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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

WHA

UNITED STATES OF AMERICA, **C 13** No. **0495**

Petitioner,

v.

KEVIN CLARK, TRUSTEE OF NEWMAN
FAMILY IRREVOCABLE TRUST DATED
FEBRUARY 28, 2009,

Respondent.

~~Proposed~~
ORDER TO SHOW CAUSE WHY
INTERNAL REVENUE SERVICE
SUMMONS SHOULD NOT BE
ENFORCED

Upon consideration of the United States' Petition to Enforce Internal Revenue
Summons and the Declaration in support thereof, the Court finds that the United States
has established a *prima facie* case under *United States v. Powell*, 379 U.S. 48 (1964) for
enforcement of the Internal Revenue Service summons at issue.

Accordingly, IT IS HEREBY ORDERED that Respondent Kevin Clark appear
before the undersigned United States District Judge, on the 4th day of April,
2013, at 8:00 a.m./~~p.m.~~, in Courtroom No. 8, 19th Floor, United States District
Court, 450 Golden Gate Ave, San Francisco, California, and then and there show
cause, if any, why Respondent should not be compelled to appear and provide documents
and testimony as required by the summons.

1 It is further ORDERED that:

2 1. A copy of this Order, together with the Petition to Enforce Internal Revenue
3 Service Summons and supporting papers, shall be served upon Respondent in accordance
4 with Rule 4 of the Federal Rules of Civil Procedure at least thirty-five days before the
5 date set for the show-cause hearing;

6 2. Since the Petition to Enforce Internal Revenue Summons and supporting papers
7 make a *prima facie* showing that the IRS investigation is being conducted for a legitimate
8 purpose, that the inquiry may be relevant to that purpose, that the information sought is
9 not already within the Commissioner's possession, and that the administrative steps
10 required by the Internal Revenue Code have been followed, *see United States v. Powell*,
11 379 U.S. 48 (1964), the burden has shifted to Respondent to oppose enforcement of the
12 summons;

13 3. If Respondent has any defense to present or opposition to the Petition, such
14 defense or opposition shall be made in writing, filed with the Clerk and served on counsel
15 for the United States, at least 21 days prior to the date set for the show-cause hearing.
16 The United States may file a reply memorandum to any opposition at least 14 days prior
17 to the date set for the show-cause hearing.

18 4. At the show-cause hearing, the Court will consider all issues raised by Respondent.
19 Only those issues brought into controversy by the responsive pleadings and supported by
20 an affidavit or declaration will be considered. Any uncontested allegation in the Petition
21 will be considered admitted.

22
23 **ORDERED** this 25 day of February, 2013, at San Francisco,
24 California.

25 
26 _____
27 William Alsup
28 United States District Judge