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

11 UNITED STATES OF AMERICA and
 12 RENITA SANDERSON, Revenue
 Officer, Internal Revenue Service,

13 Petitioners,

14 v.

15 DONAVAN R. URSUA, SR.,

16 Respondent.

Case No. 2:11-mc-00001-MCE-DAD

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

Taxpayer:
 DONAVAN R. URSUA, SR. and
 DONAVAN R. URSUA, SR. d/b/a
 "Maui Tan"

Date: Friday, February 25, 2011
 Time: 10:00 a.m.
 Ctrm: #27 (8th Floor)
 Judge: Honorable Dale A. Drozd

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

22 ORDERED that the Respondent, DONAVAN R. URSUA, SR., appear before
 23 United States Magistrate Judge Dale A. Drozd, in that Magistrate Judge's courtroom in
 24 the United States Courthouse, 501 I Street, Sacramento, California, on Friday, February
 25 25, 2011, at 10:00 a.m., to show cause why the respondent should not be compelled to
 26 obey the Internal Revenue Service summons issued on June 9, 2010.

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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 Exhibits, 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 no later than 10 calendar days before the date set for the show-
6 cause hearing.

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

11 9. The respondent may notify the Court, in a writing filed with the Clerk and
12 served on the United States Attorney no later than 10 calendar days before the date set for
13 the 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: January 4, 2011.

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19 DALE A. DROZD
20 UNITED STATES MAGISTRATE JUDGE

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