1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 UNITED STATES OF AMERICA, 1:16-cv-01663-AWI-SAB ORDER TO SHOW CAUSE RE: TAX SUMMONS 12 Petitioner. **ENFORCEMENT** 13 v. Date: Wednesday, February 22, 2017 JAMES W. INGRAM. 14 Time: 10:00 a.m. Courtoom 9, 6th Floor 15 Respondent. Judge: Honorable Stanley A. Boone 16 17 18 Upon the petition of Phillip A. Talbert, Acting United States Attorney for the Eastern District of 19 California, including the verification of Revenue Officer Danielle Moser, and the Exhibits attached thereto, IT IS HEREBY ORDERED that: 20 21 1. Respondent James W. Ingram shall appear before United States Magistrate Judge Stanley 22 A. Boone, at the United States Courthouse, 2500 Tulare St., Fresno, California, 23 Courtroom 9, on Wednesday, February 22, 2017, to show cause why Respondent 24 should not be compelled to obey the IRS summons issued on January 27, 2016. 25 2. Under Fed. R. Civ. P. 4(c)(1), the Court hereby appoints the investigating IRS employee, 26 and all federal employees designated by that employee, to serve process in this case. 27 3. To afford the respondent an opportunity to respond to the petition and the petitioner an

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opportunity to reply, a copy of this order, the Petition and its Exhibits, and the Points and

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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 on or before **January 8, 2017**.
- 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. Respondent shall file and serve any defense or opposition to the Petition to Enforce the IRS Summons at least ten (10) days before the show cause hearing date including any continued date.
- 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 will be considered admitted.

9. If Respondent has no objections to enforcement of the summons, he may file and serve a statement of non-opposition to the Petition at least ten (10) days prior to the show hearing date including any continued date. Respondent's appearance at the hearing will then be excused.

IT IS SO ORDERED.

Dated: November 7, 2016

UNITED STATES MAGISTRATE JUDGE