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Principal Deputy Assistant Attorney General

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3 Trial Attorney, Tax Division
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7 Of Counsel:
8 DAYLE ELIESON
9 United States Attorney

9 Counsel for the United States

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 KEITH W. WARNER, CARMELA
16 WARNER, MARC KOLODINSKY, PNC
17 BANK, EVERGREEN MONEYSOURCE
18 MORTGAGE COMPANY, and CLARK
19 COUNTY TREASURER,

20 Defendants.

Case No. 2:18-CV-01600-RFB-VCF

**STIPULATION AND PROPOSED
ORDER REGARDING RELATIVE
PRIORITY BETWEEN PLAINTIFF
THE UNITED STATES OF
AMERICA AND DEFENDANT PNC
BANK**

21 Plaintiff, the United States of America, and defendant PNC Bank N.A. (“PNC”) agree as
22 follows:

23 1. This is a civil action brought by the United States of America to reduce to
judgment federal tax assessments against Defendants Keith and Carmela Warner (the Warners)

1 and to foreclose federal tax liens against certain real property located at 6624 Johnny Love
2 Lane, North Las Vegas, NV 89086 (the Property), A.P.N.:124-23-314-019 and is more
3 particularly described as follows:

4 LOT TWENTY-SIX (26) IN BLOCK FOUR (4) OF
5 DONNA/DEER SPRINGS UNIT 1C, AS SHOWN BY MAP
6 THEREOF ON FILE IN BOOK 128 OF PLATS, PAGE 71, IN
7 THE OFFICE OF THE COUNTY RECORDER OF CLARK
8 COUNTY, NEVADA.

9 2. PNC was named as a defendant pursuant to the requirements of 26 U.S.C. §
10 7403(b) because it may claim an interest in the Property. The United States claims no monetary
11 relief against PNC in this action.

12 3. PNC does not challenge the amount or validity of the Internal Revenue Service
13 assessments as alleged in the First Amended Complaint (ECF No. 15)(FAC) paragraphs 21 or
14 29.

15 4. PNC does not challenge the sums secured by, or the validity of, the Notices of
16 Federal Tax Lien as alleged in the FAC paragraphs 12, 13, and 14.

17 5. PNC does not challenge that the Property is encumbered by the United States'
18 Notices of Federal Tax Lien as alleged in the FAC paragraphs 12, 13, and 14.

19 6. PNC's interest in the Property, based upon the assignment (recorded with the
20 Clark County Recorder October 30, 2018) of Evergreen MoneySource Mortgage Company's
21 Deed of Trust recorded July 27, 2012, is senior to, and has priority over, the United States'
22 federal tax liens.

23 7. PNC does not object to the issuance of final order or decree permitting the United
States to enforce its tax liens referenced above by way of sale of the Property.

1 8. In the event that the Court permits the sale of the Property, it will be sold free and
2 clear of all liens of record and free of any interest PNC has in the Property, with the liens and
3 PNC's interest to attach to the proceeds of the sale in the same amount and with the same priority
4 that they had against the Property. The proposed Order of Judicial Sale shall provide that the sale
5 proceeds shall be distributed in accordance with priority as agreed in paragraph six (6) above. If
6 the affected parties cannot stipulate to the amount of PNC's interest or claim to the proceeds of
7 the sale, PNC shall file its claim to the proceeds of the sale within 30 days after the Court
8 confirms the sale of the Property, and the United States or any other affected party may file
9 written objections within 14 days thereafter. The Court may then issue subsequent orders
10 requiring additional written briefing and/or hold evidentiary or other hearings as it may deem
11 necessary to determine the appropriate amount of PNC's claim.

12 9. The United States and PNC will not seek an award of their respective costs related
13 to this litigation, including any possible attorney's fees, from the Court. PNC reserves the right to
14 recover its fees pursuant to 26 U.S.C. § 6323(e).

15 10. Unless otherwise ordered by the Court, PNC is excused from further participation
16 in this action, appearing in Court, or otherwise asserting its claim in this case.

17 11. PNC will be bound by the judgment in this case, which shall incorporate the terms
18 of this stipulation.

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23 //

1 12. The United States and PNC jointly request the Court to enter the following
2 proposed order

3
4 Dated this 4th day of April, 2019.

5 RICHARD E. ZUCKERMAN
6 Principal Deputy Assistant Attorney General

ALDRIDGE PITE, LLP

7 /s/ Jonathan Hauck
8 JONATHAN M. HAUCK
9 Trial Attorney, Tax Division
10 U.S. Department of Justice
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/s/ Jory C. Garabedian
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* Permission to enter e-signature granted by
email dated April 3, 2019

16 Of Counsel:
17 DAYLE ELIESON
18 United States Attorney
19
20 Counsel for the United States
21
22
23

Attorneys for PNC Bank N.A.

Order Approving Stipulation

The foregoing Stipulation is approved.

It is so ordered.

Dated this 21st day of May, 2019.



RICHARD F. BOULWARE, II
United States District Judge

Submitted by:

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Principal Deputy Assistant Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2019, I filed the foregoing documents on the Court's e-filing system, which will automatically serve CM/ECF participants, and caused the mailing of the documents by first-class mail, postage prepaid, to the following persons:

Keith W. Warner
6624 Johnny Love Lane
North Las Vegas, NV 89086

Carmela Warner
6624 Johnny Love Lane
North Las Vegas, NV 89086

Marc Kolodinsky
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Lake Mary, FL 32746

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Deputy District Attorney
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Attorney for the Clark County Treasurer

Hecker Wakefield & Feilberg, P.S.
Attention: Kelly Boyker
321 First Avenue West
Seattle, WA 98119

Attorneys for Evergreen Moneysource Mortgage Company

/s/ Jonathan Hauck
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United States Department of Justice
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