

1 BENJAMIN B. WAGNER  
United States Attorney  
2 BOBBIE J. MONTOYA  
Assistant United States Attorney  
3 Eastern District of California  
501 I Street, Suite 10-100  
4 Sacramento, CA 95814-2322  
Telephone: (916) 554-2775  
5 Facsimile: (916) 554-2900  
email: bobbie.montoya@usdoj.gov  
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7 Attorneys for Petitioner United States of America

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

10  
11 UNITED STATES OF AMERICA,  
12  
13 Petitioner,  
14  
15 v.

14 ARMANDO RIOS, MARIO DISALVO,  
President, D & R MARKETING, INC.,  
15  
16  
17 Respondents.

**1:15-cv-00417-LJO-GSA**

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

**Taxpayer: ARMANDO RIOS**

**Date: June 12, 2015**  
**Time: 9:30 a.m.**  
**Ctrm: 10. 6<sup>th</sup> Floor**

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19 Upon the petition of BENJAMIN B. WAGNER, United States Attorney for the Eastern  
20 District of California, including the verification of Revenue Officer Evan D. Moses, and the  
21 Exhibit attached thereto, it is hereby:

22 ORDERED that respondent Armando Rios and respondent Mario DiSalvo, President and  
23 Owner of D&R Marketing, Inc., appear before United States Magistrate Judge Gary S. Austin,  
24 in Courtroom 10 in the United States Courthouse, 2500 Tulare Street, Fresno, California, on  
25 June 12, at 9:30 a.m., to show cause why the respondents should not be compelled to obey the  
26 Internal Revenue Service summonses issued on June 26 and June 27, 2013, to respondent  
27 Armando Rios and respondent Mario DiSalvo, President and Owner of D&R Marketing, Inc.,  
28 respectively.

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 Rule  
5 304(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 each 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 Exhibits, and  
11 the Points and Authorities, shall be served by delivering a copy to each respondent personally,  
12 or by leaving a copy at the respondents' respective dwelling house or usual place of abode with  
13 a person of suitable age and discretion then residing therein, or by any other means of service  
14 permitted by Fed. R. Civ. P. 4(e), at least 30 days before the show cause hearing date including  
15 any continued date, unless such service cannot be made despite reasonable efforts.

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

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

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

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