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7 Attorneys for Petitioner United States of America

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

11 UNITED STATES OF AMERICA,  
12  
13 Petitioner,  
14  
15 v.  
16 CHARLES FREITAS,  
17  
18 Respondent.

**1:17-CV-00538-DAD-EPG**  
**ORDER TO SHOW CAUSE**  
**RE: TAX SUMMONS ENFORCEMENT**  
**Taxpayer: CHARLES FREITAS**  
**Date: Friday, June 16, 2017**  
**Time: 9:30 a.m.**  
**Crtm: 10, 6<sup>th</sup> Floor**  
**Judge: Honorable Erica P. Grosjean**

19 Upon the petition of PHILLIP A. TALBERT, United States Attorney for the Eastern District of  
20 California, including the verification of Revenue Officer LISA R. LOPEZ (FORMERLY CUMIFORD),  
21 and the Exhibit attached thereto, it is hereby:

22 ORDERED that the Respondent, CHARLES FREITAS, appear before United States Magistrate  
23 Judge Erica P. Grosjean, in that Magistrate Judge's courtroom in the United States Courthouse, 2500  
24 Tulare St., Fresno, California, on Friday, June 16, 2017, to show cause why the respondent should not be  
25 compelled to obey the IRS summons issued on June 8, 2016.

26 It is further ORDERED that:

27 1. The United States Magistrate Judge will preside, under 28 U.S.C. Section 636(b)(1) and  
28 Local Rule 302(c)(9), at the hearing scheduled above. After hearing, the Magistrate Judge intends to

1 submit proposed findings and recommendations under Local Rule 304(a), with the original thereof filed  
2 by the Clerk and a copy provided to all parties.

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

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

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

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

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

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

26 8. At the show cause hearing, the Magistrate Judge intends to consider the issues properly  
27 raised in opposition to enforcement. Only those issues brought into controversy by the responsive  
28 pleadings and supported by affidavit will be considered. Any uncontested allegation in the petition will

1 be considered admitted.

2 9. The respondent may notify the Court, in a writing filed with the Clerk and served on the  
3 United States Attorney at least 10 days before the date set for the show cause hearing, that the  
4 respondent has no objections to enforcement of the summons. The respondent's appearance at the  
5 hearing will then be excused.

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7 IT IS SO ORDERED.

8 Dated: April 20, 2017

9 /s/ Eric P. Groj  
10 UNITED STATES MAGISTRATE JUDGE  
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