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6	IN THE UNITED STATES DISTRICT COURT		
7	EASTERN DISTRICT OF CALIFORNIA		
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9	UNITED STATES OF AMERICA,	1:14-cv-00326-LJO-GSA	
10	Petitioner,	ORDER TO SHOW CAUSE RE: TAX	
11	v.	SUMMONS ENFORCEMENT	
12	RICHARD RODRIGUEZ,	Taxpaver	
13	Respondent.	Taxpayer: RICHARD RODRIGUEZ	
14		Date: May 9, 2014 Time: 9:30 a.m. Ctrm: 10 6 <sup>th</sup> Floor	
15		Ctrm: 10 6 <sup>th</sup> Floor	
16			
17	Upon the petition of BENJAMIN B. WAGNER, United States Attorney for the Eastern		
18	District of California, including the verification of Revenue Officer LORENA RAMOS, and the		

It is further ORDERED that:

Service summons issued on May 28, 2013.

26 1. The United States Magistrate Judge will preside, under 28 U.S.C. Section
27 636(b)(1) and Local Rule 72-302(c)(9), at the hearing scheduled above. After hearing, the

Exhibit attached thereto, it is hereby ORDERED that the respondent, Richard Rodriguez, appear

before United States Magistrate Judge Gary S. Austin, in that Magistrate Judge's courtroom in

the United States Courthouse, 2500 Tulare Street, Fresno, California, on May 9, 2014, at 9:30

a.m., to show cause why the respondent should not be compelled to obey the Internal Revenue

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Magistrate Judge intends to submit proposed findings and recommendations under Local Rule
 304(a), with the original thereof filed by the Clerk and a copy provided to all parties.

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

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

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

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

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

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

8. At the show cause hearing, the Magistrate Judge intends to consider the issues
 properly raised in opposition to enforcement. Only those issues brought into controversy by the
 responsive pleadings and supported by affidavit will be considered. Any uncontested allegation
 in the petition may be considered admitted.
 9. The respondent may notify the Court, in a writing filed with the Clerk and served

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

10 IT IS SO ORDERED.

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11	Dated: March 10, 2014	/s/ Gary S. Austin
12		UNITED STATES MAGISTRATE JUDGE
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	ORDER TO SHOW CAUSE RE: TAX SUMMONS ENFORCEMENT	5

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