

DATE: October 9, 2018

TO: Board of Supervisors

FROM: Nancy Cardenas, Lassen County Treasurer/Tax Collector

SUBJECT: Amend distribution on parcel numbers 141-140-08-11 and 141-140-09-11

FISCAL IMPACT: No impact.

RECOMMENDATION: That the Board: 1) Amend the distribution on parcel numbers 141-140-08-11 and 141-140-09-11

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On July 30, 2018 I received a letter disputing the distribution of excess proceeds on parcel numbers 141-140-08-11 and 141-140-09-11 claiming that Revenue and Taxation Code §166 "Mailbox Rule:" applied to the filing of excess proceeds and since the claim was postmarked by the last day that it was a valid claim. Their claim was an assignment of interest from Larrisa Urban to Global Discoveries on both of the above parcel numbers. After a review by County Counsel he also agreed that Revenue and Taxation Code §166 was applicable and therefore Global Discoveries claim was not late, and they should be awarded the excess proceeds for the above two parcels.

On September 21, 2018, the Lassen County Sheriff's Office served me with a Writ of Execution on the above parcels for \$10,152.00, on behalf of Mr. Denny Stephens. With the help of County Counsel, we were able to come to an agreement with Global Discoveries, and Mr. Stephens where, Mr. Stephen's judgment is satisfied in full and the remainder of the proceeds are awarded to Global Discoveries.

I am asking that the Board amend the original distribution that was approved on July 17, 2018 to show that Global Discoveries will be receiving proceeds in the amount of \$21,198.00, and the Lassen County Sheriff's Office on behalf of Mr. Stephens will be receiving \$10, 152.00.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <input type="checkbox"/> Recording requested by and return to:  <b>Dennis Stevens</b> <b>30 Landing Circle, Ste 101</b> <b>Chico, CA 95973</b>  ATTORNEY FOR (Name): <b>In Propria Persona</b> NAME OF COURT: <b>Butte County Superior Court</b> STREET ADDRESS: <b>1775 Concord Avenue</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Chico, CA 95928</b> BRANCH NAME: PLAINTIFF: <b>Dennis Stevens</b> DEFENDANT: <b>Larissa Urban</b>	TELEPHONE NO.: <b>(530) 893-0793</b>  FOR RECORDER'S USE ONLY      LEVYING OFFICER (Name and Address): <b>Lassen County Sheriff's Office</b> <b>Sheriff's Civil Division</b> <b>1415 Sheriff Cady Lane</b>  <b>Susanville, CA 96130</b> LEVYING OFFICER FILE NO.: <b>2018000309</b> COURT CASE NO.: <b>18SC01470</b>
NOTICE OF LEVY <input type="checkbox"/> Partition <input checked="" type="checkbox"/> Execution (Mortgage) <input type="checkbox"/> Sale under Writ of <input checked="" type="checkbox"/> Execution (Mortgage) <input type="checkbox"/> Sale	
TO THE PERSON NOTIFIED (name) <b>Larissa M. Urban aka Larissa Welker (SSN Unknown), Christopher D. K. Urban (SSN Unknown)</b> <b>20 L St, Ste 3</b> <b>Susanville, CA 96130</b>	

1. The judgment creditor seeks levy on property in which the judgment debtor has an interest and apply it to the satisfaction of a judgment as follows:
- judgment debtor (name) **Larissa M. Urban aka Larissa Welker (SSN Unknown), Christopher D. K. Urban (SSN Unknown)**
  - the property to be levied upon is described

☐ in the accompanying writ of possession or writ of sale.  
☒ as follows:

Levy upon the Excess Tax Proceeds associated with APN 141 140 09 11 and APN 141 140 08 11.

2. The amount necessary to satisfy the judgment creditor's judgment is (specify total amount due under the writ less partial satisfactions plus daily interest from the date of the writ until the date of levy):

\$ **10,152.00**

3. You are notified as

- ☐ a judgment debtor.
- ☒ a person other than the judgment debtor (state capacity in which person is notified): **Garnishee**

**(Read Information for Judgment Debtor or Information for Person Other Than Judgment Debtor on reverse.)**

**Notice of Levy was**

- ☐ mailed on (date):  
☒ delivered on (date): **9-21-18**  
☐ posted on (date):  
☐ filed on (date):  
☐ recorded on (date):

Signed by: Sheriff's Authorized Agent

**Dean F. Growdon**  
**Sheriff/Coroner**

☒ Levying officer ☐ Registered process server

(Continued on reverse)

**Execution - Third Party - (ORIGINAL)**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>(530) 893-0793</b>		LEVYING OFFICER (Name and Address):
<b>Dennis Stevens</b> <b>30 Landing Circle, Ste 101</b> <b>Chico, CA 95973</b>		<b>Lassen County Sheriff's Office</b> <b>1415 Sheriff Cady Lane</b>  <b>Susanville, CA 96130</b>
ATTORNEY FOR (Name): <b>In Propria Persona</b>		<b>(530) 251-8014</b> <b>Fax: (530) 251-2884</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: <b>1775 Concord Avenue</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Chico, CA 95928</b> BRANCH NAME:		<b>California Relay Service Number</b> <b>(800) 735-2929 TDD or 711</b>
PLAINTIFF/PETITIONER: <b>Dennis Stevens</b>		LEVYING OFFICER FILE NO.:
DEFENDANT/RESPONDENT <b>Larissa Urban</b>		<b>2018000309</b>
<b>MEMORANDUM OF GARNISHEE</b> <b>(Attachment—Enforcement of Judgment)</b>		COURT CASE NO.: <b>18SC01470</b>

NOTICE TO PERSON SERVED WITH WRIT AND NOTICE OF LEVY OR NOTICE OF ATTACHMENT: This memorandum must be completed and mailed or delivered to the levying officer within 10 days after service on you of the writ and notice of levy or attachment unless you have fully complied with the levy. Failure to complete and return this memorandum may render you liable for the costs and attorney fees incurred in obtaining the required information.

— RETURN ALL COPIES OF THIS MEMORANDUM TO THE LEVYING OFFICER —

This memorandum does *not* apply to garnishment of earnings.

1. a. Garnishee (name): **County of Lassen, Office of Treasurer & Tax Collector**
- b. Address: **220 Lassen St, Ste 3**  
**Susanville, CA 96130**
2. Judgment Creditor (name): **Dennis Stevens**
3. ☐ (Check if applicable.) The garnishee holds neither any property nor any obligations in favor of the judgment debtor.
4. If you will not deliver to the levying officer any property levied upon, describe the property and the reason for not delivering it:

5. For writ of execution only. Describe any property of the judgment debtor not levied upon that is in your possession or under your control:



RETURN TO LEVYING OFFICER

(Continued on reverse)

Page 1 of 2

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: Dennis C Stevens FIRM NAME: STREET ADDRESS: 30 Landing Circle Ste. 101 CITY: Chico TELEPHONE NO.: 530-893-0793 E-MAIL ADDRESS: denny@crlandco.com ATTORNEY FOR (name): <input checked="" type="checkbox"/> ORIGINAL JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD		STATE BAR NO.: STATE: Ca ZIP CODE: 95973 FAX NO.: 530-893-9592	FOR COURT USE ONLY     
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Butte STREET ADDRESS: 1775 Concord Ave MAILING ADDRESS: CITY AND ZIP CODE: Chico 95928 BRANCH NAME: Civil		CASE NUMBER: 18SC01470	
Plaintiff: Dennis C. Stevens Defendant: Larissa M. Urban		<input checked="" type="checkbox"/> EXECUTION (Money Judgment) <input type="checkbox"/> POSSESSION OF <input type="checkbox"/> Personal Property <input type="checkbox"/> SALE <input type="checkbox"/> Real Property	
		<input checked="" type="checkbox"/> Limited Civil Case (including Small Claims) <input type="checkbox"/> Unlimited Civil Case (including Family and Probate)	

1. To the Sheriff or Marshal of the County of: Lassen

You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accordance with CCP 699.080 or CCP 715.040.

3. (Name): Dennis C. Stevens

is the ☒ original judgment creditor ☐ assignee of record whose address is shown on this form above the court's name.

4. Judgment debtor (name, type of legal entity if not a natural person, and last known address):

Larissa M. Urban  
 1346 Lincoln St.  
 Red Bluff, Ca 96080

9. ☐ See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.

10. ☐ This writ is issued on a sister-state judgment.

For items 11-17, see form MC-012 and form MC-013-INFO

11. Total judgment (as entered or renewed) \$10,075.00

12. Costs after judgment (CCP 685.090) \$0

13. Subtotal (add 11 and 12) \$10,075.00

14. Credits to principal (after credit to interest) \$0

15. Principal remaining due (subtract 14 from 13) \$10,075.00

16. Accrued interest remaining due per CCP 685.050(b) (not on GC 6103.5 fees) \$0

17. Fee for issuance of writ \$25.00

18. Total (add 15, 16, and 17) \$10,100.00

19. Levying officer:

a. Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees) \$0

b. Pay directly to court costs included in 11 and 17 (GC 6103.5, 68637; CCP 699.520(i)) \$0

20. ☐ The amounts called for in items 11-19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

☒ Additional judgment debtors on next page

5. Judgment entered on (date):

August 10, 2018

6. ☐ Judgment renewed on (dates):

7. Notice of sale under this writ

a. ☒ has not been requested.

b. ☐ has been requested (see next page).

8. ☐ Joint debtor information on next page.

[SEAL]



Issued on (date):

SEP 20 2018

Clerk, by

ALEXANDER

Deputy

NOTICE TO PERSON SERVED: SEE PAGE 3 FOR IMPORTANT INFORMATION.

WRIT OF EXECUTION

CASE NUMBER:

18SCD1470

Plaintiff: Dennis C. Stevens  
 Defendant: Larissa M. Urban

21. ☒ Additional judgment debtor (name, type of legal entity if not a natural person, and last known address):

Christopher D. K. Urban  
 1346 Lincoln St  
 Red Bluff, Ca 96080

22. ☐ Notice of sale has been requested by (name and address):

23. ☐ Joint debtor was declared bound by the judgment (CCP 989-994)

a. on (date):

b. name, type of legal entity if not a natural person, and last known address of joint debtor:

a. on (date):

b. name, type of legal entity if not a natural person, and last known address of joint debtor:

- c. ☐ Additional costs against certain joint debtors are itemized: ☐ Below ☐ On Attachment 23c

24. ☐ (Writ of Possession or Writ of Sale) Judgment was entered for the following:

a. ☐ Possession of real property: The complaint was filed on (date):

(Check (1) or (2). Check (3) if applicable. Complete (4) if (2) or (3) have been checked.)

- (1) ☐ The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46. The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.
- (2) ☐ The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.
- (3) ☐ The unlawful detainer resulted from a foreclosure sale of a rental housing unit. (An occupant not named in the judgment may file a Claim of Right to Possession at any time up to and including the time the levying officer returns to effect eviction, regardless of whether a Prejudgment Claim of Right to Possession was served.) (See CCP 415.46 and 1174.3(a)(2).)
- (4) If the unlawful detainer resulted from a foreclosure (item 24a(3)), or if the Prejudgment Claim of Right to Possession was not served in compliance with CCP 415.46 (item 24a(2)), answer the following:
- (a) The daily rental value on the date the complaint was filed was \$
- (b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):

- b. ☐ Possession of personal property.  
☐ If delivery cannot be had, then for the value (itemize in 24e) specified in the judgment or supplemental order.
- c. ☐ Sale of personal property.
- d. ☐ Sale of real property.
- e. The property is described: ☐ Below ☐ On Attachment 24e

CASE NUMBER:

Plaintiff:  
Defendant:Dennis C. Stevens  
Larissa M. Urban

18SE01470

## NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (form EJ-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will demand that you turn over the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

EXCEPTION IF RENTAL HOUSING UNIT WAS FORECLOSED. If the residential property that you are renting was sold in a foreclosure, you have additional time before you must vacate the premises. If you have a lease for a fixed term, such as for a year, you may remain in the property until the term is up. If you have a periodic lease or tenancy, such as from month-to-month, you may remain in the property for 90 days after receiving a notice to quit. A blank form *Claim of Right to Possession and Notice of Hearing* (form CP10) accompanies this writ. You may claim your right to remain on the property by filling it out and giving it to the sheriff or levying officer.

EXCEPTION IF YOU WERE NOT SERVED WITH A FORM CALLED PREJUDGMENT CLAIM OF RIGHT TO POSSESSION. If you were not named in the judgment for possession and you occupied the premises on the date on which the unlawful detainer case was filed, you may object to the enforcement of the judgment against you. You must complete the form *Claim of Right to Possession and Notice of Hearing* (form CP10) and give it to the sheriff or levying officer. A blank form accompanies this writ. You have this right whether or not the property you are renting was sold in a foreclosure.

## WRIT OF EXECUTION

EJ-130 [Rev. January 1, 2018]

For your protection and privacy, please press the Clear  
this Form button after you have printed the form.

Print this form

Save this form

Clear this form

## AGREEMENT FOR DISTRIBUTION OF EXCESS PROCEEDS

AGREEMENT made on this 1<sup>st</sup> Day of October, 20 18 between the County of Lassen, ("LASSEN") on the one hand, and Global Discoveries, LTD. ("GLOBAL") on the other hand.

Whereas GLOBAL has filed claims on behalf Larissa M. Urban to recover excess proceeds ("FUNDS") in the amount of \$31,350.00 from the tax sale of real property identified as Lassen County Assessor's Parcel Number (APN) 141-140-09-11 and 141-140-08-11 sold at public auction on May 12, 2017; and

Whereas **Dennis Stevens** (STEVENS) has filed a Writ of Execution of a Money Judgment/Notice of Levy to recover a portion of the excess proceeds ("FUNDS") in the amount of \$10,152.00 from the tax sale of the same real property.

GLOBAL hereby agrees to the following:

1. GLOBAL agrees that LASSEN shall disburse the total amount of the Writ of Execution of a Money Judgment/Levy in the amount of \$10,152.00 to STEVENS to satisfy the Judgment in **full**.
2. LASSEN shall request that Mr. STEVENS file a Full Satisfaction of Judgment upon the receipt of payment.
3. GLOBAL does hereby release and forever discharge LASSEN, and all other persons acting by, through, under or in concert with LASSEN from any and all actions, causes of actions (in law or in equity) suits, debts, liens, contracts, agreements, promises, liabilities, demands, damages, losses or claims arising out of recovery of said FUNDS in any manner whatsoever from the beginning of time of to the execution of this agreement. Said release is intended to be and is a release of all claims known or unknown relating in any way to the FUNDS, and is a release to the County of LASSEN to
4. GLOBAL hereby waive the provisions of California Civil Code Section 1542 which reads as follows: **A General release does not extend to claims which a party does not know or suspect to exist in his favor at the time of executing a release, which if known by him must have materially affected his settlement with the other party.**
5. GLOBAL further acknowledges by the execution of this Agreement that they have had the opportunity to seek legal advice for review of this settlement and release.
6. The Provisions of this Agreement shall be deemed to obligate, extend to and inure to the benefit and detriment of the heirs, personal representatives, successors in interest and assignees of GLOBAL on behalf of Larissa M. Urban.
7. This Agreement constitutes the final and entire agreement between GLOBAL and LASSEN pertaining to all matters contained herein and supersedes and replaces all prior and/or contemporaneous agreements, representations and understandings of the

GLOBAL claim. No alteration or modification of this Agreement shall be deemed binding unless duly executed in writing by all parties hereto.

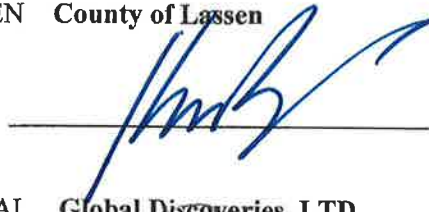
8. Signatures/Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.
9. This Agreement was prepared and entered into the State of California and the Laws of the State of California shall be deemed to interpret and apply this Agreement or any suits based hereunder.

The above is accepted and agreed

DATED:

10/4/18

LASSEN County of Lassen



DATED:

10/1/18

GLOBAL Global Discoveries, LTD.



# Treasurer/Tax Collector

*County of Lassen*



**Nancy Cardenas**, Treasurer/Tax Collector  
Lassen County Courthouse, Suite 3  
220 South Lassen Street  
Susanville, CA 96130-4324

☎ 530/251-8221  
FAX: 530/251-2677

DATE: September 25, 2018

TO: Board of Supervisors

FROM: Nancy Cardenas, Lassen County Treasurer/Tax Collector

SUBJECT: Amend distribution on parcel numbers 141-140-08-11 and 141-140-09-11

FISCAL IMPACT: No impact.

RECOMMENDATION: That the Board: 1) Amend the distribution on parcel numbers 141-140-08-11 and 141-140-09-11 pursuant to R&T code 166 "Mailbox Rule"

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On July 30, 2018 I received a letter disputing the distribution of excess proceed on parcel numbers 141-140-08-11 and 141-140-09-11 claiming that Revenue and Taxation Code 166 "Mailbox Rule:" applied to the filing of excess proceeds and since the claim was postmarked by the last day that it was a valid claim. Their claim was an assignment of interest from Larrisa Urban to Global discovers on both of the above parcel numbers. After a review by County Counsel he also agreed that Revenue and Taxation Code 166 was applicable and therefore Global Discoveries claim was not late, and they should be awarded the excess proceeds for the above two parcels.

I am asking that the Board amend the original distribution that was approved on July 17, 2018 to show that Global Discoveries will be receiving the proceeds instead of Larissa Urban on parcel numbers 141-140-08-11 and 141-140-09-11.



July 30, 2018

County of Lassen  
Nancy Cardenas, Treasurer/Tax Collector  
Lassen County Courthouse, Suite 3  
220 South Lassen Street  
Susanville, CA 96130-4324

**VIA FEDERAL EXPRESS**

RE: Claim for Excess Proceeds APN #: 141-140-08-11  
Claim for Excess Proceeds APN #: 141-140-09-11

Dear Ms. Cardenas:

Please allow me to introduce myself as the Manager of Process and Development for Global Discoveries, Ltd. ["Global"], an excess proceeds claimant on Lassen County Tax Assessor's Parcel Number 141-140-08-11 and 141-140-09-11 ["the subject properties"].

Global recently received a letter from you dated July 27, 2018 advising Global that the County deems the two claims as denied with regard to its Excess Proceeds claims arising from the County's Tax sale of the subject properties. Global believes that the County's proffered denial/invalidity of our claims is incorrect because California relies on the "Mailbox Rule" to determine when excess proceeds claims are filed with its Counties. As will be explained below, the indisputable evidence will establish that Global's Excess Proceeds Claims and the supporting documents were mailed to the County by United States Postal Service Certified Mail prior to the expiration of the one-year claim filing deadline on May 25, 2018, and thus were timely filed notwithstanding that the Claims and supporting documents did not physically reach the Tax Collector's Office until May 29, 2018.

The relevant facts as I understand them are as follows:

1. The subject properties (141-140-08-11 and 141-140-09-11) were sold at the County's Tax Sale on May 12, 2017.
2. The County's Tax Deeds to the Tax Sale Purchasers were recorded in the Official Records of Lassen County on May 25, 2017. Thus, the Section 4675(a) deadline for filing an excess proceeds claim was established as May 25, 2018.
3. Global is the assignee of Larissa M. Urban for each of the subject properties, Parcel 141-140-08-11 and 141-140-09-11 who was the lienholder of record on the date of the County's Tax Sale and on the date of the County's recordation of the Tax Deed.
4. On May 25, 2018 Global mailed its Excess Proceeds Claim for APN# 141-140-08-11 and 141-140-09-11 along with its supporting documents to the Tax Collector's Office by United States Postal Service Certified Mail 7018 0040 0000 8203 8393. The date of the mailing is verified on the postmark printed on the parcel by the United States Postal



Service. A copy of the Certified Mail Receipts bearing the May 25, 2018 postmark stamp is attached for your review. **Please also note the bottom of each claim summary that was submitted to Lassen county bears the certified tracking # of which the original is in the County's possession and is one and the same as the tracking # noted on the Certified Mail Receipt.**

5. As stated in your email to Michelle Barajas on July 30, 2018, Global's claim was denied because County Counsel advised that his opinion of the law was the claim had to be in your office by the 25<sup>th</sup>, and our claim was not received until the 30<sup>th</sup> of May. Please note the claim had actually been delivered on May 29, 2018 by way of United States Postal Service Certified Mail 7018 00400000 8203 8393 and signed by Laura Dennis. **Enclosed is a copy of the emailed correspondence and a copy of the certified return receipt, in addition to the USPS tracking printout through USPS.com**

#### A. Legal Analysis

The County's analysis seems to be that because the Excess Proceeds Claim was not physically signed for and received by the Tax Collector's office until May 30, 2018, the Claim was filed late. The County's position is inconsistent with the controlling provisions of the *California Revenue and Taxation Code*, which expressly provide for the filing of claims by mail under what is commonly referred to as the "Mailbox Rule."

*California Revenue and Taxation Code*, Section 4675(a) provides:

"(a) Any party of interest in the property may file with the County a claim for the excess proceeds, in proportion to his or Her interest held with others of equal priority in the property at The time of sale, at any time prior to the expiration of one year Following the recordation of the tax collector's deed to the Purchaser," [Emphasis added]

Section 4675(a) establishes the one-year claim filing deadline for excess proceeds claims. In this case that deadline was May 25, 2018. Note the Legislature's use of the word "file" in Section 4675(a), as this will be important to the analysis of this matter.

*California Revenue and Taxation Code*, Section 166 provides:

"(a) Whenever a taxpayer is required to file any statement, affidavit, application, or any other paper or document with a taxing agency by a specified time on a specified date, such filing shall be deemed to be within the specified period if it is sent by United States mail, properly addressed with postage prepaid, and bears a post office cancellation mark of the specified date, or earlier within the specified period, stamped on the envelope, or on itself, or if proof satisfactory to the agency establishes that the mailing occurred on the specified

date, or earlier within the specified period.

(b) The provisions of this section shall supersede any contrary special provision of this division unless such special provision specifically provides that this section shall not be applicable.

(c) The provisions of this section are applicable to any filing required to be made by ordinance, rule, or regulation of a taxing agency.

\* \* \*

(e) It is the intent of the Legislature that this section be liberally construed in favor of the taxpayer and be applicable to all filings relating to property taxation which are required to be made by a taxpayer by a specified time on a specified date.” [Emphasis added]

Section 166 establishes that the Mailbox Rule applies “Whenever a taxpayer is required to file any statement, affidavit, application, or any other paper or document with a taxing agency with a taxing agency by a specified time on a specified date” required by the *Revenue and Taxation Code*. Note that in Section 166(a) the Legislature chose the word “file,” the same word used by the Legislature in the first sentence of Section 4675(a). Thus, the filing of the Claim required by Section 4675(a) is covered by the Mailbox Rule of Section 166.

Also of importance, Section 166(b) provides that “The provisions of this section shall supersede any contrary special provision of this division unless such special provision specifically provides that this section shall not be applicable.” The “this division” referenced in Section 166(b) is Division 1 of the California Revenue and Taxation Code; Section 166 is contained in Division 1, Part 8, Chapter 1.3. This further exemplifies the fact that Section 4675 excess proceeds claims are subject to Section 166(a)’s Mailbox Rule.

Also of importance is this analysis is the fact that Section 166 was enacted by the Legislature in 1968, while Section 4675 was later enacted by the Legislature in 1974. Thus, the Legislature knew when it enacted Section 4675 that if it wanted to exclude the filing of excess proceeds claims from the benefit of Section 166(a)’s Mailbox Rule, it was required by section 166(b) to “specifically provide that this section [section 166] shall not be applicable.” As you can see, nothing in Section 4675 specifically overrides Section 166.

Finally, section 166 provides that Section 166 shall “be liberally construed in favor of the taxpayer.” This, coupled with the fact that Section 4675 is a remedial statute also required to be liberally construed in favor of the protected class, mandates that an excess proceeds claim which is mailed to the County on the deadline date has been timely filed.

California Revenue and Taxation Code, Section 2513 similarly provides:

“If an **application**, tax statement or **claim for credit or refund** required by law to be filed with a taxing agency through the United States Mail, properly addressed with the required postage prepaid, it shall be deemed filed on the date shown by the post office cancellation mark stamped on the envelope containing it, or on the date it was mailed if proof satisfactory to the tax collector establishes that the mailed occurred on an earlier date.”

Section 2513 further establishes that the Mailbox Rule also specifically applies to the filing of any “**application . . . or claim for credit or refund**” required by the Revenue and Taxation Code. Clearly, the Section 4675 excess proceeds claims at issue herein constitute claims for a credit or refund of the excess proceeds from a tax sale. Thus, the Mailbox Rule applies to excess proceeds claims for refunds pursuant to Section 2513 as well.

#### **B. Factual Analysis**

In these cases, there can be no dispute that Global’s claims were mailed to the Treasurer-Tax Collector’s Office by United States Postal Service certified mail number 7018 0040 0000 8203 8393 May 25, 2018, proof of which was included with Global’s Claim {and is also included herewith} and acknowledged in your July 30, 2018 email. Thus, pursuant to *California Revenue and Taxation Code*, Section 166 the Claim was filed on May 25, 2018 which is timely in light of the fact that the last day for filing claims under Section 4675(a) was also May 25, 2018.

#### **C. Conclusion**

**By this letter, we kindly request that the Lassen County Tax Collector’s office determine that Global’s Excess Proceeds Claims were timely filed and decide the Claim on the merits. I would ask that you confirm your Office’s willingness to do so in writing within one week of today’s date, to wit: August 6, 2018.** Alternatively, I would ask that you forward this letter to the Lassen County Counsel’s office and ask them to contact me regarding the matter should there be any questions or concerns, in addition to please notify me promptly should the county not be willing to accept our claims as timely.

Thank you for your courtesy and cooperation in this matter. Please call me if you have any questions.

Respectfully,

Amy L. Elmer  
Manager of Process and Development

Enclosures