

E-filed  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 United States of America,  
12 Petitioner,  
13 v.  
14 Hank Risan,  
15 Respondent.

Case No.  
~~[PROPOSED]~~ ORDER TO SHOW  
CAUSE WHY INTERNAL REVENUE  
SERVICE SUMMONS SHOULD NOT  
BE ENFORCED

16  
17 Upon consideration of the United States' Verified Petition to Enforce Internal Revenue  
18 Service Summons and the Declaration in support thereof, the Court finds that the United States  
19 has established a *prima facie* case under *United States v. Powell*, 379 U.S. 48 (1964) for  
20 enforcement of the Internal Revenue Service summons at issue. Accordingly, IT IS HEREBY  
21 ORDERED that Respondent Hank Risan appear before the undersigned United States Magistrate  
22 Judge, on the 13<sup>th</sup> day of June, 2017, at 10:00 a.m./~~p.m.~~, in Courtroom No. 2,  
23 5<sup>th</sup> Floor, United States District Court, 280 South 1st Street, San Jose, California, and then and  
24 there show cause, if any, why Respondent should not be compelled to appear and provide

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1 documents and testimony as required by the summons.

2 It is further ORDERED that:

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

7 2. Since the Verified Petition to Enforce Internal Revenue Service Summons and  
8 supporting papers make a prima facie showing that the IRS investigation is being conducted for a  
9 legitimate purpose, that the inquiry may be relevant to that purpose, that the information sought  
10 is not already within the Internal Revenue Service's possession, and that the administrative steps  
11 required by the Internal Revenue Code have been followed, *see United States v. Powell*, 379 U.S.  
12 48 (1964), the burden has shifted to Respondent to oppose enforcement of the 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 for the  
15 United States, at least 21 days prior to the date set for the show-cause hearing. The United States  
16 may file a reply memorandum to any opposition at least 5 court days prior to the date set for the  
17 show-cause hearing.

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

22 ORDERED this 24th day of April, 2011.

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24   
UNITED STATES MAGISTRATE JUDGE