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5 Attorneys for Defendant BANK OF AMERICA, N.A.  
6 [*incorrectly sued as BANK OF AMERICA*]

7  
8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO**

10  
11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 RICHARD D. LEE; BANK OF  
AMERICA; STATE OF CALIFORNIA  
15 FRANCHISE TAX BOARD; COUNTY  
OF CONTRA COSTA TAX  
16 COLLECTOR; and SILVIA  
IRMAYANTHI f/n/a SILVIA I. LEE,

17 Defendants.  
18

Case No. 3:08-cv-02595-JCS

Complaint Filed: May 22, 2008  
Trial Date: None.

**STIPULATION FOR NON-  
MONETARY JUDGMENT AS TO  
DEFENDANT BANK OF AMERICA,  
N.A.**

19 This Stipulation for Non-Monetary Judgment is entered into by and between Plaintiff  
20 United States of America ("Plaintiff"), by and through its attorney of record, United States  
21 Attorney, and Defendant Bank of America, N.A. ("B of A"), by and through its attorney of  
22 record, Pite Duncan, LLP, as follows:

23 WHEREAS, B of A is the current beneficiary under a Deed of Trust dated July 24,  
24 1998 ("Deed of Trust") which encumbers the real property commonly known as 1026  
25 Pleasant Oaks Drive, Pleasant Hill, California, and legally described in the Deed of Trust  
26 ("Property"). The Deed of Trust is security for a Promissory Note dated July 24, 1998, in the  
27 original principal amount of \$300,000.00. The Deed of Trust was recorded in the Contra  
28 Costa County Recorder's Office on July 31, 1998, as Instrument Number 98-0180329-00.

1 A true and correct copy of the Deed of Trust is attached hereto as **Exhibit A** and  
2 incorporated herein by reference.

3 WHEREAS, Plaintiff filed a Complaint on May 22, 2008, seeking to foreclose federal  
4 tax liens, and naming Bank of America as a defendant.

5 WHEREAS, Plaintiff does not seek a monetary judgment against B of A, nor does  
6 Plaintiff assert that its action affects B of A's Deed of Trust, nor does Plaintiff seek to  
7 extinguish B of A's Deed of Trust or lien against the Property. Plaintiff does not dispute that  
8 the Deed of Trust is a senior lien to Plaintiff's federal tax liens.

9 WHEREAS B of A has no knowledge or information regarding the validity of  
10 Plaintiff's federal tax liens or the causes of action set forth in Plaintiff's Complaint.

11 **NOW THEREFORE IT IS HEREBY STIPULATED as follows:**

12 1. The parties agree that the Deed of Trust is a perfected security interest in the  
13 Property, and that the security interest is senior to the claimed interest of Plaintiff.

14 2. The parties hereby agree that Plaintiff will not seek a judgment that its federal  
15 tax liens have priority over B of A's Deed of Trust or lien against the Property, nor will  
16 Plaintiff seek to extinguish B of A's Deed of Trust or lien against the Property.

17 3. B of A agrees to be bound by the judgment of the Court as to Plaintiff's right  
18 to judicial foreclosure of its federal tax liens, if any.

19 4. B of A will not be required to respond to any of the pleadings in this action and  
20 will not be required to appear at any hearings.

21 5. Plaintiff agrees not to seek an order that restricts B of A from exercising its  
22 rights and remedies under the Deed of Trust, including the right to conduct a non-judicial  
23 foreclosure under the power of sale in the Deed of Trust.

24 6. Plaintiff agrees not to seek a monetary judgment against B of A in this  
25 litigation or with regard to the Property, including an award of attorney's fees and costs  
26 against B of A.

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1 Dated: November 14, 2008

WOOD & PORTER, P.C.

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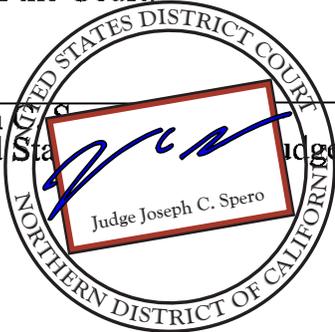
*/s/ David B. Porter*  
DAVID B. PORTER  
Attorneys for Defendant RICHARD LEE

**ORDER**

The Court, having considered the Stipulation of the parties, and other good cause appearing, hereby adopts the Stipulation as the Order of the Court.

Dated: November 26, 2008

Joseph  
United States  
Judge  
Judge Joseph C. Spero



1 **United States of America v. Lee**

United States District Court, Northern District of Calif (San Francisco) Case No. 3:08-cv-02595-JCS

3 **DECLARATION OF SERVICE**

4 I, the undersigned, declare: I am, and was at the time of service of the papers herein referred  
5 to, over the age of 18 years, and not a party to this action. My business address is 1820 E. First  
Street, Suite 420, Santa Ana, California 92705.

6 On November 25, 2008, I served the following document(s): **STIPULATION FOR**  
7 **NON-MONETARY JUDGMENT AS TO DEFENDANT BANK OF AMERICA, N.A.**, on the  
parties in this action addressed as follows:

8 Cynthia Stier  
9 Thomas Moore  
10 Joseph Pascal Russoniello  
11 UNITED STATES ATTORNEY'S OFFICE  
12 450 Golden Gate Ave., 9<sup>th</sup> Floor  
Box 36055  
San Francisco, CA 94102  
(415) 436-7017; fax (415) 436-6748  
Email: [cynthia.stier@usdoj.gov](mailto:cynthia.stier@usdoj.gov)

*Attorneys for Plaintiff  
United States of America*

13 David B. Porter, Esq.  
14 WOOD & PORTER  
15 333 Sacramento Street  
San Francisco, CA 94111-3601  
(415) 834-1800; fax (415) 834-1888  
Email: [porter@woodporter.com](mailto:porter@woodporter.com)

*Attorneys for Defendant  
Richard D. Lee*

16 Karen W. Yiu  
17 OFFICE OF THE ATTORNEY GENERAL  
18 455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102-7004  
(415) 703-5385; fax (415) 703-5480  
19 Email: [karen.yiu@doj.ca.gov](mailto:karen.yiu@doj.ca.gov)

*Attorneys for Defendant  
State of California Franchise Tax Board*

20 Rebecca Jeanenne Hooley  
21 651 Pine Street  
Martinez, CA 94553  
(925) 335-1854; fax (925) 646-1078  
22 Email: [rhood@cc.cccounty.us](mailto:rhood@cc.cccounty.us)

*Attorneys for Defendant  
Contra Costa Tax Collector*

23  
24 **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above. I am  
25 readily familiar with the firm's practice of collection and processing correspondence for  
26 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course  
of business. I am aware that on motion of party served, service is presumed invalid if postal  
cancellation date or postage meter date is more than one day after date of deposit for mailing  
in affidavit.

27  **BY ELECTRONIC MAIL ("E-MAIL"):** I caused the above-entitled document(s) to be  
28 electronically filed and served on November, 2008, on the interested parties to the  
action via CM/ECF e-service at <http://www.cand.uscourts.gov/>. A copy transmission receipt  
will be maintained with the original document(s) in our office.

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**BY CERTIFIED MAIL:** I placed a true copy in a sealed envelope addressed as indicated above via certified mail, return receipt requested.

**BY FACSIMILE:** I personally sent to the addressee's facsimile number a true copy of the above-described document(s). I verified transmission with a confirmation printed out by the facsimile machine used. Thereafter, I placed a true copy in a sealed envelope addressed and mailed as indicated above.

**BY FEDERAL EXPRESS:** I placed a true copy in a sealed Federal Express envelope addressed as indicated above. I am familiar with the firm's practice of collection and processing correspondence for Federal Express delivery and that the documents served are deposited with Federal Express this date for overnight delivery.

**STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

**FEDERAL:** I certify/declare/state under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on November 25, 2008, at Santa Ana, California.

  
\_\_\_\_\_  
BARBARA J. FINLEY

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