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8 **IN THE UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 UNITED STATES OF AMERICA,
12 Petitioner,
13 v.
14 EARTH, WIND AND SOLAR, INC.,
DEAN ANTONIS, PRESIDENT,
15 Respondent.
16

1:17-CV-00466-LJO-MJS

**ORDER TO SHOW CAUSE
RE: TAX SUMMONS ENFORCEMENT**

**Taxpayer: EARTH, WIND AND SOLAR, INC.,
DEAN ANTONIS, PRESIDENT**

Date: Friday, June 16, 2017

Time: 9:30 a.m.

Crtn: 6, 7th Floor

Judge: Honorable Michael J. Seng

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19 Upon the petition of PHILLIP A. TALBERT, United States Attorney for the Eastern District of
20 California, including the verification of Revenue Officer TONY GARZA, and the Exhibit attached
21 thereto, it is hereby:

22 ORDERED that the Respondent, EARTH, WIND, AND SOLAR, INC., DEAN ANTONIS,
23 PRESIDENT, appear before United States Magistrate Judge Michael J. Seng, in that Magistrate Judge's
24 courtroom in the United States Courthouse, 2500 Tulare St., Fresno, California, on Friday, June 16,
25 2017, to show cause why the respondent should not be compelled to obey the IRS summons issued on
26 May 17, 1016.

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1 It is further ORDERED that:

2 1. The United States Magistrate Judge will preside, under 28 U.S.C. Section 636(b)(1) and
3 Local Rule 302(c)(9), at the hearing scheduled above. After hearing, the Magistrate Judge intends to
4 submit proposed findings and recommendations under Local Rule 304(a), with the original thereof filed
5 by the Clerk and a copy provided to all parties.

6 2. Under Fed. R. Civ. P. 4(c)(1), the Court hereby appoints the investigating IRS employee,
7 and all federal employees designated by that employee, to serve process in this case.

8 3. To afford the respondent an opportunity to respond to the petition and the petitioner an
9 opportunity to reply, a copy of this order, the Petition and its Exhibits, and the Points and Authorities,
10 shall be served by delivering a copy to the respondent personally, or by leaving a copy at the
11 respondent's dwelling house or usual place of abode with some person of suitable age and discretion
12 then residing therein, or by any other means of service permitted by Fed. R. Civ. P. 4(e), at least 30 days
13 before the show cause hearing date including any continued date, unless such service cannot be made
14 despite reasonable efforts.

15 4. Proof of any service done under paragraph 3, above, shall be filed with the Clerk as soon
16 as practicable.

17 5. If the federal employee assigned to serve these documents is not reasonably able to serve
18 the papers as provided in paragraph 3, petitioner may request a court order granting leave to serve by
19 other means. *See* Fed. R. Civ. P. 81(a)(5). The request shall detail the efforts made to serve the
20 respondent.

21 6. The file reflects a *prima facie* showing that the investigation is conducted pursuant to a
22 legitimate purpose, that the inquiry may be relevant to that purpose, that the information sought is not
23 already within the Commissioner's possession, and that the administrative steps required by the Code
24 have been followed. *See United States v. Powell*, 379 U.S. 48, 57-58 (1964). The burden of coming
25 forward therefore has shifted to whoever might oppose enforcement.

26 7. If the respondent has any defense or opposition to the petition, such defense or opposition
27 shall be made in writing and filed with the Clerk and a copy served on the United States Attorney at
28 least 10 days before the show cause hearing date including any continued date.

