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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FILED

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Petitioner,

v.

JUSTIN HEINDEL,

Respondent.

No. CV

13

1306

~~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 Justin Heindel appear before the undersigned United States Magistrate Judge, on the 28TH day of MAY, 2013, at 10:00 a.m./p.m., in Courtroom No. 2, 5TH Floor, United States District Court, 280 South 1st Street, San Jose, 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.

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1 It is further ORDERED that:

2 1. A copy of this Order, together with the Petition to Enforce Internal Revenue Service
3 Summons and supporting papers, shall be served upon Respondent in accordance with Rule 4 of
4 the Federal Rules of Civil Procedure at least 35 days before the date set for the show-cause
5 hearing;

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

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

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 an
20 affidavit or declaration will be considered. Any uncontested allegation in the Petition will be
21 considered admitted.

22 ORDERED this 4th day of April, 2013, at San Jose, California.

23
24
25 UNITED STATES MAGISTRATE JUDGE

26 HOWARD R. LLOYD
27
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