1		
2		
3		
4		
5		
6		
7		
8	IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA	
9		
10		
11	UNITED STATES OF AMERICA,	1:15-cv-00596-LJO-SKO
12	Petitioner,	ORDER TO SHOW CAUSE RE: TAX SUMMONS ENFORCEMENT
13	V.	
14	THOMAS D. VANNORTWICK,	Taxpayer: THOMAS D. VANNORTWICK
15	Respondent.	
16		Date: June 10, 2015 Time: 9:30 a.m.
17		Ctrm: 7
18		
19	Upon the petition of BENJAMIN B. WAGNER, United States Attorney for the Eastern	
20	District of California, including the verification of Revenue Officer DAVID M. LOPEZ, and the	
21	Exhibits attached thereto, it is hereby:	
22	ORDERED that the Respondent, THOMAS D. VANNORTWICK, appear before United	
23	States Magistrate Judge Sheila K. Oberto, in that Magistrate Judge's courtroom in the United	
24	States Courthouse, 2500 Tulare Street, Fresno, California, on June 10, 2015 at 9:30 a.m., to	
25	show cause as to why the respondent should not be compelled to obey the Internal Revenue	
26	Service summonses issued on September 30, 2014.	
27	• · · · · · · · · · · · · · · · · · · ·	
28	//	

## 

## It is further ORDERED that:

- 1. The United States Magistrate Judge will preside, under 28 U.S.C. Section 636(b)(1) and Local Rule 72-302(c)(9), at the hearing scheduled above. After hearing, the 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.
- 2. Under Fed. R. Civ. P. 4(c)(1), the Court hereby appoints the investigating Internal Revenue Service employee, and all federal employees designated by that employee, to serve 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 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), at least 30 days before the show cause hearing date including any continued date, 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.
- 5. If the federal employee assigned to serve these documents is not reasonably able to serve the papers as provided in paragraph 3, petitioner may request a court order granting leave to serve by other means. See Fed. R. Civ. P. 81(a)(5). The request shall detail the efforts made to serve the respondent.
- 6. The file reflects a <u>prima facie</u> 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. 1 If the respondent has any defense or opposition to the petition, such defense or 2 opposition shall be made in writing and filed with the Clerk and a copy served on the United 3 States Attorney at least 10 days before the show cause hearing date including any continued 4 date. 5 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 6 7 responsive pleadings and supported by affidavit will be considered. Any uncontested allegation 8 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, that the respondent has no objections to enforcement of the summonses. The respondent's 11 12 appearance at the hearing will then be excused. 13 IT IS SO ORDERED. 14 15 Dated: **April 21, 2015** /s/ Sheila K. Oberto UNITED STATES MAGISTRATE JUDGE 16 17 18 19 20 21 22 23 24 25 26 27

28