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STIPULATION RE: LIEN PRIORITY

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 OAKLAND

4 GERALD ORNSTEIN, ET AL.,)

5 Plaintiffs,)

6 v.)

7 GIBSON T. CANITES, ET AL.,)

8 Defendants.)
9

No. 4:18-cv-01616-PJH

STIPULATION AND REQUEST FOR ORDER
REGARDING LIEN PRIORITY AND ORDER

10
11 Plaintiffs, Gerald Ornstein; John P. Hunter; IRA Services Trust Company CFBO Joan Faye
12 Cantrock IRA; Norman C. Schultz, Trustee of The Norman C. Schultz Trust under Declaration of Trust
13 dated 8/30/2012; Richard Gonerko and Diana Ferrari, Trustees of the Exempt Trust Share for Richard
14 Gonerko created under the Marie Eugenia Zonn Trust Agreement dated October 9, 1990 FBO Richard
15 Gonerko; J. Robert Taylor and Donna C. Taylor, Trustees of 2005 Taylor Family Trust; Eva Hindahl,
16 trustee of The Eva Hindahl, Separate Property Living Trust Dated 06/30/2014; Robert J. Accinelli,
17 trustee of the Robert John Accinelli Inter Vivos Trust UA 06/15/1994; Gerald C. Vanoli and Lorraine A.
18 Vanoli; Theodore J. Gradman Ph. D. 401K Plan (collectively, "Plaintiffs"), Defendant, The United
19 States of America ("United States"), Defendant, Karen Lum ("Lum"), and Defendant, Legal Solutions
20 Corporation ("LSC"), by and through their respective attorneys, hereby stipulate and agree as follows:

21 **THE SUBJECT PROPERTY**

22 The real property which is the subject of this action is located at 448 15th Avenue, San
23 Francisco, California 94118 ("Subject Property"), APN: Block 1530, Lot 020, and which is legally
24 described in Exhibit A attached hereto and incorporated herein by reference.

25 **CLAIMS OF PLAINTIFFS**

26 Plaintiffs are the beneficiaries of a Deed of Trust executed by trustors Gibson T. Canites, Rose
27 Liang-Canites, and Aaren Canites (collectively, the "Canites Defendants"), which was recorded against
28

STIPULATION RE: LIEN PRIORITY

1 the Subject Property on May 19, 2016 in the Official Records of the San Francisco Assessor-Recorder as
2 Document No. 2016-K246357-00 and which was given to secure a loan in the principal balance of
3 \$1,600,000. The proceeds of Plaintiffs' \$1,600,000 loan were, among other things, used to pay off
4 existing senior deeds of trust held by creditors Long Beach Mortgage Company, Sequoia Funding
5 Mortgage Capital, Inc., Karen Lum, and Gary Bolden, as well as property tax and other assessments
6 against the Subject Property.

7 **CLAIMS OF DEFENDANT LEGAL SOLUTIONS CORPORATION**

8 On May 25, 2010, LSC recorded an abstract of judgment against Rose Liang-Canites and Gibson
9 T. Canites in the amount of \$65,996.05 in the Official Records of the San Francisco Assessor-Recorder
10 as Document No. 2010-I973745-00. On February 11, 2016, LSC recorded an amended judgment lien in
11 the amount of \$98,371.17 in the Official Records of the San Francisco Assessor-Recorder as Document
12 No. 2016-K200115-00

13 **CLAIMS OF DEFENDANT KAREN LUM**

14 Karen Lum is the beneficiary three junior deeds of trust recorded against the Subject Property to
15 secure loans made by her to trustor Aaren R. Canites: the first in the principal amount of \$180,000
16 recorded on May 27, 2016, in the Official Records of the San Francisco Assessor-Recorder as Document
17 No. 2016-K251436-00; the second in the principal amount of \$112,000 recorded on April 12, 2017, in
18 the Official Records of the San Francisco Assessor-Recorder as Document No. 2017-K432127-00; the
19 third in the principal amount of \$52,000 recorded on May 16, 2017, in the Official Records of the San
20 Francisco Assessor-Recorder as Document No. 2017-K450799-00. Lum was also the beneficiary of a
21 deed of trust secured against the Subject Property recorded on June 25, 2015 in the Official Records of
22 the San Francisco Assessor-Recorder as Document No. 2015-K082494-00, which was paid off from the
23 proceeds of Plaintiff's loan and was reconveyed.

24 **CLAIMS OF DEFENDANT THE UNITED STATES**

25 On the following dates, duly authorized delegates of the Secretary of the Treasury made
26 assessments against Gibson T. Canites, for unpaid federal income taxes for the tax years 2004, 2009,
27 2010, 2011, 2012, 2014, 2015, 2016, and 2017, creating federal tax liens:

28 STIPULATION RE: LIEN PRIORITY

Tax Year	Assessment Date	Accrued Balance Through June 30, 2018	Date Notice of Tax Lien Recorded
2004	06/23/2008	\$ 3,003.26	02/06/2009 (San Francisco County)
2009	01/14/2013	\$ 7,811.75	10/02/2013 (San Francisco County)
2010	08/26/2013	\$ 46,161.09	12/08/2015 (San Francisco County)
2011	06/03/2013	\$ 66,758.73	10/02/2013 (San Francisco County)
2012	07/29/2013	\$ 61,576.52	12/08/2015 (San Francisco County)

The federal tax liens attach to the Subject Property.

STIPULATIONS

Wherefore, Plaintiffs, the IRS, LSC, and Karen Lum, hereby stipulate and agree to the following schedule of priority, which corresponds to the above-listed stipulations:

Priority	Lienholder	Date of Lien	Accrued Balance
1	Plaintiffs	10/18/2002	\$409,708.76 (plus interest from 05/19/2016)
2	IRS	2/6/2009 (for 2004)	\$3,003.26 (plus interest from 06/30/2018)
3	LSC	5/25/2010	\$98,371.17 (plus interest from 02/11/2016)
4	IRS	10/02/2013 (for 2009; 2011)	\$74,570.48 (plus interest from 06/30/2018)
5	Plaintiffs	11/21/2014	\$609,413.80 (plus interest from 05/19/2016)
6	Plaintiffs	6/25/2015	\$111,309.59 (plus interest from 05/19/2016)
7	IRS	12/8/2015 (for 2010; 2012)	\$107,740.61 (plus interest from 06/30/2018)
8	Plaintiffs	1/11/2016	\$215,000 (plus interest from 05/19/2016)
9	Plaintiffs	5/19/2016	\$254,567.85 (plus interest from 05/19/2016)
10	Karen Lum	5/27/2016	\$180,000 (plus interest from 05/27/2016)
11	Karen Lum	04/02/2017	\$112,000 (plus interest from 04/02/2017)
12	Karen Lum	5/16/2017	\$52,000 (plus interest from 05/16/2017)

Defendants IRS, LSC, and Karen Lum do not oppose judicial foreclosure or a stipulated private

1 sale of the Subject Property, upon conditions agreed to by defendants, should Plaintiff prevail in this
2 action. However, any proceeds from the sale of the Subject Property, as among Plaintiffs and
3 defendants IRS, LSC, and Karen Lum will be used to pay off the liens, together with interest as
4 described in the chart above, until such funds are exhausted. Prior to filing an application for final order
5 of the Court, Plaintiffs agree to provide an accounting to the parties to this Stipulation setting forth the
6 full disposition of the proceeds from the sale of the Subject Property.

7 The parties to this Stipulation agree to bear their own costs and attorney's fees, excepting the
8 costs incurred in selling the Subject Property, which are to be reimbursed from the proceeds of the sale
9 of the Subject Property prior to satisfying the outstanding liens on the property.

10 Upon execution of this Stipulation by both parties and entry of the Order by the Court, the IRS,
11 LSC, and Karen Lum shall not be required to appear at future hearings in this litigation and shall be
12 treated as a non-party for all purposes including discovery purposes, unless another party disputes
13 priority or upon order of the Court. The parties so agree and request an Order confirming the foregoing.

14
15 Respectfully submitted,


16 ALEX G. TSE
United States Attorney

17 Dated: Sept. 18, 2018.

18 
COLIN SAMPSON
Assistant United States Attorney
Tax Division

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20 *Attorneys for the United States of America*

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22 Dated: 9-19-18.

23 
THOMAS J. LLOYD
Steyer Lowenthal Boodrookas Alvarez & Smith
LLP

24
25 *Attorney for Plaintiffs*

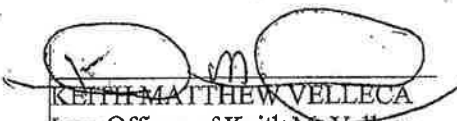
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Dated: _____

ANDREW D. CASTRICONE
Gordon & Rees, LLP

Attorney for Defendant Legal Solutions Corp.

Dated: 9-17-18.



KEITH MATTHEW VELLECA
Law Offices of Keith M. Velleca

Attorney for Defendant Karen Lum

IT IS SO ORDERED:

PHYLLIS J. HAMILTON
UNITED STATES DISTRICT JUDGE

STIPULATION RE: LIEN PRIORITY

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Dated: September 19, 2018.



ANDREW D. CASTRICONE
Gordon & Rees, LLP

Attorney for Defendant Legal Solutions Corp.

Dated: _____

KEITH MATTHEW VELLECA
Law Offices of Keith M. Velleca

Attorney for Defendant Karen Lum

IT IS SO ORDERED:

Dated: September 21, 2018

PHYLLIS J. HAMILTON
UNITED STATES DISTRICT JUDGE



STIPULATION RE: LIEN PRIORITY