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

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11 UNITED STATES OF AMERICA,
12
Petitioner,
13
v.
14 TINA BARELA,
15
Respondent.

1:16-CV-01805-LJO-EPG

**ORDER FINDING RESPONDENT
IN CIVIL CONTEMPT OF ORDERS
FILED MARCH 24, 2017 AND
SEPTEMBER 5, 2017**

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17 This matter came before me on October 17, 2017, under the Order to Show Cause Re: Civil
18 Contempt filed September 5, 2017, ECF 14. Assistant United States Attorney Bobbie J. Montoya
19 and investigating Revenue Officer (RO) Lisa Lopez were present. Respondent did not file
20 opposition to contempt and did not appear at the show-cause hearing. Based upon the entire record
21 and the oral proceedings, I make the following findings:

22 (1) On November 30, 2016, Petitioner United States of America filed a Petition to
23 enforce an IRS summons issued December 16, 2015, directed to the respondent, Tina Barela, and
24 seeking testimony, books, records, papers, and other data to aid RO Lopez's investigation to
25 determine financial information relevant to the IRS's efforts to collect Individual Income Tax (Form
26 1040) for the tax periods ending December 31, 2008, December 31, 2009, December 31, 2010, and
27 December 31, 2012. ECF 1.

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1 (2) By Order filed March 24, 2017, I enforced the IRS summons and ordered respondent
2 to meet with the investigating Revenue Officer on March 31, 2017, at 10:00 a.m., as agreed to by
3 RO Lopez and the respondent at the summons enforcement show cause hearing, to be sworn, to give
4 testimony, and to produce for examining and copying the books, records, papers and other data
5 demanded by the IRS summons issued December 16, 2015. ECF 10 at 2-3.

6 (3) The respondent did not appear, and she failed to provide the testimony and documents
7 demanded in the enforced summons. ECF 11-1 at ¶ 3.

8 (4) On May 2, 2017, government counsel mailed a letter to respondent reminding her of
9 the need to provide the required documentation to comply with the summons enforcement order.
10 ECF 11-2. The letter set a compliance appointment for May 22, 2017, and warned of a contempt
11 petition if respondent did not comply. *Id.*

12 (5) The respondent again did not appear, and she failed to provide the testimony and
13 documents demanded in the enforced summons. ECF 11-1 at ¶ 6.

14 (6) On August 31, 2017, Petitioner filed a Petition for Contempt of Order filed March 24,
15 2017. ECF 11. This Court's Order, filed September 5, 2017, ECF 14, required the respondent to
16 appear before this Court on October 17, 2017, at 8:30 a.m., and show cause as to why she should not
17 be held in contempt for failure to comply with the Order filed March 24, 2017. This order further set
18 a date certain for a written response by the respondent. This order was duly served by mail upon the
19 respondent.

20 (7) Respondent failed to file written response, and failed to appear at the hearing.

21 (8) Respondent's failure to comply with the Order filed March 24, 2017, continues to the
22 present. ECF 11-1 at ¶ 7.

23 (9) "A court has the inherent power to punish for civil or criminal contempt any
24 obstruction of justice relating to any judicial proceeding." *Lambert v. Montana*, 545 F.2d 87, 88 (9th
25 Cir. 1976). Petitioner has the burden of proving its prima facie case by clear and convincing proof.
26 *Balla v. Idaho State Bd. Of Corrs.*, 869 F.2d 461, 466 (9th Cir. 1989).

27 (10) By the Petition for Contempt and supporting documents, including the declaration of
28 Lisa Lopez, Petitioner has met this burden.

1 Based upon the foregoing, I find as follows:

- 2 A. Respondent, TINA BARELA, is in civil contempt of this Court for her failure to
3 comply with the Order filed on March 24, 2017, directing Respondent to comply with
4 the IRS Summons issued on December 16, 2015.
- 5 B. A No Bail Bench Warrant for the arrest of Respondent, TINA BARELA, will issue.
- 6 C. After arrest, Respondent, TINA BARELA, is to be incarcerated and brought before
7 the undersigned for hearing on detention and bail issued.

8
9 IT IS SO ORDERED.

10 Dated: October 23, 2017

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE