

# EXHIBIT 9



THORN  
LAW GROUP

February 19, 2014

VIA FEDEX

IRS Appeals  
Attention: FOIA Appeals  
M/Stop 55202  
5045 E. Butler Ave.  
Fresno, California 93727-5136

Re: Appeal of IRS Response to Freedom of Information Act ("FOIA") Request Dated  
May 13, 2013  
The Estate of Joseph Arleo (TIN: [REDACTED])  
Case Number: F13158-0162

Dear Commissioner of the Internal Revenue Service:

Thorn Law Group, PLLC ("the Firm") has been retained to represent Joseph Arleo (deceased), the Estate of Joseph Arleo (the "Estate") and Anthony Pesola, Administrator of the Estate, pursuant to Forms 2848, *Power of Attorney and Declaration of Representative* ("POA"), copies of which are attached hereto.<sup>1</sup> On May 13, 2013, we filed a request for records pursuant to the Freedom of Information Act ("FOIA") for the Estate of Joseph Arleo to Samuel Gomes at the Internal Revenue Service's Large Business & International Division, a copy of which is attached hereto.<sup>2</sup>

In the original FOIA request, the Firm requested from the IRS copies of the following records: all the records, including: returns, emails, transcripts, internal memos, factual analysis, research, review committee notes, telephonic, audio, electronic and digital, regarding the case file on the Estate of Joseph Arleo. The request included correspondence from the IRS to the Estate or its representatives and correspondence from the Estate or its representatives to the IRS. The request also included documents indicating to whom the case file was assigned, when the case file was initially assigned and all communications within the Internal Revenue Service between Revenue Agents, Managers and Executives regarding the case file on the Estate of Joseph Arleo.

On January 17, 2014, the Firm finally received a response letter from the IRS's Disclosure Office 12.<sup>3</sup> The Disclosure Manager identified on the letter is Byron D Endo. The contact person is Disclosure Specialist Mark Spiry (ID# 1000278802). Mr. Spiry's phone number and

<sup>1</sup> The Firm's POA for Joseph Arleo is attached at Tab 1.  
The Firm's POA for the Estate of Joseph Arleo is attached at Tab 2.  
The Firm's POA for Anthony Pesola is attached at Tab 3.  
<sup>2</sup> A copy of the May 13, 2013 FOIA request is attached at Tab 4  
<sup>3</sup> a copy of the January 17, 2014 letter is attached at Tab 7.

address are (206) 220-6552) and Internal Revenue Service, Disclosure Scanning Operation – Stop 93A, PO Box 621506, Atlanta, GA 30362.

Among the 4,753 pages of requested records that the IRS located in response to our request, the IRS only produced 4,363 pages to us. Most of the documents the IRS provided in response to the FOIA request are materials that the Estate or its representatives provided to the IRS. The IRS has withheld 189 pages in part and 390 pages in full. This constitutes a partial denial of our request. Pursuant to Treas. Reg. § 601.702(c)(10)(i), the Estate respectfully requests an appeal based on the IRS's partial denial of our request under FOIA.

The IRS has abused its discretion in refusing to produce 579 pages of relevant materials. In its letter dated January 17, 2014, the IRS makes several vague and overbroad generalizations about the materials that were withheld either in whole or in part. As a result, the taxpayer is unable to determine what kind of information has been withheld and whether an appropriate exemption has been asserted by the IRS. This is directly against the policy set forth by the United States Supreme Court that “[D]isclosure, not secrecy, is the dominant objective of FOIA.” *Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1 (2001). The Supreme Court emphasized that “the court construes narrowly FOIA’s nine exemptions.” *Id.* Further, some of the materials provided by the IRS are blurry and/or illegible.<sup>4</sup>

Unfortunately, the Service’s response to the Estate’s FOIA request has proven to be typical of the continuous abuse demonstrated by the IRS toward the Estate for the past several years. First, the IRS tried to manufacture a situation to have the FOIA request dismissed on grounds that the Firm did not have authority to receive materials on behalf of the Estate or Mr. Pesola. During a telephone call with IRS Disclosure Specialist Mark Spiry, Mr. Spiry confirmed that he dismissed the FOIA request because IRS Revenue Agent Sam Gomes forwarded the May 13, 2013 FOIA request to his office, but did not include the Firms’ POAs despite the fact that the Firm attached its valid POAs to the May 13, 2013 FOIA request and despite the fact that Mr. Gomes is well aware of this Firm’s valid POAs. Mr. Gomes’ actions caused the Estate’s FOIA request to be dismissed.<sup>5</sup> Mr. Spiry agreed to re-open the FOIA request, and the Firm resubmitted its valid POAs for the Estate and Mr. Pesola directly to Mr. Spiry.<sup>6</sup>

Subsequent communications with Mr. Spiry revealed that several IRS personnel involved in this case all claimed to have no records related to this case. It is highly unlikely that these individuals have no records, particularly since this Firm has had several direct communications with these individuals and provided materials directly to them. The documents produced by the IRS contain emails from these individuals, the contents of which have been mostly withheld for improper bases.

Further, despite the fact that the statutory deadline for the IRS to respond to a FOIA request is 20 days,<sup>7</sup> the Firm received no response for over eight months other than six requests for additional

<sup>4</sup> See unidentifiable document, attached at Tab 8.

<sup>5</sup> A copy of the June 5, 2013 letter from Mr. Spiry is attached at Tab 5.

<sup>6</sup> A copy of the June 7, 2013 FOIA resubmission is attached at Tab 6.

<sup>7</sup> 26 C.F.R. § 601.702(c)(9)(ii).

time. The IRS offered no reason for the extensive delay despite a statutory requirement that the IRS make a showing of substantial circumstances for any delays over 30 days.<sup>8</sup>

**The IRS has failed to establish that it has any authority to withhold any of the documents it refused to provide in response to the FOIA request.**

Under 5 U.S.C. §552(a) of FOIA, individuals can request an agency to disclose information. Although §552(b) of the FOIA authorizes an agency to withhold requested information if the request falls under one of the statutory exemptions, the agency bears the burden of proving that the requested information should not be released in order to properly claim an exemption. *See* 5 U.S.C. §552(a)(4)(B). It is generally recognized that the government agency bears the ultimate burden of proving that a particular document falls within one of the nine statutory exceptions to the disclosure requirement. *See Dobronski v. FCC*, 17 F.3d 275, 277 (9<sup>th</sup> Cir. 1994).

The IRS has not made any attempt to meet its burden with respect to any of the withheld materials. Simply citing an exemption does not substantiate a proper claim of exemption and does not nearly rise to the level necessary to meet the IRS's burden of establishing that it is entitled to withhold taxpayer information from the taxpayer. *See, Kamman v. IRS*, 56 F.3d 46, 48 (9<sup>th</sup> Cir. 1995) ("the government may not rely on conclusory or generalized allegations of exemptions."); and *Lewis v. IRS*, 823 F.2d 375, 378 (9<sup>th</sup> Cir. 1987) (The government must provide "reasonably detailed descriptions of the documents and allege facts sufficient to establish an exemption."). As the IRS has not nearly complied with this requirement, it must produce all documents and materials to the Estate.

- 1. The IRS improperly withheld 83 pages in part and 54 pages in full, purportedly under FOIA exemption (b)(3), citing 26 USC 6103, the statute which precludes disclosure of taxpayer information.**

Specifically, the IRS claims the withheld information is tax return information related to another person or is outside the scope of the Firm's POA. The Estate disputes this claim by the IRS with respect to all 137 pages (partial and full) withheld under this premise. The Estate disputes that the IRS file accumulated during and as part of the Service's examination of the Estate contains 137 pages of tax return information related to another taxpayer. The Firm has a valid POA for all information related to all of the Estate's income and estate tax matters, plus all foreign asset reporting requirements and all related penalties for tax years 1997 through 2012. This includes all information relevant to Joseph Arleo and any entity in which he had an ownership interest both before and after his death. Additionally, the Firm has a valid POA for Anthony Pesola. Thus, the Firm is entitled to receive all materials collected by the IRS relevant to its examination of Joseph Arleo and the Estate and which the IRS considered in determining Joseph Arleo's and the Estate's tax and information reporting obligations.

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<sup>8</sup> Id.

26 U.S.C. 6103 provides particular criteria for withholding information. Accordingly, § 6103(e)(7) states that “[r]eturn information with respect to any taxpayer may be open to inspection by or disclosure to any [authorized] person. . . .” The courts have routinely held that this provision is phrased as a permissive statute, rather than a prohibitive one. *See Life Extension Foundation, Inc. v. I.R.S.*, 915 F.Supp.2d 174, 185 (D.D.C. 2013). Further, the IRS has failed to demonstrate in any way that the documents it withheld qualify as return information under § 6103(b)(2)(A) and the IRS bears the burden of proof with respect to this assertion. Generally, the IRS bears the burden of establishing that the documents are return information and can do so with “detailed affidavits or oral testimony so that the evidence offered enables the court to make independent assessment of the government’s claim of exemption.” *Church of Scientology of Cal. v. U.S. Dep’t of the Army*, 611 F.2d 738, 742 (9<sup>th</sup> Cir. 1979). As the IRS has failed to establish that these materials are properly exempt, it cannot withhold them and must produce them immediately to the Estate.

**2. The IRS improperly withheld the Discriminant Information Function (“DIF”) score from eight pages.**

The IRS claims the release of the DIF score would seriously impair IRS assessment, collection and enforcement proceedings. The Estate disputes this determination. Release of the DIF score should have little effect on the Service’s assessment, collection and enforcement proceedings. Alternatively, the IRS claims that disclosing the DIF score would reveal law enforcement techniques, procedures and guidelines protected by FOIA exemption (b)(7)(E). The Estate disputes this allegation as well.

A DIF score is a mechanism utilized by the IRS to determine which taxpayers to audit. Disclosure of the DIF score is not a disclosure of the algorithm or formula used by the IRS to produce a DIF score. Further, the Estate has already been subjected to an audit that was conducted by the IRS over the past several years. Consequently, there is no way for the Estate to manipulate its DIF score to avoid audit. Thus, disclosure of a DIF score is not detrimental to the Service’s interests.

**3. The IRS improperly withheld five pages in part and 18 pages in full purportedly under FOIA exemption (b)(3) on the basis that the 23 withheld pages were obtained from a foreign country under a tax treaty.**

For this exemption, the IRS relies on 26 USC 6105 which protects the disclosure of tax convention information. The Estate disputes that the IRS is in possession of any materials relevant to its examination of Joseph Arleo and the Estate that meet the definition of “tax convention information” as that term is defined in 26 USC 6105. The Estate further disputes that the IRS received any information from a foreign country as the result of a treaty request.

The Service’s claims that materials it received from a foreign person are protected as confidential under a tax treaty are unsupported and disingenuous. It is extremely unlikely that the IRS administered a request to the Swiss government through the U.S. and Swiss competent authorities (the necessary procedure for making a request for tax convention information under

the U.S. – Swiss tax treaty)<sup>9</sup> for materials or information in this case. Specifically, the IRS had no reason to make a treaty request in this case, as Anthony Pesola, Administrator of the Estate, signed an “Instruction to Provide Account Records to the IRS” authorizing and instructing the bank to release all information in its possession to the IRS.<sup>10</sup> Consequently, all materials received from Switzerland by the IRS were the result of Anthony Pesola’s instructions, not a treaty request. Consequently, the “treaty privilege” is inapplicable here, and the Estate is entitled to receive all materials obtained from a foreign source. (Note that the only foreign country other than Switzerland that the IRS could possibly have received information from in this case is Liechtenstein. As the U.S. does not have a tax treaty with Liechtenstein, the IRS is precluded from claiming “treaty privilege” with respect to any materials it received from Liechtenstein.)

Regardless, to the extent the IRS may have obtained information about Joseph Arleo or the Estate from a foreign country under a tax treaty, it is the Service’s stated policy to provide this information to the taxpayer to whom it relates. *See*, Internal Revenue Manual § 11.3.2.2.6. The Service’s policy of providing materials to the taxpayer or his representative is consistent with federal court decisions that the IRS may not withhold materials solely on the basis that the materials were obtained from a foreign country or pursuant to a tax treaty request.

**4. The IRS improperly withheld 15 pages in full, purportedly under FOIA exemption (b)(3) in reliance on 31 USC 5319.**

This section exempts from disclosure specific information reported by the IRS to certain state financial institution supervisory agencies, the U.S. intelligence agency, or certain organizations registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission. The Estate disputes that this exemption applies in this case. This case does not involve any person who qualifies as either a state financial institution supervisory agency, the U.S. intelligence agency, or an organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

**5. The IRS improperly withheld eight pages in part and 18 pages in full purportedly under FOIA exemption (b)(5) on the basis that the 26 withheld pages constitute intra-agency memorandums or letters.**

The Estate disputes this determination. First, the IRS did provide some intra-office memorandums and materials, thereby waiving its right to assert a privilege exist with respect to these documents. Further, this exemption protects the policy-making or deliberative process, and only applies to pre-decision deliberations. *Vento v. I.R.S.*, 714 F. Supp.2d 137, 154 (D.D.C. 2010) (quoting *N.L.R.B. v. Sears, Roebuck & Co.*, 421 U.S. at 151). Courts have routinely held that “to withhold a responsive document under the deliberative process privilege, the agency must demonstrate that the document is both predecisional and deliberative.” *See Mayer, Brown, Rowe & Maw LLP v. I.R.S.*, 537 F. Supp. 2d 128, 134 (D.D.C. 2008). (“A document is ‘pre-decisional’ only if it was prepared in order to assist an agency decisionmaker in arriving at his

<sup>9</sup> *See*, Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation With Respect to Taxes on Income.

<sup>10</sup> A copy of which is attached at Tab 9.

decision, rather than to support a decision already made”, and information within that document is deliberative only if it involves the weighing of arguments for and against various outcomes.”). This exemption does not permit the Service to withhold factual information related to the policy-making or deliberative process, or to withhold post-decision materials. *See N.L.R.B. v. Jackson Hosp. Corp.*, 257 F.R.D. 302, 308 (D.D.C. 2009) (“purely factual material is not protected”, “documents that memorialize or evidence the policy an agency ultimately adopts on an issue or documents that the agency used in dealing with the public are not privileged.”).

Additionally, in the present case, the IRS did not identify any particular grounds for invoking this exemption. Courts have routinely decided that a government agency is required to “describe the documents and the justifications for nondisclosure with reasonably specific detail, demonstrate that the information withheld logically falls within the claimed exemption, and are not controverted by either contrary evidence in the record nor by evidence of agency bad faith.” *See Mayer, Brown*, 537 F. Supp. 2d at 133; *Life Extension*, *supra*.

**6. The IRS improperly withheld one page in part and 199 pages in full as purportedly exempted under FOIA exemption (b)(7)(A).**

The Estate disputes this claim on the grounds that the IRS has no basis whatsoever for its assertion that the production of any of the withheld materials to the Estate and/or the Firm could reasonably interfere in enforcement proceedings or its equally vague and overbroad claim that disclosure would impair federal tax administration. On the contrary, production of all documents is necessary and required if the IRS intends to pursue tax administration, collection and/or enforcement.

The IRS has already assessed grossly excessive and abusive penalties and has proposed to assess additional abusive and excessive penalties. On April 26, 2013, the IRS issued a Letter 3946 (Rev. 9-2011) demanding the Estate pay a penalty of \$4,137,318.<sup>11</sup> On June 11, 2013, the IRS issued a Letter 3709 (Rev. 3-2011) asserting an additional penalty of \$2,092,742.50 – a penalty the IRS has already assessed without providing the Estate an opportunity to challenge or seek review prior to assessment in a blatant abuse of discretion and authority.<sup>12</sup> On June 13, 2013, the IRS issued Letter 950 (Rev. 2-2008) proposing changes to income tax due and additional penalties.<sup>13</sup> To date, the IRS has offered no evidence or substantiation for assessing any of these penalties or proposed taxes.

By law, the IRS cannot collect or enforce these penalties unless it can meet its burden of proof that the penalties are appropriate. In fact, the IRS cannot participate in collection or enforcement proceedings without providing to the taxpayer and his representative all materials on which it intends to rely. The Estate has well-established right to know and confront the evidence against it, and the IRS cannot withhold the evidence until the day of trial. To date, the IRS has offered no evidence or rationale for why it is assessing such excessive and abusive penalties, and the Estate has the right to know the Service’s basis for pursuing these penalties.

<sup>11</sup> A copy of the April 26, 2013 letter is attached at Tab 10.

<sup>12</sup> A copy of the June 11, 2013 letter is attached at Tab 11.

<sup>13</sup> A copy of the June 13, 2013 letter is attached at Tab 12.

Courts have routinely found that disclosing records claimed by the IRS as exempt under FOIA exemption (b)(7)(A) would not interfere with ongoing proceedings and thus are not exempt from disclosure. See, *Kamman v. IRS*, 56 F.3d 46, 48 (9<sup>th</sup> Cir. 1995). This finding is common where the government did not specify the harm anticipated, or where the facts to be disclosed were known to the taxpayer, such as where the documents consisted of his or her own statements.

**7. The IRS improperly withheld 10 pages in part and 91 pages in full claiming an exemption under FOIA exemption (b)(7)(C).**

Here, the IRS claims that the disclosure of these 101 pages would constitute an unwarranted invasion of personal privacy. The Estate disputes this claim. In deciding what data would constitute an invasion of privacy if disclosed, "a court must balance the individual's privacy interests and the public's interest in access to the material." See *Crooker v. I.R.S.*, 75 AFTR2d 95-2375 (9<sup>th</sup> Cir. 1995). The IRS did not produce any description of what the 101 withheld pages contain and the taxpayer has no way to determine whether the withheld information constitutes protected data.

A taxpayer (and his representative) has a right to receive all information the IRS has collected about him. As discussed above, the Firm has a valid POA for all information related to Joseph Arleo, the Estate and Anthony Pesola. Thus, the Firm is entitled to receive all materials collected by the IRS relevant to its examination of the Estate.

**8. The IRS improperly withheld 30 pages in part under FOIA exemption (b)(3), claiming that production of this material would seriously impair IRS assessment, collection and enforcement proceedings.**

The Estate disputes this claim. The IRS offers no support for its disingenuous claim that production of the taxpayer's file will in any way impair IRS proceedings. In fact, the IRS cannot proceed any further in this case unless it provides all materials to the Estate and its representatives. Consequently, not producing the withheld materials will serve to prevent fair proceedings.

The IRS cannot claim such potential for impairment as it has already made an assessment of an exorbitant penalty and proposed additional penalties, all of which the taxpayer has formally disputed. As discussed above, the IRS bears the burden of proof with respect to the collection or enforcement of the proposed and assessed penalties. To date, the IRS has provided no basis for assessing or proposing such abusive and exorbitant penalties, and the Estate has an absolute right to know and confront the IRS. The IRS simply cannot utilize any portion of the collection or enforcement procedures without disclosing this information.



9. The IRS improperly withheld 30 pages in part, claiming that their disclosure would reveal law enforcement techniques, procedures and guidelines protected by FOIA exemption (b)(7)(E).

The Estate disputes this claim. It is generally recognized that the government agency bears the ultimate burden of proving that a particular document falls within one of the nine statutory exceptions to the disclosure requirement. *See Dobronsi, supra*. The IRS improperly withheld 30 pages in part, with only a conclusory and generalized allegation of exemption. This is contrary to what courts have routinely required that the government must produce to support a claim of exemption

10. The IRS improperly withheld 49 pages in part claiming they are outside of the Estate's FOIA request.

The Estate disputes this allegation. The FOIA requests clearly requested all records in this case. As discussed above, the Estate and the Firm are entitled to all materials collected and prepared by the IRS in its case against the Joseph Arleo and the Estate. The Estate challenges claims that the IRS has comingled unrelated taxpayer information or information unrelated to the examination of the Estate into its file in this case.

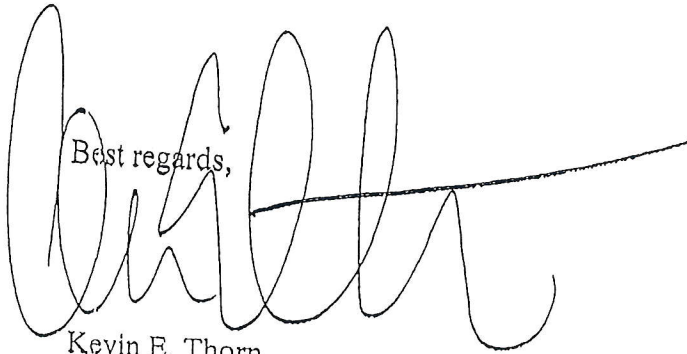
The Estate respectfully requests that the Commissioner grant its request for records. Specifically, the taxpayer is requesting the following:

- a. The IRS provide verification that a proper search for all relevant materials was completed by the appropriate IRS personnel;
- b. The IRS immediately produce the withheld documents to the Estate; and
- c. The IRS provide to the Estate a *Vaughn* index (i.e., a privilege log) clearly identifying each document withheld, the statutory exemption claimed, and an explanation of how disclosure would damage the interests protected by the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974), (in which the court required such an index to determine the validity of the agency's withholdings in the case). *See, also, Citizens Comm'n on Human Rights v. FDA*, 45 F.3d 1325, 1326 n.1 (9th Cir. 1995).

Please let us know the determination on our appeal at the below address:

Kevin Thorn  
888 16<sup>th</sup> Street, NW  
Suite 800  
Washington, DC 20006

The Estate and the Firm reserve the right to amend this submission. If you have any questions regarding this matter, please contact me at (202) 270-7273. Thank you for your attention to this matter.

Best regards,  


Kevin E. Thorn

Enclosures:

Form **2848**  
(Rev. March 2012)  
Department of the Treasury  
Internal Revenue Service

# Power of Attorney and Declaration of Representative

OMB No. 1545-0150

For IRS Use Only

Received by: \_\_\_\_\_

Name \_\_\_\_\_

Telephone \_\_\_\_\_

Function \_\_\_\_\_

Date / /

Type or print. See the separate instructions.

## Part I Power of Attorney

Caution: A separate Form 2848 should be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer Information: Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address  
The Estate of Joseph Arleo  
c/o Anthony Pesola, Administrator for the Estate of Joseph Arleo  
36130 Russell Blvd,  
Davis, CA 95618

Taxpayer identification number(s)

Daytime telephone number

Plan number (if applicable)

I hereby appoint the following representative(s) as attorney-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address  
Kevin E. Thorn, Thorn Law Group, PLLC  
818 16th Street, NW, Suite 800, Washington, DC 20006

CAF No. \_\_\_\_\_  
PTIN \_\_\_\_\_

Telephone No. 202-349-4033

Fax No. 202-365-1399

Check if new: Address  Telephone No.  Fax No.

Check if to be sent notices and communications

Name and address  
Mary Elizabeth Rinaldi, Thorn Law Group, PLLC  
818 16th Street, NW, Suite 800, Washington, DC 20006

CAF No. \_\_\_\_\_  
PTIN \_\_\_\_\_

Telephone No. 202-349-4033

Fax No. 202-365-1399

Check if new: Address  Telephone No.  Fax No.

Check if to be sent notices and communications

Name and address

CAF No. \_\_\_\_\_  
PTIN \_\_\_\_\_

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Check if new: Address  Telephone No.  Fax No.

to represent the taxpayer before the Internal Revenue Service for the following matters:

### 3 Matters

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, etc.) (see instructions for line 3)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions for line 3)
Matters relating to Foreign Asset Reporting	TD F 90-22.1, 3520, 3520A	1997-2012
Income and Estate	Forms 1040, 1041, 706, 3520, 3520A	1997-2012
Civil Penalties	N/A	1997-2012

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for Line 4. Specific Uses Not Recorded on CAF

6 Acts authorized. Unless otherwise provided below, the representative generally are authorized to receive and inspect confidential tax information and to perform any and all acts that I can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The representative(s), however, is (are) not authorized to receive or negotiate any amounts paid to the client in connection with this representation (including refunds by either electronic means or paper checks). Additionally, unless the appropriate box(es) below are checked, the representative(s) is (are) not authorized to execute a request for disclosure of tax returns or return information to a third party, substitute another representative or add additional representatives, or sign certain tax returns.

- Disclosure to third parties;
- Substitute or add representative(s);
- Signing a return;
- Other acts authorized;

Exceptions. An unenrolled return preparer cannot sign any document for a taxpayer and may only represent taxpayers in limited situations. An enrolled actuary may only represent taxpayers to the extent provided in section 10.3(d) of Treasury Department Circular No. 230 (Circular 230). An enrolled retirement plan agent may only represent taxpayers to the extent provided in section 10.3(e) of Circular 230. A registered tax return preparer may only represent taxpayers to the extent provided in section 10.3(f) of Circular 230. See the line 5 instructions for restrictions on tax matters partners. In most cases, the student practitioner's (level k) authority is limited (for example, they may only practice under the supervision of another practitioner).

List any specific deletions to the acts otherwise authorized in this power of attorney:

- 0 Retention/revocation of prior power(s) of attorney. The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you do not want to revoke a prior power of attorney, check here  **YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.**
- 7 Signature of taxpayer. If a tax matter concerns a year in which a joint return was filed, the husband and wife must each file a separate power of attorney even if the same representative(s) is (are) being appointed. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.

▶ IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED TO THE TAXPAYER.

Signature: *[Handwritten Signature]* Date: 11/01/12 Title (if applicable): Administrator

Print Name: \_\_\_\_\_ PIN Number:  Print name of taxpayer from line 1 if other than individual: \_\_\_\_\_

**Part II Declaration of Representative**

- Under penalties of perjury, I declare that:
- \* I am not currently under suspension or disbarment from practice before the Internal Revenue Service;
  - \* I am aware of regulations contained in Circular 230 (31 CFR, Part 101), as amended, concerning practice before the Internal Revenue Service;
  - \* I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
  - \* I am one of the following:
    - a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
    - b Certified Public Accountant—duly qualified to practice as a certified public accountant in the jurisdiction shown below.
    - c Enrolled Agent—enrolled as an agent under the requirements of Circular 230.
    - d Officer—a bona fide officer of the taxpayer's organization.
    - e Full-time Employee—a full-time employee of the taxpayer.
    - f Family Member—a member of the taxpayer's immediate family (for example, spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
    - g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).
    - h Unenrolled Return Preparer—Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have signed the return. See Notice 2011-6 and Special rules for registered tax return preparers and unenrolled return preparers in the instructions.
    - i Registered Tax Return Preparer—registered as a tax return preparer under the requirements of section 10.4 of Circular 230. Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have signed the return. See Notice 2011-6 and Special rules for registered tax return preparers and unenrolled return preparers in the instructions.
    - k Student Attorney or CPA—receives permission to practice before the IRS by virtue of his/her status as a law, business, or accounting student working in LITC or STOP under section 10.7(d) of Circular 230. See instructions for Part II for additional information and requirements.
    - r Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

▶ IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN LINE 2 ABOVE. See the instructions for Part II.

Note: For designations d-f, enter your title, position, or relationship to the taxpayer in the "Licensing Jurisdiction" column. See the instructions for Part II for more information.

Designation—Insert above letter (a-r)	Licensing Jurisdiction (state) or other licensing authority (if applicable)	Bar, license, certification, registration, or enrollment number (if applicable). See instructions for Part II for more information.	Signature	Date
a	DC	482563	<i>[Handwritten Signature]</i>	11/1/12
b	DC	19833	<i>[Handwritten Signature]</i>	11/1/2012

Form **2848**  
 (Rev. March 2012)  
 Department of the Treasury  
 Internal Revenue Service

**Power of Attorney  
 and Declaration of Representative**

CMB No. 1545-0160  
 For IRS Use Only  
 Received by:  
 Name \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 Function \_\_\_\_\_  
 Date 1 / 1

**Part I** Power of Attorney  
 Caution: A separate Form 2848 should be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer Information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address  
 Joseph Arleo  
 919 Anthony Pesola, Administrator for the Estate of Joseph Arleo  
 36130 Russell Blvd,  
 Davis, CA 95618

Taxpayer identification number(s) \_\_\_\_\_  
 Daytime telephone number \_\_\_\_\_  
 Plan number (if applicable) \_\_\_\_\_

hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address  
 Kevin E. Thorn, Thorn Law Group, PLLC  
 888 16th Street, NW, Suite 800, Washington, DC 20008

CAF No. \_\_\_\_\_  
 PTIN \_\_\_\_\_  
 Telephone No. 202-348-4033  
 Fax No. 202-365-1399  
 Check if new: Address  Telephone No.  Fax No.

Check if to be sent notices and communications

Name and address  
 Mary Elizabeth Rineold, Thorn Law Group, PLLC  
 888 16th Street, NW, Suite 800, Washington, DC 20008

CAF No. \_\_\_\_\_  
 PTIN \_\_\_\_\_  
 Telephone No. 202-348-4033  
 Fax No. 202-365-1399  
 Check if new: Address  Telephone No.  Fax No.

Check if to be sent notices and communications

Name and address \_\_\_\_\_

CAF No. \_\_\_\_\_  
 PTIN \_\_\_\_\_  
 Telephone No. \_\_\_\_\_  
 Fax No. \_\_\_\_\_  
 Check if new: Address  Telephone No.  Fax No.

to represent the taxpayer before the Internal Revenue Service for the following matters:

Matters	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions for line 3)
Matters relating to Foreign Bank and Financial Accounts Report	TID F 80-22.1	1997-2012
Income and Estate	Forms 1040, 1041, 706	1997-2012
Civil Penalties	N/A	1997-2012

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for Line 4. Specific Uses Not Recorded on CAF

5 Acts authorized. Unless otherwise provided below, the representatives generally are authorized to receive and inspect confidential tax information and to perform any and all acts that I can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The representative(s), however, is (are) not authorized to receive or negotiate any amounts paid to the client in connection with this representation (including refunds by either electronic means or paper checks). Additionally, unless the appropriate box(es) below are checked, the representative(s) is (are) not authorized to execute a request for disclosure of tax returns or return information to a third party, substitute another representative or add additional representatives, or sign certain tax returns.

- Disclosure to third parties;
- Substitute or add representative(s);
- Signing a return;

Other acts authorized: \_\_\_\_\_

Exceptions. An unenrolled return preparer cannot sign any document for a taxpayer and may only represent taxpayers in limited situations. An enrolled actuary may only represent taxpayers to the extent provided in section 10.3(d) of Treasury Department Circular No. 230 (Circular 230). An enrolled retirement plan agent may only represent taxpayers to the extent provided in section 10.3(e) of Circular 230. A registered tax return preparer may only represent taxpayers to the extent provided in section 10.3(f) of Circular 230. See the line 5 instructions for restrictions on tax matters partners. In most cases, the student practitioner's (level 1) authority is limited (for example, they may only practice under the supervision of another practitioner).

List any specific deletions to the acts otherwise authorized in this power of attorney: \_\_\_\_\_

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Page 2

6 Retention/revocation of prior power(s) of attorney. The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you do not want to revoke a prior power of attorney, check here   
**YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.**

7 Signature of taxpayer. If a tax matter concerns a year in which a joint return was filed, the husband and wife must each file a separate power of attorney even if the same representative(s) is (are) being appointed. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.

▶ IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED TO THE TAXPAYER.

  
 Signature

9-26-2012  
 Date

Administrator  
 Title (if applicable)

Print Name

PIN Number

Print name of taxpayer from line 1 if other than individual

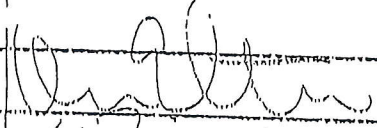
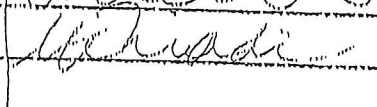
**Part II Declaration of Representative**

Under penalties of perjury, I declare that:

- I am not currently under suspension or disbarment from practice before the Internal Revenue Service;
- I am aware of regulations contained in Circular 230 (31 CFR, Part 10), as amended, concerning practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:
  - a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
  - b Certified Public Accountant—duly qualified to practice, as a certified public accountant in the jurisdiction shown below.
  - c Enrolled Agent—enrolled as an agent under the requirements of Circular 230.
  - d Officer—a bona fide officer of the taxpayer's organization.
  - e Full-Time Employee—a full-time employee of the taxpayer.
  - f Family Member—a member of the taxpayer's immediate family (for example, spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
  - g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(f) of Circular 230).
  - h Unenrolled Return Preparer—Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have signed the return. See Notice 2011-6 and Special rules for registered tax return preparers and unenrolled return preparers in the instructions.
  - i Registered Tax Return Preparer—registered as a tax return preparer under the requirements of section 10.4 of Circular 230. Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have signed the return. See Notice 2011-6 and Special rules for registered tax return preparers and unenrolled return preparers in the instructions.
  - k Student Attorney or CPA—receives permission to practice before the IRS by virtue of his/her status as a law, business, or accounting student working in LITC or STCP under section 10.7(d) of Circular 230. See instructions for Part II for additional information and requirements.
  - r Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

▶ IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN LINE 2 ABOVE. See the instructions for Part II.

Note: For designations d-f, enter your title, position, or relationship to the taxpayer in the "Licensing Jurisdiction" column. See the instructions for Part II for more information.

Designation—insert above letter (a-r)	Licensing Jurisdiction (state) or other licensing authority (if applicable)	Bar, license, certification, registration, or enrollment number (if applicable). See instructions for Part II for more information.	Signature	Date
ra	D.C.	1118025343		9/26/12
ca	D.C.	1118025343		9/26/12