

1 PHILLIP A. TALBERT
United States Attorney
2 BOBBIE J. MONTOYA
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2775
Facsimile: (916) 554-2900
5 email: Bobbie.Montoya@usdoj.gov

6 Attorneys for Petitioner United States of America

7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,
12 Petitioner,
13 v.
14 JAMES W. INGRAM,
15 Respondent.

1:16-CV-01663-AWI-SAB

**[PROPOSED] ORDER FINDING
RESPONDENT IN CIVIL
CONTEMPT OF ORDERS FILED
MARCH 10, 2017 AND
OCTOBER 4, 2017**

16
17 This matter came before me on November 6, 2017, under the Order to Show Cause
18 Re Civil Contempt filed October 4, 2017, ECF 21. Assistant United States Attorney
19 Bobbie J. Montoya and investigating Revenue Officer Danielle Moser were present.

20 Respondent did not file opposition to contempt and did not appear at the show-cause hearing.

21 Based upon the entire record and the oral proceedings, the following findings are made:

22 1. By Order filed March 10, 2017, ECF 17, the undersigned enforced two I.R.S.
23 summonses issued January 27, 2016, directed to the respondent, James W. Ingram, and
24 seeking testimony, books, records, papers, and other data to aid Revenue Officer Moser's
25 efforts to secure the following:

- 26 a. information needed to determine the existence and amounts of U.S.
27 individual income tax liabilities (Form 1040) for the taxable years
28 ending December 31, 2009, December 31, 2013, and December 31,
2014 (*see* ECF 1-2), and

1 b. information to secure information needed to collect the following
2 assessed federal income tax (Form 1040) for the calendar periods
3 ending December 31, 2001, December 31, 2003, December 31, 2004,
4 December 31 2005, December 31, 2006, December 31, 2007,
5 December 31, 2008, December 31, 2009, December 31, 2010,
6 December 31, 2011, December 31, 2012, December 31, 2013, and
7 December 31, 2014 (*see* ECF 1-3).

8 2. The March 10, 2017 Order ordered Respondent to appear at the I.R.S. offices
9 at 2525 Capitol Street, Suite 205, Fresno, CA 93721, before Revenue Officer Danielle Moser
10 or her designated representative, on the twenty-first (21st) day after the filing date of said
11 order, to wit, March 31, 2017, or a later date to be set in writing by Revenue Officer Danielle
12 Moser, and to comply with the I.R.S. Summonses issued January 27, 2016, thereby enforcing
13 said I.R.S. Summonses. *See* ECF 17; *see also* Exhibit A and Exhibit B to ECF 1 (ECF 1-2
14 and ECF 1-3, respectively).

15 3. The respondent did not appear as ordered, and he failed to provide the
16 testimony and documents demanded in the summonses.

17 4. On August 31, 2017, Petitioner filed a Petition Re: Contempt of Order Filed
18 March 10, 2017. ECF 18. The Court's Order filed October 4, 2017, ECF 21, required
19 respondent to appear before this Court on November 6, 2017, at 1:30 p.m., and show cause
20 as to why he should not be held in contempt for failure to comply with the Order filed
21 March 10, 2017, ECF 18. This order further set a date certain for a written response by the
22 respondent. This order was duly served by mail upon the respondent. ECF 22.

23 5. Respondent failed to file a written response and failed to appear at the hearing.
24 Respondent's failure to comply with the Orders filed March 10, 2017 and October 4, 2017,
25 continues to the present.

26 6. “A court has the inherent power to punish for civil or criminal contempt any
27 obstruction of justice relating to any judicial proceeding.” Lambert v. Montana, 545 F.2d 87,
28 88 (9th Cir. 1976). Petitioner has the burden of proving civil contempt by clear and
29 convincing proof. Balla v. Idaho State Bd. of Corrs., 869 F.2d 461, 466 (9th Cir. 1989).

30 7. By the Petition for Contempt and supporting documents, including the
31 declaration of Revenue Officer Danielle Moser, Petitioner has met this burden.

1 Based upon the foregoing, IT IS HEREBY ORDERED that:

2 A. Respondent, JAMES W. INGRAM, is in civil contempt of this Court for his failure to
3 comply with the Order filed on March 10, 2017, ECF 17, directing Respondent to
4 comply with the I.R.S. summonses issued January 27, 2016, and with the Order filed
5 October 4, 2017, ECF 21, ordering respondent to appear before me for the trial of his
6 contempt;

7 B. A Bench Warrant for the arrest of Respondent, JAMES W. INGRAM, shall issue.

8 C. After arrest, Respondent, JAMES W. INGRAM, is to be incarcerated and brought
9 before me for hearing on the remedies for his civil contempt.

10 IT IS SO ORDERED.

11 Dated: November 9, 2017

12 
13 SENIOR DISTRICT JUDGE