November
4 18, 2006 for tax year 1998, plus statutory interest and penalties, which
5 as of January 20, 2011 had a balance due of \$1,336.33, as well as the
6 FTB's assessment against Stanley R. Krute made on November 18, 2006 for
7 tax year 1999, plus statutory interest and penalties, which as of
8 January 20, 2011 had a balance due of \$2,324.98, are senior to and have
9 priority over the FTB's remaining state tax liens and the United States'
10 remaining federal tax liens;

11 f. The United States' assessment against Stanley R. Krute made on
12 November 26, 2007 for tax year 1998, plus statutory interest and
13 penalties, which as of December 31, 2010 had a balance due of
14 \$39,432.68, is senior to and has priority over the FTB's remaining state
15 tax liens;
16

17 7. In the event that the Court permits the sale of Parcel 1, the property will be sold free and
18 clear of all liens of record (except local secured property taxes, which, if unsatisfied through the proceeds
19 of the sale, survive), with the liens to follow the proceeds of the sale in the same amount and with the
20 same priority that they had against Parcel 1. The Order of Judicial Sale shall provide that the sale
21 proceeds shall be distributed first to the United States to the extent of its costs and expenses of the sale
22 and then following the priority interests of the United States, the FTB and Siskiyou County established in
23 Paragraph 6 (including principal and interest to the date of distribution, in an amount according to proof
24 at that time). If the affected parties cannot stipulate to the amounts of lien, the Court may hold an
25 evidentiary hearing to determine the amounts.
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1 8. In the event that the Court permits the sale of Parcel 2, the property will be sold free and
2 clear of all liens of record (except local secured property taxes, which, if unsatisfied through the proceeds
3 of the sale, survive), with the liens to follow the proceeds of the sale in the same amount and with the
4 same priority that they had against Parcel 2. The Order of Judicial Sale shall provide that the sale
5 proceeds shall be distributed first to the United States to the extent of its costs and expenses of the sale
6 and then following the priority interests of the United States, the FTB and Siskiyou County established in
7 Paragraph 6 (including principal and interest to the date of distribution, in an amount according to proof
8 at that time). If the affected parties cannot stipulate to the amounts of lien, the Court may hold an
9 evidentiary hearing to determine the amounts.

10 9. In the event that the Court permits the sale of Parcel 3, the property will be sold free and
11 clear of all liens of record (except local secured property taxes, which, if unsatisfied through the proceeds
12 of the sale, survive), with the liens to follow the proceeds of the sale in the same amount and with the
13 same priority that they had against Parcel 3. The Order of Judicial Sale shall provide that the sale
14 proceeds shall be distributed first to the United States to the extent of its costs and expenses of the sale
15 and then following the priority interests of the United States, the FTB, and Siskiyou County established
16 in Paragraph 6 (including principal and interest to the date of distribution, in an amount according to
17 proof at that time). If the affected parties cannot stipulate to the amounts of lien, the Court may hold an
18 evidentiary hearing to determine the amounts.

19 10. The United States, the FTB and Siskiyou County agree to bear their respective costs
20 related to this litigation, including any possible attorney's fees.
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22 11. The FTB and Siskiyou County have been named as defendants under 26 U.S.C. § 7403(b).
23 The United States claims no monetary relief against the FTB or Siskiyou County in this action. Unless
24 otherwise ordered by the Court, the FTB and Siskiyou County are excused from further participation in
25 this action, appearing in Court, or otherwise asserting its claim in this case. The FTB and Siskiyou
26 County agree to be bound by the judgment in this case, which shall incorporate the terms of this
27 stipulation and order.

1 The parties so agree and request an order confirming the foregoing.

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3 Dated: March 31, 2011

By: /s/ Anne E. Nelson

4 ANNE E. NELSON

5 Trial Attorney, Tax Division

6 U.S. Department of Justice

7 Attorney for the United States

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9 Dated: March 31, 2011

By: /s/ Dana Barton (as authorized on 3/30/11)

10 DANA BARTON

11 Deputy County Counsel

12 County of Siskiyou

13 Attorney for Siskiyou

14 Dated: March 31, 2011

By: /s/ Robert Asperger (as authorized on 3/25/11)

15 KAMALA D. HARRIS

16 Attorney General of the State of California

17 ROBERT E. ASPERGER

18 Deputy Attorney General

19 Attorney for the California Franchise Tax Board

20 **IT IS SO ORDERED.**

21
22 DATED: April 15, 2011

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25 **CRAIG M. KELLISON**

26 UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing STIPULATION AND PROPOSED ORDER REGARDING LIEN PRIORITY BETWEEN THE UNITED STATES, THE STATE OF CALIFORNIA FRANCHISE TAX BOARD AND THE COUNTY OF SISKIYOU has been made this 31st day of March, 2011, by depositing a copy thereof in the United States Mail in a postage prepaid envelope addressed to:

STANLEY R. KRUTE
18617 Camp Creek Rd.
Hornbrook, California 96044
In pro per

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Yreka, California 96097
Attorney for Siskiyou County

/s/ Anne E. Nelson
ANNE E. NELSON
Trial Attorney, Tax Division
U.S. Department of Justice