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7 Attorneys for Petitioner United States of America

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

11 UNITED STATES OF AMERICA,
 12 Petitioner,
 13 v.
 14 VIRGINIA M. ELSE,
 15 Respondent.

2:17-CV-1021-KJM-KJN
ORDER TO SHOW CAUSE
RE: TAX SUMMONS ENFORCEMENT
Date: Thursday, July 27, 2017
Time: 10:00 a.m.
Crtm: 25, 8th Floor
Judge: Honorable Kendall J. Newman

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19 Upon the petition of Phillip A. Talbert, United States Attorney for the Eastern District of
 20 California, including the verification of Revenue Officer Hannah L. Thompson, and the Exhibit attached
 21 thereto, IT IS HEREBY ORDERED that:

- 22 1. Respondent, Virginia M. Else shall appear before United States Magistrate Judge Kendall J.
 23 Newman, at the United States Courthouse, 501 I Street, Sacramento, California, Courtroom 25,
 24 on **Thursday, July 27, 2017**, to show cause why Respondent should not be compelled to obey
 25 the IRS summons issued on May 19, 2016.
 26 2. Under Fed. R. Civ. P. 4(c)(1), the Court hereby appoints the investigating IRS employee, and all
 27 federal employees designated by that employee, to serve process in this case.
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- 1 3. To afford the respondent an opportunity to respond to the petition and the petitioner an
2 opportunity to reply, a copy of this order, the Petition and its Exhibits, and the Points and
3 Authorities, shall be served by delivering a copy to the respondent personally, or by leaving a
4 copy at the respondent's dwelling house or usual place of abode with some person of suitable age
5 and discretion then residing therein, or by any other means of service permitted by Fed. R. Civ.
6 P. 4(e), at least 30 days before the show cause hearing date including any continued date, unless
7 such service cannot be made despite reasonable efforts.
- 8 4. Proof of any service done under paragraph 3, above, shall be filed with the Clerk on or before
9 **June 27, 2017.**
- 10 5. If the federal employee assigned to serve these documents is not reasonably able to serve the
11 papers as provided in paragraph 3, petitioner may request a court order granting leave to serve by
12 other means. See Fed. R. Civ. P. 81(a)(5). The request shall detail the efforts made to serve the
13 respondent.
- 14 6. The file reflects a prima facie showing that the investigation is conducted pursuant to a
15 legitimate purpose, that the inquiry may be relevant to that purpose, that the information sought
16 is not already within the Commissioner's possession, and that the administrative steps required
17 by the Code have been followed. See United States v. Powell, 379 U.S. 48, 57-58 (1964). The
18 burden of coming forward therefore has shifted to whoever might oppose enforcement.
- 19 7. Respondent shall file and serve any defense or opposition to the Petition to Enforce the IRS
20 Summons at least ten (10) days before the show cause hearing date including any continued date.
- 21 8. At the show cause hearing, the Magistrate Judge intends to consider the issues properly raised in
22 opposition to enforcement. Only those issues brought into controversy by the responsive
23 pleadings and supported by affidavit will be considered. Any uncontested allegation in the
24 petition will be considered admitted.

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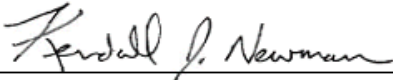
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1 9. If Respondent has no objections to enforcement of the summons, she may file and serve a
2 statement of non-opposition to the Petition at least ten (10) days prior to the show cause hearing
3 date including any continued date. Respondent's appearance at the hearing will then be excused.

4 IT IS SO ORDERED.

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6 Dated: May 15, 2017

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8 KENDALL J. NEWMAN
9 UNITED STATES MAGISTRATE JUDGE
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