1 JOSEPH P. RUSSONIELLO
   United States Attorney
2 THOMAS M. NEWMAN
   Assistant United States Attorney
3 HENRY C. DARMSTADTER
   JAMES E. WEAVER
4 STEVEN P. JOHNSON
   ADAM D. STRAIT
5 Trial Attorneys, Tax Division
   U.S. Department of Justice
6 P.O. Box 683, Ben Franklin Station
   Washington, D.C. 20044-0683
7 Telephone: (202) 307-6481
   Facsimile: (202) 307-0054
8 henry.c.darmstadter@usdoj.gov

9 CHARLES P. RETTIG, State Bar No. 97848
   STEVEN TOSCHER, State Bar No. 91115
10 AVRAM SALKIN, State Bar No. 30412
   EDWARD M. ROBBINS, JR., State Bar No. 82696
11 SHARYN M. FISK, State Bar No. 199898
   Hochman Salkin Rettig Toscher & Perez, P.C.
12 9150 Wilshire Boulevard, Suite 300
   Beverly Hills, CA 90212
13 Phone: 310/281-3200
   Fax: 310/859-1430
14 E-Mail: sf@taxlitigator.com

IT IS SO ORDERED AS MODIFIED

James Ware

Judge James Ware

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

5/10/2010

UNITED STATES DISTRICT COURT

15

16   FOR THE NORTHERN DISTRICT OF CALIFORNIA

17 **SANTA CLARA VALLEY HOUSING**)   **Case No. 08-cv-05097-JW**
   GROUP, INC. and **KRISTEN M.**   )
18 **BOWES**,   )   **SECOND STIPULATION AND**
                    Plaintiffs,   )   **[PROPOSED] ORDER TO EXTEND**
)   **THE DISCOVERY PERIOD AND**
19   **v.**   )   **OTHER PRETRIAL DATES**
)
20 **UNITED STATES OF AMERICA**,   )
)
21   **Defendant**.   )
   ────────────────────────────────────)

22

23   Plaintiffs Santa Clara Valley Housing Group, Inc. ("SCVHG") and Kristen M. Bowes

24 (collectively, "Plaintiffs"), and Defendant the United States of America ("United States"), by and

25 through their counsel, pursuant to Civil Local Rule 6-2, jointly stipulate that the discovery period

26 and other pretrial dates established by the Court in its Order to Extend the Discovery Period and

27 Other Pretrial Dates (docket entry # 27) should be extended for an additional two month period

28 **2d Stip. & Proposed Order**
   to Extend Discovery Period

1 in order to provide the parties with sufficient time to complete fact and expert discovery.

2 This income tax refund suit is the first SC2 tax transaction to be litigated in the Federal

3 District Court. As a significant case of first impression, this action requires substantial additional

4 fact discovery to prepare the matter for trial. In addition, both parties believe it is advisable to

5 conduct further fact discovery before the designation of expert witnesses.

6 During the discovery period to date, the parties have exchanged (or received from third

7 parties) thousands of pages of documents. Since January 14, as described in more detail in the

8 accompanying declaration of Henry C. Darmstadter, the United States has taken numerous oral

9 depositions throughout the State of California as well as in Arizona, Illinois and Washington,

10 D.C. The United States has taken the depositions of four former employees of KPMG. The

11 United States has also taken the depositions of shareholders of SCVHG and several current and

12 former officers of SCS Development Corp, an entity related to SCVHG. The United States has

13 also recently completed the deposition of an appraiser who valued SCVHG's non-voting stock in

14 connection with the subject transaction.

15 In the next several months, the United States anticipates taking numerous additional oral

16 depositions of other officers, agents and shareholders of SCVHG. The government also intends

17 to depose other current or former KPMG employees and other individuals and entities involved

18 in the subject transaction. The Plaintiffs have propounded extensive written discovery on the

19 government and have noticed a Rule 30(b)(6) deposition of the Internal Revenue Service. Both

20 parties intend to designate experts in this action and anticipate filing dispositive motions at the

21 close of discovery.

22 Therefore, the parties jointly stipulate and request that the Case Schedule should be

23 modified as follows:

24   Deadline to Designate Expert Witnesses: July 9, 2010

25   Preliminary Pretrial and Trial Conference
      Statement and Proposed Pretrial Order due: July 23, 2010

26

      Preliminary Pretrial Conference: August 2, 2010, 11:00 a.m.

27

28 **2d Stip. & Proposed Order**
to Extend Discovery Period   -2-

		(Suggested date)

Close of Fact Discovery: September 3, 2010

Disclosure of Rebuttal Experts: September 9, 2010

Close of Expert Discovery: November 1, 2010

Deadline to file and serve Notice of Motion
to Exclude expert testimony or portion
thereof: November 10, 2010

Deadline to file dispositive motions: November 10, 2010

Deadline to file responses to dispositive motions: December 10, 2010

Deadline to file replies to responses to
dispositive motions: January 7, 2011

Last date for hearing dispositive motions: **January 31, 2011 at 9:00 AM**

Respectfully submitted this 4th day of May, 2010.

|	
JOSEPH P. RUSSONIELLO	HOCHMAN, SALKIN, RETTIG, TOSCHER
United States Attorney	& PEREZ, P.C.
THOMAS M. NEWMAN	/s/ Sharyn M. Fisk
Assistant United States Attorney	CHARLES P. RETTIG
	STEVEN TOSCHER
/s/ Adam Strait	AVRAM SALKIN
HENRY C. DARMSTADTER	EDWARD M. ROBBINS, JR.
JAMES E. WEAVER	SHARYN M. FISK
STEVEN P. JOHNSON	Hochman, Salkin, Rettig, Toscher & Perez,
ADAM D. STRAIT	P.C.
Trial Attorneys, Tax Division	9150 Wilshire Boulevard, Suite 300
U.S. Department of Justice	Beverly Hills, California 90212-3414
P.O. Box 683, Ben Franklin Station	Telephone: (310) 281-3200
Washington, D.C. 20044-0683	Facsimile: (310) 859-1430
Telephone: (202) 307-6481	Rettig@taxlitigator.com
Facsimile: (202) 307-0054	Toscher@taxlitigator.com
henry.c.darmstadter@usdoj.gov	Salkin@taxlitigator.com
	Robbins@taxlitigator.com
	Fisk@taxlitigator.com
Attorneys for Defendant United States	Attorneys for Plaintiffs Bowes and Santa Clara
	Valley Housing Group

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

Dated this ___10th___ day of May, 2010.
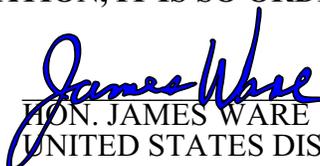
HON. JAMES WARE
UNITED STATES DISTRICT JUDGE

**2d Stip. & Proposed Order
to Extend Discovery Period**   -3-