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10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA  
 12 SOUTHERN DIVISION  
 13

14 UNITED STATES OF AMERICA, ) Case No. SACV 11-1116-AG(RNBx)  
 )  
 15 Petitioner, ) ORDER TO SHOW CAUSE  
 )  
 16 vs. )  
 )  
 17 BILLY D. PHELAN III, )  
 )  
 18 Respondent. )  
 )  
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20 Upon the Petition and supporting Memorandum of Points and  
 21 Authorities, and the supporting Declaration to the Petition, the  
 22 Court finds that Petitioner has established its *prima facie* case  
 23 for judicial enforcement of the subject Internal Revenue Service  
 24 ("IRS" and "Service") summonses. See United States v. Powell,  
 25 379 U.S. 48, 57-58, 85 S.Ct. 248, 13 L.Ed.2d 112 (1964); see also  
 26 Crystal v. United States, 172 F.3d 1141, 1143-1144 (9<sup>th</sup> Cir.  
 27 1999); United States v. Jose, 131 F.3d 1325, 1327 (9<sup>th</sup> Cir.  
 28 1997); Fortney v. United States, 59 F.3d 117, 119-120 (9<sup>th</sup> Cir.

1 1995) (the Government's *prima facie* case is typically made  
2 through the sworn declaration of the IRS agent who issued the  
3 summons); accord, United States v. Gilleran, 992 F.2d 232, 233  
4 (9<sup>th</sup> cir. 1993).

5 **THEREFORE, IT IS ORDERED** that Respondent appear before this  
6 District Court of the United States for the Central District of  
7 California in Courtroom No. 10D, Ronald Reagan Federal Building  
8 and United States Courthouse 411 West Fourth Street, Santa  
9 Ana, California 92701 on October 24, 2011, at 9:00 a.m. and  
10 show cause why the testimony and production of books, papers,  
11 records and other data demanded in the subject Internal Revenue  
12 Service summonses should not be compelled.

13 **IT IS FURTHER ORDERED** that copies of this Order, the Petition, Memorandum  
14 of Points and Authorities, and accompanying Declaration be served  
15 promptly upon Respondent by any employee of the Internal Revenue  
16 Service or by the United States Attorney's Office, by personal  
17 delivery, or by leaving copies of each of the foregoing documents  
18 at the Respondent's dwelling or usual place of abode with someone  
19 of suitable age and discretion who resides there, or by certified  
20 mail.

21 **IT IS FURTHER ORDERED** that within ten (10) days after service upon  
22 Respondent of the herein described documents, Respondent shall  
23 file and serve a written response, supported by appropriate sworn  
24 statements, as well as any desired motions. If, prior to the  
25 return date of this Order, Respondent files a response with the  
26 Court stating that Respondent does not desire to oppose the  
27 relief sought in the Petition, nor wish to make an appearance,  
28 then the appearance of Respondent at any hearing pursuant to this

1 Order to Show Cause is excused, and Respondent shall be deemed to  
2 have complied with the requirements of this Order.

3 **IT IS FURTHER ORDERED** that all motions and issues raised by the pleadings  
4 will be considered on the return date of this Order. Only those  
5 issues raised by motion or brought into controversy by the  
6 responsive pleadings and supported by sworn statements filed  
7 within ten (10) days after service of the herein described  
8 documents will be considered by the Court. All allegations in  
9 the Petition not contested by such responsive pleadings or by  
10 sworn statements will be deemed admitted.

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12 DATED: September 1, 2011

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15 United States District Judge  
16 Andrew J. Guilford  
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