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8   **UNITED STATES DISTRICT COURT**

9   **EASTERN DISTRICT OF CALIFORNIA**

10

11 UNITED STATES OF AMERICA and   )   Case No. 1:10-cv-02276-LJO-MJS
    LORENA RAMOS, Revenue Officer,   )
12 Internal Revenue Service,   )
)
13   Petitioners,   )   **MAGISTRATE JUDGE'S FINDINGS**
)   **AND RECOMMENDATIONS RE: I.R.S.**
14   v.   )   **SUMMONS ENFORCEMENT**
)
15 JANET REID-BILLS,   )
)
16   Respondent.   )
    _____)

17

18   This matter came on for hearing on March 11, 2011, pursuant to the Order to Show

19 Cause filed December 14, 2010. The Order to Show Cause, along with the verified

20 petition, memorandum and continuance order was served on Respondent via regular and

21 certified mail, pursuant to the order allowing alternative service and Fed. R. Civ. P. 4(e),

22 on February 14, 2011. Glen Dorgan appeared for petitioners, and petitioning Revenue

23 Officer Lorena Ramos was present. Respondent did not file an opposition but appeared at

24 the hearing.

25   The Verified Petition to Enforce I.R.S. Summons initiating this proceeding seeks

26 to enforce an administrative summons (Exhibit A to the petition) in aid of Revenue

27 Officer Ramos' investigation of Respondent Janet Reid-Bills to determine financial

28 information to collect assessed amounts of federal income tax for the taxable years ending

                                        1
MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATIONS RE: I.R.S. SUMMONS ENFORCEMENT

December 31, 2002, and December 31, 2005. Subject matter jurisdiction is invoked under 28 U.S.C. §§ 1340 and 1345, and is found to be proper. Authorization for the action is under I.R.C. §§ 7402(b) and 7604(a) (26 U.S.C.). The Order to Show Cause shifted to Respondent the burden of rebutting any of the four requirements of United States v. Powell, 379 U.S. 48, 57-58 (1964).

I have reviewed the petition and documents in support. Based on the uncontroverted verification of Revenue Officer Ramos, the absence of an opposition, and the entire record, I make the following findings:

1.   The summons issued by Revenue Officer Lorena Ramos to Respondent Janet Reid-Bills on January 5, 2010, seeking testimony and production of documents and records in Respondent's possession, was issued in good faith and for a legitimate purpose under I.R.C. § 7602, that is, to determine financial information to collect assessed amounts of U.S. individual income tax for the taxable years ending December 31, 2002, and December 31, 2005.

2.   The information sought is relevant to that purpose.

3.   The information sought is not already in the possession of the Internal Revenue Service.

4.   The administrative steps required by the Internal Revenue Code have been followed.

5.   There is no evidence of referral of this case by the Internal Revenue Service to the Department of Justice for criminal prosecution.

6.   The verified petition and its exhibits made a prima facie showing of satisfaction of the requirements of United States v. Powell, 379 U.S. 48, 57-58 (1964).

7.   The burden shifted to Respondent Janet Reid-Bills to rebut that prima facie showing.

8.   Respondent presented no argument or evidence to rebut the prima facie showing.

///

MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATIONS RE: I.R.S. SUMMONS ENFORCEMENT

1   I therefore recommend that the IRS summons issued to Respondent Janet Reid-

2 Bills be enforced and that an order be entered as follows:

3   (1)   Directing Respondent Janet Reid-Bills to complete and serve by mail or

4 personal delivery to Revenue Officer Lorena Ramos, with notice to Assistant U.S.

5 Attorney Glen Dorgan, the tax returns at issue in this case within thirty (30) days;

6   (2)   Directing Revenue Officer Lorena Ramos, or her designated representative,

7 acting by and through Assistant U.S. Attorney Glen Dorgan, to notify Respondent, by

8 regular mail within 7 (seven) days following Respondent's service of the tax returns at

9 issue in this case, whether the IRS has elected, based on the information provided in the

10 tax returns at issue, to waive its right to the information demanded by the IRS summons;

11 and, in the event the IRS does not notify Respondent of any such waiver,

12   (2)   Directing Respondent Janet Reid-Bills to appear at the I.R.S. offices at

13 2525 Capitol Street, Suite 206, Fresno, California 3730, before Revenue Officer Lorena

14 Ramos, or her designated representative, within sixty (60) days of this order, then and

15 there to be sworn, to give testimony, and to produce for examining and copying the

16 books, checks, records, papers and other data demanded by the summons, the examination

17 to continue from day to day until completed.

18   I further recommend that the Court retain jurisdiction to enforce its order by its

19 contempt power.

20   These findings and recommendations are submitted to the United States District

21 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C)

22 and Rule 72-304 of the Local Rules of the United States District Court for the Eastern

23 District of California. Within ten (10) days after being served with these findings and

24 recommendations, any party may file written objections with the court and serve a copy

25 on all parties. Such a document should be titled "Objections to Magistrate Judge's

26 Findings and Recommendations." Any reply to the objections shall be served and filed

27 within ten (10) days after service of the objections. The District Judge will then review

28 these findings and recommendations pursuant to 28 U.S.C. § 636(b)(1). The parties are

MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATIONS RE: I.R.S. SUMMONS ENFORCEMENT

1 advised that failure to file objections within the specified time may waive the right to

2 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3   The Clerk shall serve this and future orders by mail to Ms. Janet Reid-Bills, 1683

4 East Gatwick Lane, Fresno, California 93730.

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6 IT IS SO ORDERED.

7 Dated: March 18, 2011   /s/ *Michael J. Seng*
                                       UNITED STATES MAGISTRATE JUDGE

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