

1 Subject matter jurisdiction is invoked under 28 U.S.C. §§ 1340 and 1345, and is found to
2 be proper. I.R.C. §§ 7402(b) and 7604(a) (26 U.S.C.) authorize the government to bring the
3 action. The Order to Show Cause shifted to Respondent the burden of rebutting any of the four
4 requirements of *United States v. Powell*, 379 U.S. 48, 57-58 (1964).

5 The Court has reviewed the petition and the supporting documents. Based on the
6 uncontroverted petition verified by Revenue Officer Lisa R. Lopez and the entire record, the
7 Court makes the following findings:

8 (1) The summons (Exhibit A to the Petition, Doc. 1, Ex. 2) issued by Revenue Officer
9 Lisa R. Lopez on February 8, 2016, and served upon Respondent on February 9, 2016, seeking
10 testimony and production of documents and records in Respondent's possession, was issued in
11 good faith and for a legitimate purpose under I.R.C. § 7602, that is, to secure information
12 needed to collect the tax liability for Form 1040 for the calendar periods ending December 31,
13 2007, December 31, 2008, December 31, 2009, December 31, 2010, December 31, 2011, and
14 December 31, 2012.

15 (2) The information sought is relevant to that purpose.

16 (3) The information sought is not already in the possession of the Internal Revenue
17 Service.

18 (4) The administrative steps required by the Internal Revenue Code have been
19 followed.

20 (5) There is no evidence of referral of this case by the Internal Revenue Service to the
21 Department of Justice for criminal prosecution.

22 (6) The verified petition and its exhibits made a *prima facie* showing of satisfaction of
23 the requirements of *United States v. Powell*, 379 U.S. 48, 57-58 (1964).

24 (7) The burden shifted to Respondent, Julian C. Chapa, to rebut that *prima facie*
25 showing.

26 (8) Respondent presented no argument or evidence to rebut the *prima facie* showing.

27 The Court therefore recommends that the I.R.S. summons served upon Respondent,
28 Julian C. Chapa, be enforced and that Respondent be ordered to appear at the I.R.S. offices at

1 2525 Capitol Street, Suite 206, Fresno, CA 93721-2227, before Revenue Officer Lisa R. Lopez
2 or her designated representative, on March 24, 2017, at 10:00 a.m., as agreed to by Revenue
3 Officer Lopez and Respondent, Julian C. Chapa, at the show cause hearing, then and there to be
4 sworn, to give testimony, and to produce for examining and copying the books, checks, records,
5 papers and other data demanded by the summons, the examination to continue from day to day
6 until completed, unless compliance with the summons is fully achieved prior to that date and
7 time. Should the foregoing appointment date need to be continued or rescheduled, the
8 Respondent is to be notified in writing of a later date by Revenue Officer Lopez. The Court
9 further recommends that if it enforces the summons, that the Court retain jurisdiction to enforce
10 its order by its contempt power.

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, under 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 304 of the Local Rules of
13 the United States District Court for the Eastern District of California. Within fourteen (14) days
14 after being served with these findings and recommendations, any party may file written
15 objections with the court and serve a copy on all parties. Such a document should be titled
16 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the
17 objections shall be served and filed within fourteen (14) days after service of the objections.
18 The District Judge will then review these findings and recommendations pursuant to 28 U.S.C.
19 § 636(b)(1). The parties are advised that failure to file objections within the specified time may
20 waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
21 1991).

22 THE CLERK SHALL SERVE this and further orders by mail to Respondent, Julian C.
23 Chapa, at the following address: 2368 5th Street, Sanger, CA 93657.

24
25 IT IS SO ORDERED.

26 Dated: March 8, 2017

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE