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9 IN THE UNITED STATES DISTRICT COURT FOR THE
10 EASTERN DISTRICT OF CALIFORNIA
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12 UNITED STATES OF AMERICA,

13 Petitioner,

14 v.

15 KENDALL O. BATES,

16 Respondent.
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1:12-cv-00701-LJO-SMS

**ORDER TO SHOW CAUSE RE:
TAX SUMMONS ENFORCEMENT**

**TAXPAYER:
KENDALL O. BATES**

Date: July 18, 2012
Time: 10:00 a.m.
Ctrm: 1, 8th Floor
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20 Upon the petition of BENJAMIN B. WAGNER, United States Attorney for the
21 Eastern District of California, including the verification of Revenue Officer LORENA
22 RAMOS, and the Exhibit attached thereto,

23 IT IS HEREBY ORDERED that:

24 1. Respondent, KENDALL O. BATES, appear before the Honorable Sandra
25 M. Snyder, United States Magistrate Judge, on July 18, 2012 at 10:00 a.m. in Courtroom
26 No. 1 on the Eighth Floor of the Robert E. Coyle United States Courthouse, 2500 Tulare
27 Street, Fresno, California, to show cause why the respondent should not be compelled to
28 obey the Internal Revenue Service summons issued on August 5, 2011.

1 IT IS FURTHER ORDERED that:

2 2. The United States Magistrate Judge preside, under 28 U.S.C. § 636(b)(1)
3 and Local Rule 302(c)(9), at the hearing scheduled above. After hearing, the Magistrate
4 Judge shall submit proposed findings and recommendations under Local Rule 304(a),
5 with the original thereof filed by the Clerk and a copy provided to all parties.

6 3. Under Fed. R. Civ. P. 4(c)(1), the Court appoint the investigating Internal
7 Revenue Service employee, and all federal employees designated by that employee, to
8 serve process in this case.

9 4. To afford the respondent an opportunity to respond to the petition and the
10 petitioner an opportunity to reply, a copy of this order, the Verified Petition and its
11 Exhibit, and the Points and Authorities, be served by delivering a copy to the respondent
12 personally, or by leaving a copy at the respondent's dwelling, house, or usual place of
13 abode, with some person of suitable age and discretion then residing therein, or by any
14 other means of service permitted by Fed. R. Civ. P. 4(e), within **twenty-one (21) days**
15 from the date this order is served upon the United States Attorney, unless such service
16 cannot be made despite reasonable efforts.

17 5. Proof of any service done under paragraph 4 above be filed with the Clerk
18 as soon as practicable.

19 6. If the federal employee assigned to serve these documents is not reasonably
20 able to serve the papers as provided in paragraph 4, petitioner may request a court order
21 granting leave to serve by other means. See Fed. R. Civ. P. 81(a)(5). The federal
22 employee assigned to serve the documents shall make a certificate detailing the efforts
23 made within the 21-day period to serve the respondent as provided in paragraph 4.

24 7. The file reflect a prima facie showing that the investigation is conducted
25 pursuant to a legitimate purpose, that the inquiry may be relevant to that purpose, that the
26 information sought is not already within the Commissioner's possession, and that the
27 administrative steps required by the Code have been followed. See United States v.
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1 Powell, 379 U.S. 48, 57-58 (1964). The burden of coming forward therefore has shifted
2 to whoever might oppose enforcement.

3 8. If the respondent has any defense or opposition to the petition, such defense
4 or opposition be made, in writing, and filed with the Clerk, and a copy served on the
5 United States Attorney at least **ten (10) days** prior to the date set for the show cause
6 hearing.

7 9. At the show cause hearing, the Magistrate Judge consider the issues
8 properly raised in opposition to enforcement. Only those issues brought into controversy
9 by the responsive pleadings and supported by affidavit will be considered. Any
10 uncontested allegation in the petition will be considered admitted.

11 10. The respondent notify the Court, in writing, filed with the Clerk and served
12 on the United States Attorney at least **ten (10) days** prior to the date set for the show
13 cause hearing, that the respondent has no objections to enforcement of the summons. The
14 respondent's appearance at the hearing will then be excused.

15 IT IS SO ORDERED.

16 **Dated: May 3, 2012**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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