

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 YOSHINORI H. T. HIMEL #66194  
 Assistant United States Attorney  
 3 Eastern District of California  
 501 I Street, Suite 10-100  
 4 Sacramento, California 95814-2322  
 Telephone: (916) 554-2760  
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8 IN THE UNITED STATES DISTRICT COURT FOR THE  
 9 EASTERN DISTRICT OF CALIFORNIA  
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11 UNITED STATES OF AMERICA, and  
 12 CLIFFORD BROWN, Revenue Officer,  
 Internal Revenue Service,

13 Petitioners,

14 v.

15 STANLEY J. JENKINS,

16 Respondent.  
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2:10-mc-00019-LKK-KJM

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

Taxpayer: STANLEY J. JENKINS

Date: Wednesday, April 7, 2010

Time: 10:00 a.m.

Ctrm: #26 (8th Floor, Honorable  
 Kimberly J. Mueller)

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 19 Upon the petition of BENJAMIN B. WAGNER, United States Attorney for the  
 20 Eastern District of California, including the verification of Revenue Officer CLIFFORD  
 21 BROWN, and the Exhibit attached thereto, it is hereby:

22 ORDERED that the Respondent, STANLEY J. JENKINS, appear before United  
 23 States Magistrate Judge Kimberly J. Mueller, in that Magistrate Judge's courtroom in the  
 24 United States Courthouse, 501 I Street, Sacramento, California, on Wednesday, April 7,  
 25 2010, at 10:00 a.m., to show cause why the respondent should not be compelled to obey  
 26 the Internal Revenue Service summons issued on May 29, 2009.

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1 It is further ORDERED that:

2 1. The United States Magistrate Judge will preside, under to 28 U.S.C. Section  
3 636(b)(1) and Local Rule 72-302(c)(9), at the hearing scheduled above. After hearing,  
4 the Magistrate Judge intends to submit proposed findings and recommendations under  
5 Local Rule 304(a), with the original thereof filed by the Clerk and a copy provided to all  
6 parties.

7 2. The Court hereby appoints the group manager of the petitioning Internal  
8 Revenue Service employee, and all federal employees designated by that group manager,  
9 under Fed. R. Civ. P. 4(c)(1), to serve process in this case.

10 3. A copy of this order, the Verified Petition and its Exhibit, and the Points and  
11 Authorities, shall be served by delivering a copy to the respondent personally or by  
12 leaving a copy at the respondent's dwelling house or usual place of abode with some  
13 person of suitable age and discretion then residing therein, within 21 days of the date this  
14 order is served upon the United States Attorney, unless such service cannot be made  
15 despite reasonable efforts.

16 4. If the federal employee assigned to serve these documents is unable to serve  
17 them as provided in paragraph 3, despite making reasonable efforts to do so, the  
18 documents may be served by any other means of service permitted by Fed. R. Civ. P. 4(e)  
19 or petitioners may request a court order granting leave to serve by other means. See Fed.  
20 R. Civ. P. 81(a)(5). The federal employee assigned to serve the documents shall make a  
21 certificate detailing the efforts made within the 21-day period to serve the respondent as  
22 provided in paragraph 3.

23 5. Proof of any service done pursuant to paragraph 3 or 4, above, shall be filed  
24 with the Clerk as soon as practicable.

25 6. The file reflects a prima facie showing that the investigation is conducted  
26 pursuant to a legitimate purpose, that the inquiry may be relevant to that purpose, that the  
27 information sought is not already within the Commissioner's possession, and that the  
28 administrative steps required by the Code have been followed. United States v. Powell,

1 379 U.S. 48, 57-58 (1964). The burden of coming forward therefore has shifted to  
2 whoever might oppose enforcement.

3 7. If the respondent has any defense or opposition to the petition, such defense or  
4 opposition shall be made in writing and filed with the Clerk and a copy served on the  
5 United States Attorney at least 10 days prior to the date set for the show cause hearing.

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

10 9. The respondent may notify the Court, in a writing filed with the Clerk and  
11 served on the United States Attorney at least 7 days prior to the date set for the show  
12 cause hearing, that the respondent has no objections to enforcement of the summons. The  
13 respondent's appearance at the hearing will then be excused.

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15 DATED: February 18, 2010.

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19 U.S. MAGISTRATE JUDGE  
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