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11 IN THE UNITED STATES DISTRICT COURT FOR THE
12 EASTERN DISTRICT OF CALIFORNIA

13
14 UNITED STATES OF AMERICA, and
15 JOSE ARTEAGA, Revenue Officer,
16 Internal Revenue Service,

17 Petitioners,

18 v.

19 JEFFREY SCOTT,

20 Respondent.

21 Case No.: 2:10-mc-00037-LKK-KJN

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

24 Taxpayer: JEFFREY SCOTT

25 Date: Thursday, May 27, 2010

26 Time: 10:00 a.m.

27 Ctrm: #25 (8th Floor, Honorable
28 Kendall J. Newman)

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30 Upon the petition of BENJAMIN B. WAGNER, United States Attorney for
31 the Eastern District of California, and the Exhibit attached thereto, including the
32 verification of Revenue Officer JOSE ARTEAGA, it is hereby:

33 ORDERED that the Respondent, JEFFREY SCOTT, appear before United
34 States Magistrate Judge Kendall J. Newman, in that Magistrate Judge's courtroom in the
35 United States Courthouse, 501 I Street, Sacramento, California, on Thursday, May 27,
36 2010, at 10:00 a.m., to show cause why the respondent should not be compelled to obey
37 the Internal Revenue Service summons issued on December 7, 2009.

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1 It is further ORDERED that:

2 1. The United States Magistrate Judge will preside, under 28 U.S.C.

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

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

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

16 4. If the federal employee assigned to serve these documents is unable to
17 serve 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
24 filed with the Clerk at least fourteen days prior to the date set for the show cause hearing.

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

1 v. Powell, 379 U.S. 48, 57-58 (1964). The burden of coming forward therefore has
2 shifted to whoever might oppose enforcement. Stewart v. United States, 511 F.3d 1251,
3 1255 (9th Cir. 2008).

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

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

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

16 DATED: April 12, 2010

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE
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