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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11 WESTERN DIVISION

12 JOSEPH R. FRANCIS,  
13 Plaintiff,  
14 vs.  
15 UNITED STATES OF AMERICA,  
16 Defendant.  
17

) No. CV 09-9449 RGK (FFMx)  
) RESPONSE OF THE UNITED STATES  
) OF AMERICA TO PLAINTIFF'S  
) SUBMISSION OF ADDITIONAL  
) NEWLY DISCOVERED EVIDENCE IN  
) SUPPORT OF MOTION FOR  
) RECONSIDERATION; DECLARATION  
) IN SUPPORT; EXHIBITS

18 The United States of America submits the following in response to  
19 plaintiff's "SUBMISSION OF ADDITIONAL NEWLY DISCOVERED  
20 EVIDENCE IN SUPPORT OF MOTION FOR RECONSIDERATION OF AND  
21 RELIEF FROM THE ORDER DATED 1/13/2010." re-filed on February 25, 2010,  
22 as Docket Number 55.

23 In an effort to hastily bring this "newly" discovered evidence to the Court's  
24 attention, plaintiff conveniently ignores the facts of this case and the effect of a  
25 Certificate of Release of Federal Tax Lien (hereinafter "Certificate"), filed with  
26 the Recorder's Office in Los Angeles County on February 4, 2010. The effect of  
27 such Certificate is simple: it released a lien filed on November 18, 2009. Plaintiff,  
28

1 however, does not include the fact that a lien in this case was filed on November 6,  
2 2009, and was unaffected by the issuance of the Certificate on February 4, 2010.

3 On November 6, 2009, Revenue Officer Farrell Stevens filed a Notice of  
4 Federal Tax Lien with respect to plaintiff for taxable years 2001, 2002, and 2003.  
5 See Stevens Decl., ¶ 2; Exhibit A. After recording the lien, Revenue Officer  
6 Stevens requested that the making of such lien be updated in the IRS's Automated  
7 Lien System. Using the taxpayer's social security or EIN number, the Automated  
8 Lien System is a means by which anyone at the IRS can determine whether a  
9 notice of lien has been filed in a particular case. The Automated Lien System can  
10 be used by revenue officers to either request that a lien be recorded electronically  
11 via the Automated Lien System or to record that a lien has been filed by the  
12 revenue officer. See Stevens Decl., ¶ 3.

13 On November 18, 2009, instead of updating the system to reflect that a lien  
14 had been filed on November 6, 2009, the Automated Lien System filed a lien  
15 against petitioner, for the same taxable years and in the same amounts as the lien  
16 filed on November 6, 2009, with the Recorder's Office for Los Angeles County.  
17 See Stevens Decl., ¶ 4; Exhibit B. However, on February 4, 2010, the Automated  
18 Lien System recorded the Certificate, which operated to release the lien filed on  
19 November 18, 2009, only. See Stevens Decl., ¶ 5; Exhibit C.

20 Plaintiff, without presenting all of the facts to the Court, asserts that the  
21 filing of the Certificate effectively concedes the Government's case for the  
22 jeopardy assessment and levy made on November 6, 2009. The Certificate clearly  
23 did not operate to release the lien filed by Revenue Officer Stevens on November  
24 6, 2009, and to date, this lien remains valid. The Certificate only released the  
25 duplicate lien filed by the Automatic Lien System on November 18, 2009.

26 Regardless of the events above, the Government has shown, and the Court  
27 agreed, that the IRS was reasonable in believing that its ability to collect income  
28 tax deficiencies from plaintiff would be jeopardized by delay. The Court found

1 sufficient evidence showing that the jeopardy determination was reasonable based  
2 on the appearance that plaintiff was planning to place his property beyond reach of  
3 the Government. Even with this "new" evidence, plaintiff's Motion for  
4 Reconsideration still fails to demonstrate reasons why this Court should reconsider  
5 its prior decision of January 13, 2010, and does not set forth facts or law sufficient  
6 to support a reversal of that decision. This court should find that the IRS acted  
7 reasonably in its jeopardy determination against plaintiff.

8 The only thing plaintiff has accomplished in his latest filing, consistent with  
9 his established pattern, is to further vilify the Government by falsely impugning  
10 the honesty and integrity of its employees, public servants who have done nothing  
11 more than perform the job duties they were sworn to do. Making such baseless  
12 allegations of misconduct is contemptible, and plaintiff's continued attempts to  
13 slander the honest work efforts of these public servants should be given no  
14 credence by the Court. None of the "evidence" offered by plaintiff in this matter  
15 even remotely supports his claims of fraud, misrepresentation or other misconduct  
16 by the Government.

17  
18 Respectfully submitted,

19 GEORGE S. CARDONA  
20 Acting United States Attorney  
21 SANDRA R. BROWN  
22 Assistant United States Attorney  
23 Chief, Tax Division

24 DATED: 2/25/10

25   
26 DARWIN THOMAS  
27 VALERIE MAKAREWICZ  
28 Assistant United States Attorneys

Attorneys for the United States of America

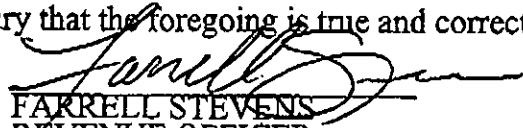


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5. However, on February 4, 2010, the Automated Lien System recorded a Certificate of Release of Federal Tax Lien, and filed such Certificate with the Recorder's Office in Los Angeles County. This Certificate operated to release the lien filed on November 18, 2009, only. Attached hereto and marked Exhibit C is a copy of the Certificate of Release of Federal Tax Lien filed on February 4, 2010.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 02/25/2010

  
FARRELL STEVENS  
REVENUE OFFICER

**Form 668(Y)**  
(Rev. 10-1999)

Department of the Treasury - Internal Revenue Service

**Notice of Federal Tax Lien**

Small Business / Self Employed - Area: 7	Serial Number 1	For Optional Use by Recording Office
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As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer  
Joseph R. Francis

Residence  
[REDACTED]  
Los Angeles, CA 90077

**COPY** of Document Recorded

11/06/2009

Does Not  
Original

Process

LOS ANGELES COUNTY REGISTRAR - RECORDER

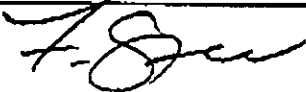
\*2009168015\*

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/2001	xxx-xx-4432	11/06/2009	12/06/2019	\$17,658,359.00
1040	12/31/2002	xxx-xx-4432	11/06/2009	12/06/2019	\$11,238,582.14
1040	12/31/2003	xxx-xx-4432	11/06/2009	12/06/2019	\$4,922,147.00

Place of Filing County Recorder's Office Los Angeles County Norwalk, CA 90650	<b>Total</b>	\$33,819,088.14
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This notice was prepared and signed at IRS- Los Angeles, on this, the 6th day of November, 2009.

Signature F. STEVENS, Employee # - 02-35748	 Title REVENUE OFFICER, Phone # - (818)265-2329 x4004
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(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Notice of Federal Tax Lien Rev. Rul. 71-466, 1971-2 C.B. 409)

Part 2 - Taxpayer Copy

Form 668(Y) (Rev. 10-1999)

**EXHIBIT A**

Recording Requested By Internal Revenue Service. When recorded mail to:

INTERNAL REVENUE SERVICE  
300 N Los Angeles St Mail Stop 5027  
LOS ANGELES, CA 90012

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA

20091739536

November 18, 2009 AT 8:04 AM

FEE \$12.00

For Optional Use by Recording Office

Form 668 (Y)(c)  
(Rev. October 2000)

Department of the Treasury - Internal Revenue Service

**Notice of Federal Tax Lien**

Area: SMALL BUSINESS/SELF EMPLOYED AREA #7  
Lien Unit Phone: (800) 913-6050

Serial Number  
597473409

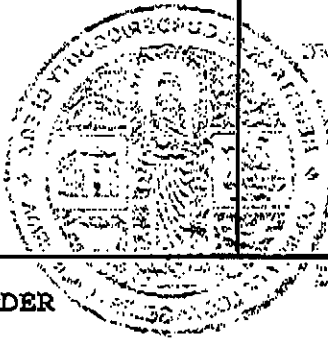
As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer JOSEPH R FRANCIS

Residence [REDACTED]  
LOS ANGELES CA 90077

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/2001	XXX-XX-4432	11/06/2009	12/06/2019	17658358.00
1040	12/31/2002	XXX-XX-4432	11/06/2009	12/06/2019	11238582.14
1040	12/31/2003	XXX-XX-4432	11/06/2009	12/06/2019	4922147.00



Place of Filing

COUNTY RECORDER  
LOS ANGELES

Total \$ 33819087.14

This notice was prepared and signed at OAKLAND, CA, on this, the 06 day of November 2009.

Signature *R. A. Mitchell*

Title TERRITORY MANAGER

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien Rev. Rul. 71-468, 1971 - 2 C.B. 409)

Part I - Kept By Recording Office

**EXHIBIT B**

Form 668 (Y)(c) (Rev. 10-00)  
CAT. NO 60025X

