

FILED

MAR 13 2013

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

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11 UNITED STATES OF AMERICA,
12 Petitioner,
13 v.
14 MICHAEL G. BOYD,
15 Respondent.

1:12-cv-00733-LJO-SAB

**ORDER FINDING
RESPONDENT IN CIVIL
CONTEMPT OF ORDERS FILED
AUGUST 29, 2012, AND
FEBRUARY 1, 2013**

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

22 1. By Order filed August 29, 2012, I enforced an IRS summons issued November 8,
23 2011, directed to the respondent, Michael G. Boyd, and seeking testimony, books, records, papers,
24 and other data to aid RO Lopez' investigation to determine financial information relevant to the
25 IRS's efforts to collect income tax liabilities for the tax years ending December 31, 2001, December
26 31, 2002, and December 31, 2004, assessed against Michael G. Boyd. I ordered respondent to meet
27 with the investigating Revenue Officer within 21 days after issuance of the Order, or at a later date
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1 to be set by the Revenue Officer, and to produce all testimony, books, records, and other data
2 demanded by the IRS summons issued November 8, 2011.

3 2. On September 7, 2012, the Revenue Officer wrote the respondent setting the
4 compliance date for September 27, 2012, at 9:00 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 29, 2012. This Court's Order filed February 1, 2013, required respondent to appear before this Court
10 on March 13, 2013, at 8:30 a.m., and show cause as to why he should not be held in contempt for
11 failure to comply with the Order filed August 29, 2012. This order further set a date certain for a
12 written response by the respondent. This order was duly served by mail upon the respondent.

13 5. Respondent failed to file a written response, and failed to appear at the hearing.

14 6. Respondent's failure to comply with the Orders filed August 29, 2012, and February
15 1, 2013, continues to the present.

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

20 8. By the Petition for Contempt and supporting documents, including the declaration of
21 David M. Lopez, Petitioner has met this burden.

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

23 A. Respondent, MICHAEL G. BOYD, is in civil contempt of this Court for his failure to
24 comply with the Order filed on August 29, 2012, directing Respondent to comply
25 with the IRS summons issued November 8, 2011, and with the Order filed February
26 1, 2013, ordering respondent to appear before me for the trial of his contempt.

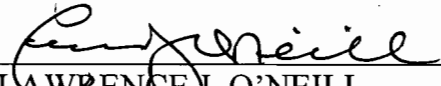
27 B. A Bench Warrant for the arrest of Respondent, MICHAEL G. BOYD, will issue.
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C. After arrest, Respondent, MICHAEL G. BOYD, is to be incarcerated and brought before me for hearing on the remedies for his civil contempt.

It is SO ORDERED.

Dated: March 13, 2013



LAWRENCE J. O'NEILL
UNITED STATES DISTRICT JUDGE