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

10 UNITED STATES OF AMERICA,
11 LESLIE FOUCHE MUNOZ, Revenue
Officer, Internal Revenue Service,

12 Petitioners,

13 v.

14 YOUNES USUFY,

15 Respondent.
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Case No. 2:10-mc-00081-JAM-KJN

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

Taxpayer: YOUNES USUFY

Date: Thursday, October 21, 2010
Time: 10:00 a.m.
Ctrm: #25 (8th Floor, Honorable
Kendall J. Newman)

17 Upon the petition of BENJAMIN B. WAGNER, United States Attorney for
18 the Eastern District of California, and the Exhibit attached thereto, including the
19 verification of Revenue Officer LESLIE FOUCHE-MUNOZ, it is hereby:

20 ORDERED that the Respondent, YOUNES USUFY, appear before United
21 States Magistrate Judge Kendall J. Newman, in that Magistrate Judge's courtroom in the
22 United States Courthouse, 501 I Street, Sacramento, California, on Thursday, October 28,
23 2010, at 10:00 a.m., to show cause why the respondent should not be compelled to obey
24 the Internal Revenue Service summons issued on April 21, 2010.

25 It is further ORDERED that:

26 1. The United States Magistrate Judge will preside, under 28 U.S.C.
27 Section 636(b)(1) and Local Rule 72-302(c)(9), at the hearing scheduled above. After
28 hearing, the Magistrate Judge intends to submit proposed findings and recommendations

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

3 2. The Court hereby appoints the group manager of the petitioning Internal
4 Revenue Service employee, and all federal employees designated by that group manager,
5 under Federal Rule of Civil Procedure 4(c)(1), to serve process in this case.

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

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

19 5. Proof of any service done pursuant to paragraph 3 or 4, above, shall be
20 filed with the Clerk at least 14 days prior to the date set for the show cause hearing.

21 6. The file reflects a prima facie showing that the investigation is
22 conducted pursuant to a legitimate purpose, that the inquiry may be relevant to that
23 purpose, that the information sought is not already within the Commissioner's possession,
24 and that the administrative steps required by the Code have been followed. United States
25 v. Powell, 379 U.S. 48, 57-58 (1964). The burden of coming forward therefore has
26 shifted to whoever might oppose enforcement. See Stewart v. United States, 511 F.3d
27 1251, 1255 (9th Cir. 2008) (stating that "[o]nce a prima facie case is made a 'heavy'
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1 burden is placed on the taxpayer to show an ‘abuse of process’ or ‘the lack of institutional
2 good faith’”) (citing Fortney v. United States, 59 F.3d 117, 120 (9th Cir. 1995).

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

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

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

15 DATED: August 23, 2010

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19 KENDALL J. NEWMAN
20 UNITED STATES MAGISTRATE JUDGE
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