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5 **CLALLAM COUNTY**
6 **PROSECUTING ATTORNEY**

7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF CLALLAM

9 IN RE:

10 THE PROCEEDINGS FOR CLALLAM
11 COUNTY FOR THE FORECLOSURE OF
12 LIENS FOR DELINQUENT REAL
13 PROPERTY TAXES FOR THE YEAR 2009,
14 AND SOME PRIOR YEARS.

Case No. 12-2-00554-3

UNITED STATES' ANSWER TO THE
PETITION FOR LEAVE TO MAINTAIN
TAX FORECLOSURE OF REAL
PROPERTY TAX LIENS

15 COMES NOW the United States of America, by and through its attorney, Jenny A. Durkan,
16 United States Attorney for the Western District of Washington, and Anastasia D. Bartlett, Assistant
17 United States Attorney for said District, on behalf of its agency, the Internal Revenue Service, and
18 files this Answer to the Petition for Leave to Maintain Tax Foreclosure of Real Property Tax Liens
19 filed by the plaintiff Clallam County.

20
21 1.1 - 1.3. The allegations in Paragraphs 1.1 - 1.3 of the Petition consist of legal conclusions and,
22 as such, are not averments of fact requiring a response.

23 1.4. The United States admits the allegations in Paragraph 1.4 of the Complaint.

24 **OPERATIVE AND MATERIAL FACTS**

25 2.1 - 2.8. The United States is without sufficient information or belief to either affirm or deny
26 the allegations in Paragraphs 2.1 - 2.8 of the Complaint, and therefore denies them.
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1 The remainder of the Petition consist of Plaintiff's Prayer for Relief, to which the United
2 States does not object, provided that all the conditions are set forth in this Answer are met.

3 The United states hereby denies each and every allegation set forth in the Petition unless
4 specifically admitted above.

5 **INTERESTS OF THE UNITED STATES**

6 **A.** The property described in the Certificate of Delinquency referred to in the Petition For
7 Leave to Maintain Tax Foreclosure of Real Property Tax Liens, with respect to M & C Construction,
8 Inc., Parcel No. 04 30 15 560100 3016, is encumbered by a Notice of Federal Tax Lien recorded with
9 the Clallam County Auditor on February 22, 2010 (Auditor's File No. 1248727). The United States
10 of America, Internal Revenue Service, claims an interest in the subject property by reason of the
11 aforementioned Notice of Federal Tax Lien.

12 **B.** The property described in the Certificate of Delinquency referred to in the Petition For
13 Leave to Maintain Tax Foreclosure of Real Property Tax Liens, with respect to Gregory S. Bentz,
14 Parcel No. 03 30 06 530126 0000, is encumbered by a Notice of Federal Tax Lien recorded with the
15 Clallam County Auditor on January 11, 2010 (Auditor's File No. 1247322). The United States of
16 America, Internal Revenue Service, claims an interest in the subject property by reason of the
17 aforementioned Notice of Federal Tax Lien.

18 **C.** The property described in the Certificate of Delinquency referred to in the Petition For
19 Leave to Maintain Tax Foreclosure of Real Property Tax Liens, with respect to Larry E./Janet L.
20 Wagner, Parcel No. 04 30 17 510338 0000, is encumbered by a Notice of Federal Tax Liens recorded
21 with the Clallam County Auditor on August 27, 2004 (Auditor's File No. 1140256). The
22 United States of America, Internal Revenue Service, claims an interest in the subject property by
23 reason of the aforementioned Notice of Federal Tax Lien.

24 **D.** The properties described in the Certificate of Delinquency referred to in the Petition For
25 Leave to Maintain Tax Foreclosure of Real Property Tax Liens, with respect to Larry D./Shirley A.
26 Douglas, Parcel Nos. 05 30 10 550306 0000, 05 30 10 560252 0000, 05 30 10 560374 0000 and
27 05 30 10 560376 0000, are encumbered by two (2) Notices of Federal Tax Liens recorded with the
28

1 Clallam County Auditor on April 5, 2010 (Auditor's File No. 1250292) and October 18, 2010
2 (Auditor's File No. 1257866). The United States of America, Internal Revenue Service, claims an
3 interest in the subject property by reason of the aforementioned Notices of Federal Tax Liens.

4 **E.** The property described in the Certificate of Delinquency referred to in the Petition For
5 Leave to Maintain Tax Foreclosure of Real Property Tax Liens, with respect to Michael J. Petersen,
6 Parcel No. 06 30 12 57164 0000, is encumbered by a Notice of Federal Tax Lien recorded with the
7 Clallam County Auditor on December 10, 2009 (Auditor's File No. 1246207). The United States of
8 America, Internal Revenue Service, claims an interest in the subject property by reason of the
9 aforementioned Notice of Federal Tax Lien.

10 **F.** The properties described in the Certificate of Delinquency referred to in the Petition For
11 Leave to Maintain Tax Foreclosure of Real Property Tax Liens, with respect to Michael R. Dunn,
12 Parcel Nos. 13 28 03 120050 0000, 13 28 03 12901 0000 and 13 28 03 13004 0000 are encumbered
13 by two (2) Notices of Federal Tax Liens recorded with the Clallam County Auditor on December 28,
14 2009 (Auditor's File No. 1246786) and November 28, 2011 (Auditor's File No. 1272789).
15 The United States of America, Internal Revenue Service, claims an interest in the subject property by
16 reason of the aforementioned Notices of Federal Tax Liens.

17 **UNITED STATES' AVERMENTS AND AFFIRMATIVE DEFENSES**

18 1. The interest of the United States of America is pursuant to the Notices of Federal Tax Liens
19 described above, and recorded with the Clallam County Auditor.

20 2. Pursuant to 26 U.S.C. § 6323(b)(6) the Federal Tax Liens identified herein do not take
21 precedence over the interests of plaintiff Clallam County, as identified in the Petition For Leave to
22 Maintain Tax Foreclosure of Real Property Tax Liens. Therefore, the United States does not object to
23 the remedies requested by the plaintiff, provided that all of the conditions set forth in this Answer are
24 met.

25 3. This Answer is made without prejudice to the rights of the United States to the extent of any
26 surplus proceeds which may exist. The United States requests that upon sale, if so provided by law,
27
28 any surplus proceeds beyond the plaintiff's lien, costs, and costs of sale shall be applied to junior liens

1 in the order of their priority under law, including liens of the United States. Explicit provision that
2 such surplus proceeds shall be made available to the United States is to be made a part of any Decree
3 of Foreclosure.

4 4. The United States further requests that upon sale of said property, the United States shall
5 automatically receive all monies relating to a homestead exemption for the properties with federal tax
6 liens, if this exemption is applicable in this action, which might otherwise go to the owner/taxpayer
7 under state law, regardless of the priority position of the lien of the Internal Revenue Service.
8 Explicit provision for the payment of such monies to the Internal Revenue Service is to be made a
9 part of any Decree of Foreclosure.

10 5. This Answer is made without prejudice to the rights of the United States to the extent of any
11 redemption rights which may exist. Pursuant to the provisions of Title 28, United States Code,
12 Section 2410(c), the judgment entered herein shall require foreclosure and sale, and the United States
13 shall have 120 days from the date of sale in which to redeem the property, or the period allowable for
14 redemption under the State law, whichever is longer. Explicit provision that such redemption rights
15 shall be made available to the United States is to be made a part of any Decree of Foreclosure.

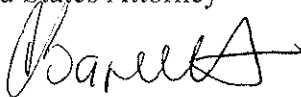
16 6. This Answer is made without prejudice to the rights, if any, of the United States of America
17 and of its departments and agencies on account of any other matter, issue, or lien other than the liens
18 described in the Petition For Leave to Maintain Tax Foreclosure of Real Property Tax Liens.

19 7. The United States requests timely service of the following: (1) Copy of the decree of
20 foreclosure; (2) Notice of the date of any sale of said property that occurs as a result of this action and
21 the sheriff's notice of sale; (3) Notice of the sale results, including the purchase price and the
22 purchaser's name and address; (4) Copy of the title report; (5) and Notice relating to surplus proceeds.
23 These documents shall be served on: (1) the United States Attorney for the Western District of
24 Washington, Attention: Anastasia Bartlett, Assistant United States Attorney, 700 Stewart Street, Suite
25 5220, Seattle, WA 98101; and (2) Internal Revenue Service, Attn: Layna Ford, 1201 Pacific Ave,
26 Suite 550, MS: W 802C, Tacoma, WA 98402.

1 DATED this 13 day of November, 2012.

2 Respectfully submitted,

3 JENNY A. DURKAN
4 United States Attorney

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6 ANASTASIA D. BARTLETT, WSBA# 7142

7 Assistant United States Attorney

8 United States Attorney's Office

9 700 Stewart Street, Suite 5220

10 Seattle, Washington 98101-1271

11 Phone: 206-553-7970

12 Fax: 206-553-4073

13 E-mail: anastasia.bartlett@usdoj.gov

1 CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that she is an employee in the Office of the
3 United States Attorney for the Western District of Washington and is a person of such age and
4 discretion as to be competent to serve papers;

5 I further certify that on November 13, 2012, I served the foregoing to the person(s) hereinafter
6 named via first class mail, postage paid, addressed as follows:

7 Bryan Wendt
8 Clallam Count Prosecuting Attorney
9 223 East Fourth Street, Suite 11
10 Port Angeles, WA 98362

11 DATED this 13th day of November, 2012.

12 
13 TINA LITKIE, Legal Assistant
14 United States Attorney's Office
15 700 Stewart Street, Suite 5220
16 Seattle, Washington 98101-1271
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