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

11 UNITED STATES OF AMERICA,
DAVID PALMER, Revenue Officer,
12 and CHUNG NGO, Revenue Agent,
Internal Revenue Service,
13

14 Petitioners,

15 v.

16 ROGER P. WHITMAN,
17 Respondent.

Case No.: 2:10-mc-00035-MCE-KJM

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS RE: I.R.S.
SUMMONS ENFORCEMENT**

Taxpayer: ROGER P. WHITMAN

18
19 The United States, Revenue Officer David Palmer and Revenue Agent Chung
20 Ngo, here petition for enforcement of two I.R.S. summonses. The matter was placed
21 before United States Magistrate Judge Kimberly J. Mueller under 28 U.S.C. § 636 *et seq.*
22 and Local Rule 73-302. On April 2, 2010, Judge Mueller issued an Order to Show Cause,
23 ordering the respondent, Roger P. Whitman, to show cause why the I.R.S. summonses
24 issued to him on October 5, 2009, and October 12, 2009, should not be enforced. The
25 Petition, Points and Authorities, and Order to Show Cause were personally served upon
26 the respondent. Respondent did not file an opposition to enforcement under paragraph on
27 page 3 of the Order to Show Cause, but sent an untimely response, via the Government,
28 requesting that the hearing be moved to North Carolina where he is currently staying.

1 The Magistrate Judge did not address this request because the document was not filed
2 with the Court and is consequently not a part of the court's record.

3 Judge Mueller presided at the show-cause hearing on June 9, 2010. Petitioners
4 appeared; respondent failed to appear. On June 18, 2010, Judge Mueller filed Findings
5 and Recommendations, finding that the requirements for summons enforcement had been
6 satisfied and recommending that the summonses be enforced. Respondent again failed to
7 file objections with the Court, but did mail his objections to the U.S. Attorney's Office.
8 The government filed a reply to the objections and attached the objections for this Court's
9 use.

10 The thrust of respondent's objections to the Magistrate Judge's Findings and
11 Recommendations is for the I.R.S. to be reasonable when setting the place of the meeting
12 for compliance with the summons and with this order under 26 U.S.C. § 7605.

13 Petitioners' reply states that they are willing to conduct the meeting via videoconference
14 between the U.S. Attorney's Office in Sacramento, California and the U.S. Attorney's
15 Office in Asheville, North Carolina, which is only 34 miles from Brevard, North
16 Carolina, where respondent is staying. Petitioners make their willingness conditional
17 upon respondent's providing copies of the summoned documents to the I.R.S. before the
18 videoconference as specified in an appointment letter. I find that the plan as stated by
19 petitioners is reasonable.

20 I have reviewed the entire record de novo under 28 U.S.C. § 636(b)(1)(C) and
21 Local Rule 72-304. I am satisfied that the Magistrate Judge's findings and
22 recommendations are supported by the record and by proper analysis, and that the
23 requested summons enforcement should be granted. Accordingly, it is hereby
24 ORDERED as follows:

25 1. The Magistrate Judge's Findings and Recommendations Re: I.R.S. Summons
26 Enforcement, filed June 18, 2010, are ADOPTED IN FULL.

27 2. The I.R.S. summonses issued to respondent, ROGER P. WHITMAN, are
28 ENFORCED.

1 3. Respondent, ROGER P. WHITMAN, is ORDERED to provide copies of the
2 books, checks, records, papers and other data demanded by the summonses, to Revenue
3 Officer David Palmer and Revenue Agent Chung Ngo at their offices in California, to
4 arrive one week before the day set for the videoconference, and to bring a copy with him
5 to the videoconference in Asheville, North Carolina. The street addresses are:

6 Revenue Officer David Palmer
7 Internal Revenue Service
8 1301 Clay Street
9 Suite 1040 South
10 Oakland, CA 94612

11 Revenue Agent Chung Ngo
12 Internal Revenue Service
13 777 Sonoma Avenue
14 Room 112
15 Santa Rosa, CA 95404

16 4. Respondent, ROGER P. WHITMAN, is ORDERED to appear at the U.S.
17 Attorney's Office for the Western District of North Carolina, located in Room 233, U.S.
18 Courthouse, 100 Otis Street, Asheville, North Carolina, 28801, to appear via
19 videoconference before Revenue Officer David Palmer and Revenue Agent Chung Ngo,
20 or their designated representatives, 21 days after of the issuance of this order, or at an
21 alternate time and date to be set by Revenue Officer Palmer and Revenue Agent Ngo,
22 then and there to be sworn and to give testimony, the examination to continue from day to
23 day until completed.

24 It is SO ORDERED.

25 Dated: July 14, 2010



26 MORRISON C. ENGLAND, JR.
27 UNITED STATES DISTRICT JUDGE