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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA and KATHERINE MILLER, Revenue Officer,

Petitioners,

vs.

ROY Z. HELU and KILISITOFA HELU,

Respondents.

Case No. C-09-0630-EDL

STIPULATION TO MAGISTRATE AND CONTINUE HEARING ORDER THEREON

It is hereby stipulated by and between Petitioners and Respondents, Roy Z. Helu and Kilisitofa Helu, through their respective counsel, that this matter be heard before United States Magistrate Judge Elizabeth D. Laporte and that the hearing on this matter be continued from April 7, 2009 to May 19, 2009 at 9:00 a.m., so that respondents might have adequate time to obtain financing so that they might satisfy their tax debts without IRS levy on their principal residence.

This stipulation to have this matter heard by a magistrate judge is necessary as respondents recently filed a declination to proceed before a magistrate of this district court. Such declination is inappropriate and of no effect as the duty and power for a magistrate judge to act in this matter is conferred by 28 U.S.C. § 636(a)(1) which authorizes a magistrate to approve or deny an IRS levy on a taxpayer's principal residence as such duty is conferred by 26 U.S.C. § 6334(e)(1). Internal Revenue Code Section 6334(e)(1) specifies that a magistrate of the district court may approve IRS levies on a taxpayer's principal residence. Accordingly, a magistrate judge is authorized by 28 U.S.C. § 636(a)(1)

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to act in this matter without the consent of the parties as such consent is only required when a law of the Untied States of America does not provide or confer the power or duty to act with respect to a matter. Compare Section 636(a)(1) to (e)(1).

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: April 3, 2009

