Case 2:07-cv-00835-WBS-DAD Document 15 Filed 07/26/07 Page 1 of 4

1	McGREGOR W. SCOTT United States Attorney		
2	JUSTIN S. KIM		
3	Trial Attorney, Tax Division U.S. Department of Justice		
4	P.O. Box 683, Ben Franklin Station		
5	Washington, D.C. 20044-0683 Telephone: (202) 307-0977		
6	Facsimile: (202) 307-0054 E-mail: justin.s.kim@usdoj.gov		
7	Attorneys for United States of America		
8			
9	IN THE UNITED STATES DISTRICT COURT		
10	FOR THE EASTERN DISTRICT OF CALIFORNIA		
11	F & H CONSTRUCTION,	Civil No. 2:07-CV-00835-WBS-DAD	
12	Plaintiff,		
13	v.	STIPULATION AND [PROPOSED] ORDER REGARDING LIEN PRIORITY AND	
14	THE UNITED STATES OF AMERICA,	REQUEST FOR DISMISSAL OF THE BANK OF STOCKTON AND THE TRUST FUND	
15	erroneously named as United States Department of Treasury, Internal Revenue Service et al.,	DEFENDANTS	
16	Defendants.		
17			
18	The undersigned parties to the above-entitled action jointly submit this Stipulation and [Proposed]		
19	Order Regarding Lien Priority and Request for Dismissal of the Bank of Stockton and the Trust Fund		
20	Defendants ¹ :		
21			
22	The Trust Fund Defendants named in the A	mended Complaint are the Northern California	
23	Glaziers, Architectural Metal and Glass Workers Pension Plan; Joint Board of Trustees of the Northern California Glaziers, Architectural Metal and Glass Workers Pension Plan; and Gene Massey as Trustee; the Northern California Glaziers, Architectural Metal and Glass Workers Welfare Plan; Joint Board of Trustees of the Northern California Glaziers, Architectural Metal and Glass Workers Welfare Plan; and Douglas Christopher as Trustee; Glaziers Individual Account Retirement Plan; Joint Board of Trustees of the Glaziers Individual Account Retirement Plan; and James Graham as Trustee; the Northern California District Counsel 16 Apprentice and Journeyman Training Trust Fund; Joint Board of Trustees of the Northern California District Counsel 16 Apprentice and Journeyman Training Trust Fund; and Alfred Skip Weltz as Trustee: LUP A.T. Union and Industry National Pension Fund: Joint Board of Trustees of		
24			
25			
26			
27			
28			

Case 2:07-cv-00835-WBS-DAD Document 15 Filed 07/26/07 Page 2 of 4

1. On April 13, 2007, Plaintiff F&H Construction filed this interpleader action in the				
Superior Court for the State of California, San Joaquin County, stating that it held surplus funds owed to				
Engineered Glass Walls, Inc. and asking the Court to determine the validity and priority of competing and				
adverse claims to those funds filed by the United States, Engineered Glass Walls, Inc., the Bank of				
Stockton, and the Trust Fund Defendants. The United States removed this action to the U.S. District				
Court for the Eastern District of California on May 2, 2007.				
2. The United States, Engineered Glass Walls, Inc., the Bank of Stockton, and the Trust Fund				
Defendants agree and stipulate that the United States' interest in the surplus funds, by virtue of the notice				
of federal tax lien recorded on June 7, 2005, is senior to, and has priority over, the interests of Engineered				

- Defendants agree and stipulate that the United States' interest in the surplus funds, by virtue of the notice of federal tax lien recorded on June 7, 2005, is senior to, and has priority over, the interests of Engineered Glass Walls, Inc., the Bank of Stockton, and the Trust Fund Defendants. Therefore, the undersigned parties agree that the surplus proceeds held by Plaintiff should be distributed in such a way to satisfy in full the United States' interest under the notice of federal tax lien recorded on June 7, 2005, before any proceeds are distributed to Engineered Glass Walls, Inc., the Bank of Stockton, or the Trust Fund Defendants.
- 3. As the parties anticipate that the surplus funds held by Plaintiff will not satisfy in full the United States' interest under the recorded notice of federal tax lien, the Bank of Stockton and the Trust Fund Defendants respectfully request that they be dismissed from this action with prejudice.
 - 4. Each party shall be liable for its own costs of litigation and attorneys' fees.

Respectfully submitted,

Dated: July 19, 2007

/s/ Justin S. Kim

JUSTIN S. KIM

U.S. Department of Justice, Tax Division
(202) 307-0977

Attorney for the United States

/s/ Christa Mansholt-Choy
CHRISTA MANSHOLT-CHOY
Law Offices of Ryan & Lifter, P.C.
(925) 884-2080

Attorney for F&H Construction

Case 2:07-cv-00835-WBS-DAD Document 15 Filed 07/26/07 Page 3 of 4

1	Dated: <u>July 19, 2007</u>	/s/ Dennis Hauser
2		DENNIS HAUSER Hauser & Mouzes
3		(209) 368-1368
4		Attorney for the Bank of Stockton
5	Dated: July 23, 2007	/s/ Michele Stafford
_	Dated. <u>July 23, 2007</u>	MICHELE STAFFORD
6		Saltzman and Johnson Law Corporation (415) 882-7900
7 8		Attorney for the Trust Fund Defendants
9	Dated: July 20, 2007	/s/ Charles Hastings
10	<u> </u>	/s/ Charles Hastings CHARLES HASTINGS (209) 476-1010
11		Attorney for Engineered Glass Walls, Inc.
12		
13		<u>ORDER</u>
14	Pursuant to the foregoing stipulation of Plaintiff F&H Construction, the United States, Engineered	
15	Glass Walls, Inc., the Bank of Stockton, and the Trust Fund Defendants, the Bank of Stockton and the	
16	Trust Fund Defendants are hereby DISMISSED WITH PREJUDICE from this action.	
17	IT IS SO ORDERED.	
18		
19	Dated: July 25, 2007	
20		lian of shitter
21	WILLIAM	B. SHUBB
	UNITED STATES DISTRICT JUDGE	
22		
23		
24		
25		
26		
27		
28		
	Stipulation and [Proposed] Order re Lien Priority 3	

CERTIFICATE OF SERVICE 1 2 IT IS HEREBY CERTIFIED that service of the foregoing has been made this 23rd day of July, 3 2007, by depositing true and correct copies thereof in the United States mail, postage prepaid, addressed 4 to: 5 Joseph D. Ryan Christa Mansholt-Choy Law Offices of Ryan & Lifter, P.C. 6 2010 Crow Canyon Pl., Ste. 330 7 San Ramon, CA 94583-1344 8 Dennis Hauser Hauser & Mouzes 9 P.O. Box 1397 Woodbridge, CA 95258-1397 10 Michele Stafford Saltzman and Johnson Law Corporation 11 120 Howard St. Ste. 520 12 San Francisco, CA 94105-1620 Charles Leslie Hastings 13 4568 Feather River Dr., #A 14 Stockton, CA 95219 15 16 /s/ Justin S. Kim JUSTIN S. KIM Trial Attorney, Tax Division 17 U.S. Department of Justice 18 19 20 21 22 23 24 25 26 27 28