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Attorneys for Plaintiff  
SAGE POINT LENDER SERVICES, LLC  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

SAGE POINT LENDER SERVICES,  
LLC,

Plaintiff,

vs.

SHARON A. KIDD, INDIVIDUALLY  
AND AS ADMINISTRATOR OF THE  
ESTATE OF SHELVIE DOUGLAS  
KIDD AKA SHELVIE D. KIDD  
ALAMEDA PROBATE CASE NO.  
RP12634226; GARY KIDD; PEDRO  
TRUST aka PATRICK KAY, CO-  
TRUSTEE OF THE PEDRO TRUST;  
INTERNAL REVENUE SERVICE;  
AND DOES 1 THROUGH 20,  
INCLUSIVE

Defendants.

CASE NO. 2:15-cv-00175-MCE-EFB

STIPULATION TO LIEN  
PRIORITY, RELEASE OF  
LIABILITY, AND  
DISTRIBUTION OF DEPOSITED  
INTERPLEADED FUNDS; AND  
ORDER

DEPT: "7"  
BEFORE: HON. MORRISON C.  
ENGLAND, JR.

///

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2 IT IS HEREBY STIPULATED AND AGREED by Plaintiff Sage Point Lender  
3 Services, LLC (“Sage Point”), the United States of America (“United States”), and  
4 Defendants Sharon Kidd, individually and in her capacity as Successor Trustee of the  
5 PEDRO Trust, and Gary Kidd (collectively referred to herein as “the Kidds”) that:

6 1. Sage Point, a foreclosure trustee, filed this Interpleader action in  
7 Sacramento County Superior Court on December 17, 2014.

8 2. The Interpleader litigation was commenced to resolve conflicting  
9 demands for payment of the sum of \$141,794.32 (plus accrued interest, if any) (the  
10 “Surplus Funds”), which represents surplus proceeds from the May 28, 2014  
11 foreclosure sale of real property located in the County of Alameda, State of California,  
12 commonly known as 1232 Oregon Street, Berkeley, CA 94702 (hereinafter the  
13 “Property”) previously owned by decedent Shelvie Kidd.

14 3. The United States removed this matter from the Superior Court on  
15 January 22, 2015 pursuant to 28 U.S.C. §§ 1442(a)(1), 1444 and 28 U.S.C. § 2410  
16 because it involves the collection of revenue and the United States’ claims to enforce  
17 its federal tax liens against codefendant and claimant Gary Kidd.

18 4. Following the removal to this Court, Sage Point caused the Surplus Funds  
19 to be deposited with the Court registry on March 24, 2015.

20 5. Defendants Gary Kidd and Sharon Kidd were named as defendants in this  
21 matter based on their status as heir and claimants to the property of Shelvie Kidd.

22 6. The Kidds have each asserted a claim to 50% of the funds at issue in this  
23 matter.

24 7. The United States has asserted a claim to a portion of the proceeds based  
25 upon its rights under the Federal Tax Lien Act and Internal Revenue Code allowing it  
26 to collect the “property and rights to property” of Gary Kidd in satisfaction of certain  
27 federal individual income tax liabilities. See Rec. Doc. 5.

28 Stipulation to Lien Priority, Release of Liability, and Distribution of Deposited Interpleaded Funds;  
and Order

1           8. Sharon Kidd asserts herself as the Successor Trustee of the PEDRO  
2 TRUST. A true and correct copy of a Certification of Trust, made pursuant to  
3 California *Probate Code* Section 18100.5 and executed by Sharon Kidd attesting to her  
4 status as Successor Trustee of the PEDRO Trust, is attached hereto as Exhibit “1”.

5           9. The PEDRO Trust, through its Successor Trustee, Sharon Kidd, hereby  
6 disclaims any interest in the deposited Surplus Funds and releases its prior claim  
7 thereto. The PEDRO Trust hereby consents to the disbursement of the Surplus Funds  
8 in accordance with Paragraph 13 herein below.

9           10. After due consideration, the parties have stipulated and agreed to a release  
10 of liability between Sage Point and the Kidds and to the priority of various claims and  
11 distribution of the Surplus Funds currently deposited in the registry of the Court.

12           11. Sage Point and the Kidds, including Sharon Kidd (both individually and  
13 in her capacity as Successor Trustee of the PEDRO Trust) and Gary Kidd, on behalf of  
14 themselves, their descendants, ancestors, dependents, heirs, executors, administrators,  
15 directors, officers, assigns, agents, employees, representatives, attorneys, affiliates and  
16 successors hereby release and discharge the other party and that parties’ descendants,  
17 ancestors, dependents, heirs, executors, administrators, directors, officers, assigns, agents,  
18 employees, representatives, attorneys, affiliates and successors from all rights, claims and  
19 actions which each party and the above-mentioned successors now have against the other  
20 party and the above-named successors, stemming from their differences described in the  
21 underlying Complaint in Interpleader hereof; provided, however, nothing in this  
22 Agreement shall release, waive, modify or effect Sage Point and/or the Kidds’  
23 obligations pursuant to the terms contained in this Stipulation.

24           12. A. Sage Point and the Kidds acknowledge and agree that the release  
25 they give to the other party upon executing this Agreement applies to  
26 all claims for injuries, damages, or losses to their own person and  
27 property, real or personal<sup>3</sup> (whether those injuries, damages, or losses  
28 Stipulation to Lien Priority, Release of Liability, and Distribution of Deposited Interpleaded Funds;  
and Order

1 are known or unknown, foreseen or unforeseen, patent or latent)  
2 which that party may have against the other party arising from or in  
3 conjunction with the distribution of the Surplus Funds that are issue  
4 in the above-captioned Interpleader litigation. Sage Point and the  
5 Kidds hereby waive application of California *Civil Code* § 1542.  
6

7 B. Sage Point and the Kidds certify that they have read and understood  
8 the following provisions of California *Civil Code* § 1542:

9  
10 “A general release does not extend to claims which the  
11 creditor does not know or suspect to exist in his or her  
12 favor at the time of executing the release which if known  
13 by him or her must have materially affected his or her  
14 settlement with the debtor.”  
15

16 C. Sage Point and the Kidds understand and acknowledge that the  
17 significance and consequence of this waiver of California *Civil Code*  
18 § 1542 is that even any of the said parties should eventually suffer  
19 additional damages arising out of the facts referred to in the  
20 Complaint in Interpleader, that party will not be able to make any  
21 claim for those damages. Furthermore, said parties acknowledge that  
22 they consciously intend these consequences even as to claims for  
23 damages that may exist as of the date of this release but which that  
24 party does not know exists, and which, if known, would materially  
25 affect that party’s decision to execute this release, regardless of  
26 whether that party’s lack of knowledge is the result of ignorance,  
27 oversight, error, negligence, or any other cause. However, nothing in  
28

1 this Stipulation shall release, waive, modify or effect each party's  
2 obligations pursuant to the terms contained herein.

3 13. The parties request an Order directing the Clerk to distribute the funds on  
4 deposit with the Court registry in this case as follows:

- 5 a. First, Sage Point shall receive the sum of \$15,989.99 for attorney's  
6 fees and costs incurred in the investigation of the priority and  
7 claims to the Surplus Funds and incurred bringing this Interpleader  
8 litigation, made payable as follows:

9 Robert E. Weiss Incorporated Trust Account  
10 C/O John A. Perry, Esq.  
11 920 S. Village Oaks Drive  
12 Covina, California 91724

- 13 b. Second, by check made payable to the "United States Treasury," in  
14 the amount of \$28,624.43 with the name "Gary Kidd" and the case  
15 number indicated in the memo line, mailed to:

16 Tax FLU, Office of Review  
17 Department of Justice  
18 P.O. Box 310  
19 Ben Franklin Station  
20 Washington DC 20044-0310

- 21 c. Third, Sharon Kidd shall receive the sum of \$63,544.18 in  
22 satisfaction of her claim as heir of Shelvie Kidd, made payable as  
23 follows:

24 Palmieri Trust Account  
25 317 Evelyn Avenue  
26 Roseville, California 95678

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d. Fourth, Gary Kidd shall receive the sum of \$33,635.72 in satisfaction of his claim as heir of Shelvie Kidd, made payable as follows:

Palmieri Trust Account  
317 Evelyn Avenue  
Roseville, California 95678

e. Fifth, accrued interest on the deposited Surplus Funds, if any, shall be disbursed equally to Sharon Kidd and Gary Kidd, made payable as follows:

Palmieri Trust Account  
317 Evelyn Avenue  
Roseville, California 95678

f. Distribution in this manner is intended to exhaust the funds on deposit the with the Court registry.

13. This Stipulation is intended by the parties to resolve the entirety of the above-captioned Interpleader litigation.

Dated: June 1, 2015

CAROLINE D. CIRAOLO  
Acting Assistant Attorney General

BY: /s/ Aaron M. Bailey  
AARON M. BAILEY  
Trial Attorney, Tax Division  
U.S. Department of Justice  
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(202) 616-3164  
(202) 307-0054 (fax)  
aaron.m.bailey@usdoj.gov

1 Dated: June 2, 2015

/s/ Pamela Palmieri  
PAMELA PALMIERI  
317 Evelyn Avenue  
Roseville, California 95678  
916-899-3669  
*Attorney for Pedro Trust, Sharon Kidd  
and Gary Kidd*

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7 Dated: June 2, 2015

/s/ Sharon Kidd  
SHARON KIDD  
*Successor Trustee of PEDRO Trust*

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10  
11 ROBERT E. WEISS INCORPORATED


12  
13 Dated: June 3, 2015

BY: /s/ John A. Perry, Esq.  
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Email: jperry@rewlaw.com  
*Attorney for Sage Point Lender Services*

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20 **THE COURT, having reviewed the foregoing Stipulation, and good cause**  
21 **appearing,**

22 **IT IS SO ORDERED.**

23 Dated: June 5, 2015

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26 MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT

27  
28 Stipulation to Lien Priority, Release of Liability, and Distribution of Deposited Interpleaded Funds;  
and Order