

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

Upon the petition of the United States of America and the Declaration of Revenue Officer Jane Canaday, including the exhibits attached thereto, it is hereby

**ORDERED** that the Respondent, Edgardo G. Cazares, shall appear before United States Magistrate Judge Dennis L. Beck, in Courtroom 9 in the United States District Courthouse in Fresno, California on the 3rd day of April, 2009, at 9:00 a.m., to show cause why he should not be compelled to obey the Internal Revenue Service administrative summons served upon him.

It is further **ORDERED** that:

1. A copy of this Order, together with the petition, memorandum of points and authorities, Declaration and Amended Declaration of Revenue Officer Jane Canaday and their exhibits, shall be served upon the respondent in accordance with FED. R. CIV. P. 4

1 within twenty-one (21) days of the date that this Order is served upon counsel for the  
2 United States or as soon thereafter as possible.  
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4       2. Pursuant to FED. R. CIV. P. 4.1, the Court hereby appoints the group manager of  
5 Revenue Officer Jane Canaday, and all federal employees designated by that group  
6 manager, to serve process in this case.  
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8       3. Proof of any service done pursuant to paragraph 2, above, shall be filed with the  
9 Clerk of this Court as soon as practicable. If the federal employee assigned to serve these  
10 documents is unable to serve them as provided in paragraph 1, despite making reasonable  
11 efforts to do so, the documents may be served by any other means of service permitted by  
12 Fed. R. Civ. P. 4(e) or Petitioner may request a court order granting leave to serve by  
13 other means. See Fed. R. Civ. P. 81(a)(5). The federal employee assigned to serve the  
14 documents shall make a certificate detailing the efforts made within the 21-day period to  
15 serve the respondent as provided in paragraph 1.  
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17       4. Since the file in this case reflects a *prima facie* showing that the investigation is  
18 being conducted for a legitimate purpose, that the inquiry may be relevant to that purpose,  
19 that the information sought is not already within the Commissioner on the Internal  
20 Revenue Service's possession, and that the administrative steps required by the Internal  
21 Revenue Code have been followed, as required under United States v. Powell, 379 U.S.  
22 48, 57-58 (1964), the burden of coming forward has shifted to respondent Edgardo  
23 Cazares to oppose enforcement of the summons.  
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1       5. If respondent Edgardo Cazares has any defense to present or opposition to the  
2 petition, such defense or opposition shall be made in writing and filed with the Clerk of  
3 this Court and copies served on counsel for the United States in Washington D.C., at least  
4 fourteen (14) days prior to the date set for the show cause hearing. The United States  
5 may file a reply memorandum to any opposition at least five (5) court days prior to the  
6 date set for the show cause hearing.  
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9       6. At the show cause hearing, the Court will consider all issues raised by the  
10 respondent and brought into controversy by responsive pleadings filed herein and  
11 supported by affidavit. Any uncontested allegations in the petition will be considered  
12 admitted.  
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15       7. Respondent Edgardo Cazares may notify the Court, in a writing filed with the  
16 Clerk of this Court and served on counsel for the United States in Washington, D.C., at  
17 least fourteen (14) days prior to the date set for the show cause hearing, that the  
18 respondent has no objection to enforcement of the summons. The respondent's  
19 appearance at the hearing will then be excused.  
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8. Respondent Edgardo Cazares is hereby notified that a failure to comply with this Order may subject him to sanctions for contempt of court.

IT IS SO ORDERED.

Dated: January 23, 2009

/s/ Dennis L. Beck

UNITED STATES MAGISTRATE JUDGE