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14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**

16 SANTA CLARA VALLEY HOUSING
 17 GROUP, INC. and KRISTEN M. BOWES,

18 Plaintiffs,

19 v.

20 UNITED STATES OF AMERICA

21 Defendant.
 22

CASE NO. 08-cv-05097-JF

**STIPULATION TO RE-NOTICE
 CROSS-MOTIONS FOR SUMMARY
 JUDGMENT AND ESTABLISH
 BRIEFING SCHEDULE FOLLOWING
 REASSIGNMENT ORDER AND
~~PROPOSED~~ ORDER**

Honorable Judge Jeremy Fogel

Case Management Conference (April 15,
 2011 at 10:30 a.m.)

24 Plaintiffs SANTA CLARA VALLEY HOUSING GROUP, INC. (“SCVHG”), and KRISTEN
 25 M. BOWES (“Bowes”) (collectively referred to as “Plaintiffs”), and Defendant UNITED STATES
 26 OF AMERICA (“United States”), by and through their attorneys, hereby stipulate as follows:
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 28

STIPULATION TO RE-NOTICE CROSS MOTIONS

1 1. This is a federal income tax refund suit arising from the Plaintiffs' implementation of a
2 tax transaction developed by KPMG, LLP and known as the S-Corporation Charitable Contribution
3 Strategy ("SC2"). Following the completion of extensive fact and expert discovery¹, on February 14,
4 2011, the parties filed Cross-Motions for Summary (or Partial Summary) Judgment. Both Plaintiffs filed
5 separate Motions for Summary Judgment: SCVHG (Doc. # 70) and Bowes (Doc # 71). The United
6 States filed a Motion for Summary Adjudication of Issues (Doc # 67).

7 2. On February 18, 2011, prior to the hearing on the Cross-Motions, the Honorable Judge
8 Lucy Koh issued an Order of Recusal from this action that vacated all pending dates of motions, pretrial
9 conferences and trial dates. *See* Order of Recusal (Doc. #73). On February 23, 2011, this action was
10 reassigned to the Honorable Judge Jeremy Fogel for all further proceedings. *See* Reassignment Order
11 (Doc. #74). In accordance with the Reassignment Order, the parties seek to re-notice the Cross-Motions
12 and propose the following briefing schedule:

13 **Oppositions to Cross-Motions to be filed no later than April 22, 2011 (not to exceed**
14 **40 pages)²;**

15 **Reply to Oppositions to Cross-Motions to be filed no later than May 13, 2011 (not**
16 **to exceed 20 pages);**

17 **Cross-Motions to be heard on June 10, 2011 at 9:00 a.m. in Courtroom No. 3.**

18 3. Prior to reassignment, on February 16, 2011, this action was referred to Magistrate Judge
19 Howard R. Lloyd for an ADR settlement conference. The parties request that the matter be re-referred
20 to Magistrate Judge Lloyd for purposes of holding a settlement conference.

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25 ¹ Excluding Plaintiffs' Motions to Compel Third-Party Deponents relating to three fact
26 witnesses that were filed in the U.S. District Court for the Central District of California.

27 ² The United States requests the additional length for its Opposition to the Bowes' Motion
28 under Civ. L.R. 7-4(b) due to the fact-intensive nature of the SC2 tax strategy.

1 Respectfully submitted this 11th day of April 2011.

2 HOCHMAN, SALKIN, RETTIG, TOSCHER & PEREZ, P.C.
3

4 By: /s/ Sharyn M. Fisk

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16 UNITED STATES DEPARTMENT OF JUSTICE

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21 By: /s/ Henry C. Darmstadter

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29 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

30 Dated this 13th day of April, 2011

31 
32 HON. JEREMY FOGEL
33 UNITED STATES DISTRICT JUDGE

34 309214.1

35 **STIPULATION TO RE-NOTICE CROSS MOTIONS**