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

UNITED STATES OF AMERICA,

Petitioner,

v.

STANLEY C. MADEWELL;  
AFFORDABLE AUTO REPAIR

Respondent.

Case No. 1:12-mc-00009-SKO

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

Taxpayer: STANLEY C. MADEWELL;  
AFFORDABLE AUTO REPAIR

Date: May 2, 2012

Time: 9:30 a.m.

Ctrm: #7, 6<sup>th</sup> Floor

Honorable Sheila K Oberto

Upon the petition of BENJAMIN B. WAGNER, United States Attorney for the Eastern District of California, including the verification of Revenue Officer LORI L. MINJAREZ, and the Exhibit attached thereto, it is hereby ORDERED that:

Respondent, STANLEY C. MADEWELL, appear before United States Magistrate Judge Sheila K. Oberto, in that Magistrate Judge's courtroom in the United States Courthouse, 2500 Tulare Street, Fresno, California, on May 2, 2012, at 9:30 a.m., to show cause why the respondent should not be compelled to obey the Internal Revenue Service summons issued on July 5, 2011.

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1 It is further ORDERED that:

2 1. The United States Magistrate Judge will preside, under 28 U.S.C. Section  
3 636(b)(1) and Local Rule 72-302(c)(9), at the hearing scheduled above. After hearing, the  
4 Magistrate Judge intends to submit proposed findings and recommendations under Local  
5 Rule 304(a), with the original thereof filed by the Clerk and a copy provided to all parties.

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

9 3. 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 Exhibit,  
11 and the Points and Authorities, shall 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 abode  
13 with some person of suitable age and discretion then residing therein, or by any other means  
14 of service permitted by Fed. R. Civ. P. 4(e), within 21 days of the date this order is served  
15 upon the United States Attorney, unless such service cannot be made despite reasonable  
16 efforts.

17 4. Proof of any service done under paragraph 3 above, shall be filed with the Clerk  
18 as soon as practicable.

19 5. If the federal employee assigned to serve these documents is not reasonably able  
20 to serve the papers as provided in paragraph 3, petitioner may request a court order granting  
21 leave to serve by other means. See Fed. R. Civ. P. 81(a)(5). The federal employee assigned  
22 to serve the documents shall make a certificate detailing the efforts made within the 21-day  
23 period to serve the respondent as provided in paragraph 3.

24 6. The file reflects a prima facie showing that the investigation is conducted pursuant  
25 to a legitimate purpose, that the inquiry may be relevant to that purpose, that the information  
26 sought is not already within the Commissioner's possession, and that the administrative steps  
27 required by the Code have been followed. See United States v. Powell, 379 U.S. 48, 57-58  
28

1 (1964). The burden of coming forward therefore has shifted to the party opposing enforcement.

2 7. If the respondent has any defense or opposition to the petition, such defense or  
3 opposition shall be made in writing and filed with the Clerk and a copy served on the United  
4 States Attorney at least 10 days before the date set for the show cause hearing.

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

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

13  
14 IT IS SO ORDERED.

15 **Dated: February 14, 2012**

16 **/s/ Sheila K. Oberto**  
**UNITED STATES MAGISTRATE JUDGE**