


FILED

MAR 13 2013

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,
12
13 Petitioner,

14 v.

15 KENDALL O. BATES,
16
17 Respondent,

1:12-cv-00701-LJO-SMS

**ORDER FINDING
RESPONDENT IN CIVIL
CONTEMPT OF ORDERS FILED
AUGUST 10, 2012, AND
FEBRUARY 1, 2013**

17 This matter came before me on March 13, 2013, under the Amended Order to Show Cause
18 Re: Civil Contempt filed February 1, 2013. Assistant United States Attorney Yoshinori H. T. Himel
19 and investigating Revenue Officer Lorena Ramos were present. Respondent did not file opposition
20 to contempt and did not appear at the show-cause hearing. Based upon the entire record and the oral
21 proceedings, I make the following findings:

22 1. By Order filed August 10, 2012, I enforced an IRS summons issued August 5, 2011,
23 directed to the respondent, Kendall O. Bates, and seeking testimony, books, records, papers, and
24 other data to aid RO Ramos' investigation to determine financial information relevant to the IRS's
25 efforts to collect income tax liabilities for the tax years ending December 31, 2000, December 31,
26 2001, December 31, 2003, December 31, 2004, December 31, 2005, and December 31, 2006,
27 assessed against Kendall O. Bates. I ordered respondent to meet with the investigating Revenue
28 Officer within 21 days after issuance of the Order, or at a later date to be set by the Revenue Officer,

ORDER FINDING RESPONDENT IN CIVIL CONTEMPT OF ORDERS FILED
AUGUST 10, 2012, AND FEBRUARY 1, 2013

1 and to produce all testimony, books, records, and other data demanded by the IRS summons issued
2 August 5, 2011.

3 2. On August 30, 2012, the Revenue Officer wrote the respondent setting the
4 compliance date for September 12, 2012, at 10:00 a.m., at 2525 Capitol Street, Suite 206, Fresno,
5 California.

6 3. The respondent did not appear, and he failed to provide the testimony and documents
7 demanded in the summons.

8 4. On January 31, 2013, Petitioner filed a Petition for Contempt of Order filed August
9 By Order filed August 28, 2012, I enforced 10, 2012.

10 5. This Court's Order filed February 1, 2013, required respondent to appear before this
11 Court on March 13, 2013, at 8:15 a.m., and show cause as to why he should not be held in contempt
12 for failure to comply with the Order filed August 10, 2012. This order further set a date certain for a
13 written response by the respondent. This order was duly served by mail upon the respondent.

14 6. Respondent failed to file a written response, and failed to appear at the hearing.

15 7. Respondent's failure to comply with the Orders filed August 10, 2012, and February
16 1, 2013, continues to the present.

17 8. "A court has the inherent power to punish for civil or criminal contempt any
18 obstruction of justice relating to any judicial proceeding." Lambert v. Montana, 545 F.2d 87, 88 (9th
19 Cir. 1976). Petitioner has the burden of proving its prima facie case by clear and convincing proof.
20 Balla v. Idaho State Bd. Of Corrs., 869 F.2d 461, 466 (9th Cir. 1989).

21 9. By the Petition for Contempt and supporting documents, including the declaration of
22 Lorena Ramos, Petitioner has met this burden.

23 Based upon the foregoing, I find, order, and adjudge as follows:

24 A. Respondent, KENDALL O. BATES, is in civil contempt of this Court for his failure
25 to comply with the Order filed on August 10, 2012, directing Respondent to comply
26 with the IRS summons issued August 5, 2011, and with the Order filed on February 1,
27 2013, ordering respondent to appear before me for the trial of his contempt.

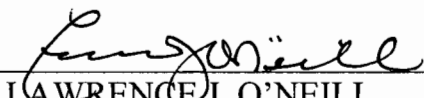
28 B. A Bench Warrant for the arrest of Respondent, KENDALL O. BATES, will issue.

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C. After arrest, Respondent, KENDALL O. BATES, is to be incarcerated and brought before me for hearing on further remedies for civil contempt.

It is SO ORDERED.

Dated: March 13, 2013



LAWRENCE J. O'NEILL
UNITED STATES DISTRICT JUDGE