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10 UNITED STATES DISTRICT COURT  
 11 EASTERN DISTRICT OF CALIFORNIA

12 STEPHEN J. DOUGAN,

13 Petitioner,

14 v.

15 UNITED STATES OF AMERICA,

16 Respondent.

Case No.: 2:11-mc-00065-JAM-DAD

STIPULATION AND ORDER FOR THIS  
 COURT TO ADOPT THE FINDINGS AND  
 RECOMMENDATIONS FROM CASE NO.  
 2:09-MC-00052-FCD-DAD AND APPLY  
 THEM IN THIS CASE

17 Petitioner Stephen J. Dougan (“Dougan”) and Respondent the United States of America  
 18 (“Respondent”), through counsel, hereby stipulate and agree as follows:

19 **RECITALS**

20 WHEREAS, in 2009 Dougan was notified by the Internal Revenue Service (“IRS”) that it was  
 21 auditing his federal tax returns for calendar years 2006 and 2007;

22 WHEREAS, on or about May 13, 2009, the IRS issued a Summons to third party First Northern  
 23 Bank seeking Dougan’s bank records which records identified his clients;

24 WHEREAS, Dougan hereby represents that, upon notification of the IRS’ Summons, Dougan  
 25 consulted with Ethics counsel to ascertain his duties and obligations to protect his clients’ identities and  
 26 personal information as required by California Rules of Professional Conduct, Rule 3-100 and Business  
 27 & Professions Code section 6068(e);  
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1           WHEREAS, Dougan filed on or about June 2, 2009 a Petition to Quash the IRS Summons in this  
2 Court pursuant to 26 U.S.C. section 7609(b)(2), case number No: 2:09-mc-00052-FCD-DAD (“*Dougan*  
3 *I*”). The Petition sought to quash the Summons on the grounds of attorney-client privilege, privacy  
4 rights and interests, Dougan’s professional obligations to his clients and on the grounds that the names  
5 and identities of Dougan’s clients as identified in the documents subject to the Summons failed to meet  
6 the standards of relevancy under 26 U.S.C. section 7602;

7           WHEREAS, Dougan hereby represents that he filed the Petition in *Dougan I* based on his good  
8 faith belief and understanding of his professional duties to his clients under applicable law and on advice  
9 of Ethics counsel;

10           WHEREAS, Respondent filed an Opposition to the Petition in *Dougan I* on July 2, 2009 and  
11 Dougan filed a Reply thereafter;

12           WHEREAS, in 2011 Dougan was notified by the IRS that it was auditing his federal tax returns  
13 for calendar years 2008 and 2009;

14           WHEREAS, on or about June 30, 2011, the IRS issued a Summons to third party First Northern  
15 Bank, seeking Dougan’s bank records which records identified his clients;

16           WHEREAS, on or about July 20, 2011, Dougan filed the Petition to Quash the IRS Summons  
17 initiating this case, also pursuant to 26 U.S.C. section 7609(b)(2), (“*Dougan II*”). The Petition sought to  
18 quash the Summons on the grounds of attorney-client privilege, privacy rights and interests, Dougan’s  
19 professional obligations to his clients and on the grounds that the names and identities of Dougan’s  
20 clients as identified in the documents subject to the Summons failed to meet the standards of relevancy  
21 under 26 U.S.C. section 7602;

22           WHEREAS, this Court issued Orders of Related Cases in both *Dougan I* and *Dougan II* on July  
23 27, 2011;

24           WHEREAS, United States Magistrate Judge Drozd issued Findings and Recommendations in  
25 *Dougan I* on August 15, 2011, recommending that Dougan’s Petition to Quash IRS Summons in  
26 *Dougan I* be denied in its entirety and the action closed. A true and correct copy of the Findings and  
27 Recommendations is attached hereto as Exhibit A;

1 WHEREAS, no objections to the Findings and Recommendations having been filed in *Dougan I*,  
2 this Court adopted them in full by Order dated September 21, 2011, denying Dougan's June 2, 2009  
3 Petition to Quash IRS Summons and ordering the Clerk to close the case. A true and correct copy of  
4 said Order is attached hereto as Exhibit B; and

5 WHEREAS, Judgment was entered in *Dougan I* on September 21, 2011 in accordance with the  
6 Court's Order filed September 21, 2011. A true and correct copy of the Judgment is attached hereto as  
7 Exhibit C:

8 WHEREFORE, the parties agree as follows:

9 **STIPULATION**

10 This case, and the Petition seeking to quash the IRS's 2011 Summons issued to First Northern  
11 Bank, involve virtually identical contentions, issues and law as *Dougan I*.

12 Dougan was fully represented and had a full and fair opportunity to litigate in *Dougan I*.

13 The Findings and Recommendations issued and adopted in *Dougan I* shall apply with equal force  
14 and effect to this case.

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1           Wherefore, the parties respectfully request that the Court adopt and apply the Findings and  
2 Recommendations entered in *Dougan I* in full with respect to Dougan’s July 20, 2011 Petition to Quash  
3 IRS Summons in this case (Doc. No. 1) and issue an Order and Judgment as appropriate in conformity  
4 therewith.

5           Respectfully submitted this 3rd day of October, 2011.

6  
7 BANKS & WATSON

BENJAMIN B. WAGNER  
United States Attorney

8  
9 /s/ Roberta Lindsey Scott  
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14 Counsel for Stephen J. Dougan

Counsel for the  
United States of America

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18 IT IS SO ORDERED this 4<sup>th</sup> day of October, 2011.

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20 /s/ John A. Mendez  
21 UNITED STATES DISTRICT COURT JUDGE  
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