

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA and
FUKEKILA MERRIDA, Revenue Officer,

Petitioners

v.

THEODORE PADUA,

Respondent

No. C-08-3714 MMC

**ORDER GRANTING PETITION TO
ENFORCE INTERNAL REVENUE
SERVICE SUMMONSES AND
ORDERING RESPONDENT TO COMPLY
WITH SUMMONSES; VACATING
MARCH 13, 2009 HEARING**

Before the Court is petitioners' Verified Petition to Enforce Internal Revenue Service Summons, filed August 4, 2008.¹ Respondent Theodore Padua ("Padua") has filed a response consisting of a copy of a letter Padua wrote to the Secretary of the Treasury, in which Padua asserts the instant action is a "legal fiction" and includes a demand that the instant action be "closed." Petitioners have filed a reply thereto. Having read and considered the papers filed in support of and in response to the petition, the Court deems the matter suitable for decision on said submissions, VACATES the hearing scheduled for March 13, 2009, and rules as follows.

For the reasons stated by petitioners, the Court finds enforcement of the summonses attached to the petition as Exhibits A and B is proper. Further, for the reasons

¹The above-titled action was reassigned to the undersigned on January 23, 2009.

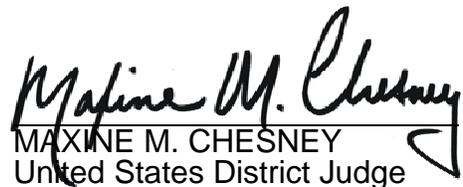
1 stated by petitioners, the Court finds it unnecessary to conduct an evidentiary hearing on
2 the matter, specifically, for the reason Padua has failed to offer any evidence in opposition
3 to the petition, much less evidence to support a finding the summonses, or either of them,
4 “were issued for an improper purpose.” See Fortney v. United States, 59 F.3d 117, 121
5 (9th Cir. 1995) (holding party challenging issuance of Internal Revenue Service summons
6 not entitled to evidentiary hearing where party failed to offer evidence to support finding IRS
7 was not acting in good faith).

8 Accordingly, the petition is hereby GRANTED, and Padua is hereby ORDERED to
9 appear before Revenue Officer Fukekila Merrida, or any designated agent, on April 10,
10 2009, at 9:00 a.m., at the Offices of the Internal Revenue Service, 450 Golden Gate
11 Avenue, 6th Floor, San Francisco, California, 94102, and then and there give testimony
12 relating to the matters described in the subject Internal Revenue Service summonses,
13 copies of which are attached hereto as Exhibits A and B, and produce for the Revenue
14 Officer’s inspection and copying the records described in the attached Internal Revenue
15 Service summonses.

16 Failure to comply with the instant order may be grounds for a finding of contempt.
17 See, e.g., United States v. Ayres, 166 F.3d 991, 994-96 (9th Cir. 1999) (affirming finding of
18 contempt, where party failed to comply with court order directing him to provide testimony
19 and produce records to IRS).

20 **IT IS SO ORDERED.**

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22 Dated: March 6, 2009

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MAXINE M. CHESNEY
United States District Judge