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7	Attorneys for the United States of America	
8	IN THE UNITED STATES DISTRICT COURT FOR THE	
9	IN THE UNITED STATES DISTRICT COURT FOR THE	
10	NORTHERN DISTRICT OF CALIFORNIA	
11	SAN FRANCISCO DIVISION	
12	UNITED STATES OF AMERICA,	No. C 08-2595 JCS
13	Plaintiff, )	) STIPULATION TO WITHDRAW
14	v. )	MOTION FOR SUMMARY JUDGMENT AND REQUEST
15	RICHARD D. LEE, et al.,	TO SCHEDULE CASE MANAGEMENT CONFERENCE
16		WITH WIGHT CONVICTION
17	) ) Date: July 10, 2009	
18	Defendants.	Time: 1:30
19		Place: 15 <sup>th</sup> Floor, Courtroom A
20	Plaintiff, United States of America and Defendant, Richard Lee (hereinafter, "Lee"),	
21	hereby stipulate and agree, subject to the Court's approval, that the Motion for Summary	
22	Judgment filed by the United States be withdrawn without prejudice and request that the Court	
23	schedule a Case Management Conference for July 10, 2009, at 1:30 p.m. As grounds for this	
24	request, the United States and Lee submit the following:	
25	1. For tax years 1992 through 2004, Lee received income from his business,	
26	AirCharter World. For tax years 1992 and 1993, Lee failed to file his federal income tax returns	
27	and the IRS assessed federal income taxes against him based on Substitutes for Returns prepared	
28	by the IRS pursuant to Section 6020(b) of the Internal Revenue Code (26 U.S.C.), which	
	_ , ,	

authorizes the Secretary to prepare tax returns for persons required to file tax returns but who fail to do so. These tax returns reported income from AirCharter World on Lee's federal income tax returns. For tax years 1994, 1995, 1996, 1997, 2003 and 2004, Lee filed federal income tax returns reporting income from AirCharter World on his federal income tax returns filed with the IRS.

- 2. The United States filed this action to reduce the tax assessments to judgment and to foreclose its federal tax liens upon certain real property owed by Lee.
- 3. The United States moved for summary judgment against Lee. Lee opposes the government's motion for summary judgment on the grounds that the income from AirCharter World was incorrectly reported as income on his federal income tax returns. Lee contends that AirCharter World, a C corporation, was required to file its own income tax returns. Lee contends that the federal income tax returns incorrectly report the AirCharter World income on his personal federal income tax returns for all years at issue in this lawsuit.
- 4. Lee does not dispute that he had income from AirCharter World, only that the amount of the tax assessments, based on the Substitutes for Return and the personal income tax returns he filed, are incorrect.
- 5. AirCharter World has not filed federal income tax returns nor has Lee filed amended federal income tax returns to properly report his income.
- 6. For the reasons set forth above, the United States and Lee agree that the government's motion for summary judgment may be withdrawn without prejudice and they request that the Court schedule a status conference for July 10, 2009.

Respectfully submitted,

JOSEPH RUSSONIELLO United States Attorney

Dated: <u>June 10, 2009</u>: <u>/s/ Cynthia Stier</u> CYNTHIA STIER

Assistant U.S. Attorney

Attorneys for the United States of America

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Dated: June 10, 2009: /s/ David Porter DAVID PORTER Wood & Porter, P.C. 333 Sacramento Street San Francisco, CA 94111 Attorney for Richard Lee **ORDER** For good cause shown, the Motion for Summary Judgment filed by the United States is dismissed without prejudice and a case management conference is scheduled for July 10, 2009, at 1:30 p.m. The parties are required to file a case management statement by July 2, 2009. In addition, the Court orders: Judge Joseph C. Spero Dated: June 11, 2009 UNITED STATES MAGISTRATE JUDGE