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8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

11 Hiroaki Morimoto & Marjorie Morimoto,

12 Plaintiffs,

13 v.

14 United State of America,

15 Defendant.

Case No. 3:13-cv-05073-MEJ

STIPULATION AND ~~[PROPOSED]~~
JUDGMENT

16
 17 Plaintiffs Hiroaki Morimoto and Marjorie Morimoto (“Plaintiffs”), and Defendant the
 18 United States of America (“United States”), by and through its undersigned counsel, hereby
 19 stipulate and agree as follows:

- 20 1. This Stipulation is entered into by and between all parties to this matter.
- 21 2. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and
 22 1346(a)(1) and 26 U.S.C. § 7422.
- 23 3. Venue is proper in the Northern District of California pursuant to 28 U.S.C. §
 24 1402(a)(2).

1 4. The parties hereby stipulate and respectfully request that the Court enter final
2 judgment in this matter as follows:

3 a. Plaintiffs experienced a deductible theft loss in the 2009 tax year in the
4 amount of \$347,201.

5 b. Final judgment may be entered in favor of Plaintiffs on Counts One, Two,
6 and Three of the Complaint for Refund, filed on October 30, 2013 (Doc. # 1), as follows:
7 Plaintiffs are entitled to federal income tax overpayments in the amounts of \$5,664, \$8,926, and
8 \$19,572 for the 2009, 2008 and 2007 tax years, respectively.

9 c. Final judgment may be entered in favor of the United States on Counts
10 Four, Five, and Six of the Complaint for Refund, filed on October 30, 2013 (Doc. # 1) as
11 follows: Plaintiffs Hiroaki Morimoto and Marjorie Morimoto are not entitled to any refund for
12 the 2004, 2005, or 2006 tax years.

13 d. Any portion of the deductible theft loss Plaintiffs experienced in the 2009
14 tax year that is not consumed by the overpayments discussed in paragraph 4b, above, may be
15 carried forward to offset income for tax years subsequent to 2009, as provided by law.

16 A Proposed Judgment is filed herewith for the Court's convenience. Upon entry of the
17 attached Proposed Judgment, this matter may be dismissed with prejudice.

1 Respectfully submitted this __ day of February 2015,

2 MELINDA HAAG
3 United States Attorney

4 MICHAEL G. PITMAN
5 Assistant United States Attorney, Tax Division

6 Attorneys for the United States of America

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17 Attorneys for Hiroaki Morimoto
18 and Marjorie Morimoto

19 [PROPOSED] JUDGMENT

20 Pursuant to the Stipulation submitted by Plaintiffs Hiroaki Morimoto and Marjorie
21 Morimoto, and Defendant the United States of America (“United States”), and for good cause
22 shown therein:

23 IT IS ORDERED AND ADJUDGED that Plaintiffs Hiroaki Morimoto and Marjorie
24 Morimoto experienced a deductible theft loss in the 2009 tax year in the amount of \$347,201.

IT IS FURTHER ORDERED AND ADJUDGED that final judgment is entered in favor
of Plaintiffs Hiroaki Morimoto and Marjorie Morimoto, on Counts One, Two, and Three of the
Complaint for Refund, filed on October 30, 2013 (Doc. # 1), as follows: Plaintiffs Hiroaki

1 Respectfully submitted this 27th day of February 2015,

2 MELINDA HAAG
United States Attorney

3 s/ Michael G. Pitman
4 MICHAEL G. PITMAN
Assistant United States Attorney, Tax Division

5 Attorneys for the United States of America

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and Marjorie Morimoto

14
15 ~~PROPOSED~~ JUDGMENT

16 Pursuant to the Stipulation submitted by Plaintiffs Hiroaki Morimoto and Marjorie
17 Morimoto, and Defendant the United States of America (“United States”), and for good cause
18 shown therein:

19 IT IS ORDERED AND ADJUDGED that Plaintiffs Hiroaki Morimoto and Marjorie
20 Morimoto experienced a deductible theft loss in the 2009 tax year in the amount of \$347,201.

21 IT IS FURTHER ORDERED AND ADJUDGED that final judgment is entered in favor
22 of Plaintiffs Hiroaki Morimoto and Marjorie Morimoto, on Counts One, Two, and Three of the
23 Complaint for Refund, filed on October 30, 2013 (Doc. # 1), as follows: Plaintiffs Hiroaki
24

1 Morimoto and Marjorie Morimoto are entitled to federal income tax overpayments in the
2 amounts of \$5,664, \$8,926, and \$19,572 for the 2009, 2008 and 2007 tax years, respectively.

3 IT IS FURTHER ORDERED AND ADJUDGED that final judgment is entered in favor
4 of the United States on Counts Four, Five, and Six of the Complaint for Refund, filed on October
5 30, 2013 (Doc. # 1) as follows: Plaintiffs Hiroaki Morimoto and Marjorie Morimoto are not
6 entitled to any refund for the 2004, 2005, or 2006 tax years.

7 IT IS FURTHER ORDERED AND ADJUDGED that any portion of the deductible theft
8 loss Plaintiffs Hiroaki Morimoto and Marjorie Morimoto experienced in the 2009 tax year that is
9 not consumed by the overpayments for the 2009, 2008 and 2007 tax years, discussed above, may
10 be carried forward to offset income for tax years subsequent to 2009, as provided by law.

11 Each party shall bear their own attorneys' fees and costs.

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13 SO ORDERED this 2nd day of March, 2015.

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16 _____
17 THE HONORABLE MARIA-ELENA JAMES
18 UNITED STATES MAGISTRATE JUDGE
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