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

11 UNITED STATES OF AMERICA,

12 Petitioner,

13 v.

14 MATTHEW R. LONSDALE,

15 Respondent.
16

Case No. 2:12-mc-00004-KJM-EFB

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

Taxpayer:
MATTHEW R. LONSDALE

17 This matter came before me on March 14, 2012, under the Order to Show Cause
18 filed January 26, 2012. That order, with the verified petition and exhibits, was served on
19 respondent in conformity with Fed. R. Civ. P. 4(e) on February 7, 2012. Dckt. No. 4.
20 Yoshinori H. T. Himel and Revenue Officer Sireen Michael appeared for petitioners.
21 Respondent did not file an opposition, but did appear at the hearing and had no objection
22 to the Summons. Respondent agreed in open court to appear at the I.R.S. offices at 4330
23 Watt Avenue, Sacramento, California 95821, before Revenue Officer Sireen Michael, or
24 her designated representative, on April 26, 2012, at 10:00 a.m., to comply with the
25 summonses.

26 The Verified Petition to Enforce Internal Revenue Service Summons initiating this
27 proceeding seeks to enforce two administrative summonses (Exhibit A to the petition) in
28 aid of Revenue Officer Michael's investigation of Matthew R. Lonsdale. The first

1 summons is to ascertain facts relevant to the collection of amounts delinquent under the
2 federal tax laws for the taxable years ending December 31, 2001, December 31, 2002,
3 December 31, 2003, and December 31, 2007. The second summons is to determine the
4 existence and amounts of U.S. individual income tax liabilities for the taxable years
5 ending December 31, 2004, December 31, 2005, December 31, 2006, December 31,
6 2008, December 31, 2009, and December 31, 2010.

7 Subject matter jurisdiction is invoked under 28 U.S.C. §§ 1340 and 1345, and is
8 found to be proper. Authorization for the action is under I.R.C. §§ 7402(b) and 7604(a)
9 (26 U.S.C.). The Order to Show Cause shifted to respondent the burden of rebutting any
10 of the four requirements of *United States v. Powell*, 379 U.S. 48, 57-58 (1964).

11 I have reviewed the petition and documents in support. Based on the
12 uncontroverted verification of Revenue Officer Michael and the entire record, I make the
13 following findings:

14 (1) The summonses issued by Revenue Officer Sireen Michael to respondent,
15 Matthew Lonsdale, on July 28, 2011, seeking testimony and production of documents and
16 records in respondent's possession, were issued in good faith and for a legitimate purpose
17 under I.R.C. § 7602, that is, to ascertain facts relevant to the collection of amounts
18 delinquent under the federal tax laws for the taxable years ending December 31, 2001,
19 December 31, 2002, December 31, 2003, and December 31, 2007, and to determine the
20 existence and amounts of U.S. individual income tax liabilities for the taxable years
21 ending December 31, 2004, December 31, 2005, December 31, 2006, December 31,
22 2008, December 31, 2009, and December 31, 2010.

23 (2) The information sought is relevant to that purpose.

24 (3) The information sought is not already in the possession of the Internal Revenue
25 Service.

26 (4) The administrative steps required by the Internal Revenue Code have been
27 followed.

1 (5) There is no evidence of referral of this case by the Internal Revenue Service to
2 the Department of Justice for criminal prosecution.

3 (6) The verified petition and its exhibits made a prima facie showing of
4 satisfaction of the requirements of *United States v. Powell*, 379 U.S. 48, 57-58 (1964).

5 (7) The burden shifted to respondent, Matthew Lonsdale, to rebut that prima facie
6 showing.

7 (8) Respondent presented no argument or evidence to rebut the prima facie
8 showing.


9 I therefore recommend that the IRS summonses issued to respondent, Matthew
10 Lonsdale, be enforced, and that respondent be ordered to appear at the I.R.S. offices at
11 4330 Watt Avenue, Sacramento, California, 95821, before Revenue Officer Sireen
12 Michael, or her designated representative, on April 26, 2012, at 10:00 a.m., as agreed in
13 open court on March 14, 2012, or at a later date and time to be set in writing by Revenue
14 Officer Michael, then and there to be sworn, to give testimony, and to produce for
15 examining and copying the books, checks, records, papers and other data demanded by
16 the summons, the examination to continue from day to day until completed.

17 These findings and recommendations are submitted to the United States District
18 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C)
19 and Rule 304 of the Local Rules of the United States District Court for the Eastern
20 District of California. Within fourteen days after being served with these findings and
21 recommendations, any party may file written objections with the court and serve a copy
22 on all parties. Such a document should be titled "Objections to Magistrate Judge's
23 Findings and Recommendations." Any reply to the objections shall be served and filed
24 within fourteen days after service of the objections. The District Judge will then review
25 these findings and recommendations pursuant to 28 U.S.C. § 636(b)(1). The parties are
26 advised that failure to file objections within the specified time may waive the right to
27 appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

1 The Clerk shall serve these findings and recommendations and any future orders to
2 Mr. Matthew Lonsdale, 608 Gold Circle, Rocklin, CA 95765.

3 It is SO ORDERED.

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5 DATED: March 29, 2012.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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