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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**UNITED STATES OF AMERICA and
CHUNG NGO, Revenue Agent,**

Petitioners,

v.
RICHARD IVALDI,

Respondent.

No. C-10-1277-MHP

**~~[Proposed]~~ AMENDED
ORDER TO SHOW CAUSE**

**Date: August 16, 2010
Time: 3:00 p.m.
Place: Courtroom 15, 18th Fl.**

THIS MATTER came before the Court on June 28, 2010, for a status hearing to determine whether Respondent Richard Ivaldi had complied with this Court’s Order Enforcing Summons, dated May 20, 2010, which ordered the Respondent to appear, testify and produce documents to Internal Revenue Service Revenue Agent Chung Ngo on June 7, 2010, in response to an administrative Internal Revenue Service Summons served upon the Respondent on January 25, 2010. Petitioner Ngo appeared at the hearing. Respondent Richard Ivaldi did not appear at the June 28, 2010 hearing.

The Court having read and considered the papers and files in this case, and having heard and considered any arguments and evidence presented by the parties at the hearing, and for good cause shown,

THE COURT HEREBY FINDS that pursuant to the May 20, 2010 Order Enforcing Summons, the Respondent, Richard Ivaldi, was ordered to appear before Revenue Agent Chung Ngo on June 7, 2010, to provide testimony and documents responsive to an administrative Internal Revenue Service Summons served upon the Respondent on January 25, 2010. The

1 Respondent did not appear before Agent Ngo on June 7, 2010, as ordered, and failed to provide
2 any oral testimony or produce any documents or records in response to the underlying summons,
3 and such failures continue to date. The Petitioners have established by clear and convincing
4 evidence that the Respondent has failed to fully comply with the Court's May 10, 2010, Order
5 Enforcing Summons, fulfilling their burden to make a prima facie showing of contempt. United
6 States v. Rylander, 714 F.2d 996, 1001 (9th Cir. 1983).

7 **THE COURT HEREBY FINDS** that though the Respondent was provided with an
8 opportunity to establish why he was unable to presently comply with the Court's Order, the
9 Respondent failed to provide any evidence of his present inability to comply. He has, therefore,
10 failed to meet his burden of proof.

11 Accordingly,

12 **IT IS HEREBY ORDERED** that the Respondent, Richard Ivaldi, appear before this
13 Court on **August 16, 2010, at 3:00 p.m.**, to show cause, if any, why Respondent Richard Ivaldi
14 should not be held in contempt of this Court for his failure to comply with this Court's Order
15 Enforcing Summons.

16 **IT IS FURTHER ORDERED** that the Respondent, Richard Ivaldi, appear before this
17 Court on **August 16, 2010, at 3:00 p.m.**, and provide any oral testimony and to produce
18 documents and records in response to the underlying summons.

19 **IT IS FURTHER HEREBY ORDERED** that if the Respondent, Richard Ivaldi, fails to
20 fully comply with the Court's May 10, 2010 Order Enforcing Summons by failing to either
21 appear before an agent of the Internal Revenue Service, provide full and complete oral testimony,
22 or produce all records responsive to the underlying administrative IRS summons to this Court on
23 or before August 16, 2010, he shall immediately thereafter be arrested by the United States
24 Marshals pursuant to this Court's bench warrant, and imprisoned until he fully complies with the
25 Court's May 10, 2010 Order Enforcing Summons.

26 **ORDERED** this 7th day of July, 2010.

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HONORABLE MARILYN H. PATEL
United States District Court

