

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No. 17cv2219 BTM
Petitioner,)	
v.)	ORDER GRANTING PETITION
)	TO ENFORCE INTERNAL
PATRICIA CONNORS,)	REVENUE SERVICE SUMMONSES
Respondent.)	

The Government has petitioned the Court for an order enforcing Internal Revenue Service (“IRS”) Summonses issued to Patricia Connors (“Respondent”). On November 27, 2017, the Court issued an order setting a hearing on the petition to enforce. On November 29, 2017, the IRS personally served Respondent with a copy of the Court’s order, the Government’s petition to enforce, and the supporting declaration. Respondent did not file a written response to the order.

The hearing was held on the Government’s petition on February 9, 2018, at 2:00 p.m. The Government was represented by Boris Bourget. Respondent was ill and did not appear but was represented by Chris Cooke. For the reasons explained herein, the Government’s petition to enforce the summonses is granted.

BACKGROUND

On April 11, 2017, W. Wooldridge, a Revenue Officer employed by the IRS, issued two IRS summonses to Respondent. [Amended Declaration of Revenue

1 Officer W. Wooldridge in Support of Petition, (“Wooldridge Decl.”), ¶ 5.] The IRS
2 is conducting an investigation to determine the collectability of Respondent’s tax
3 liabilities for the 2002, 2003, 2004, 2005, 2006, 2007, and 2008 tax years and to
4 determine her tax liabilities for the 2009, 2010, 2011, 2012, 2013, 2014, and 2015
5 tax years. [Id. at ¶ 4.] On April 11, 2017, Revenue Officer Wooldridge personally
6 served the summonses on Respondent. [Id. at ¶ 8.] The summonses called for
7 Respondent to appear before the IRS on May 10th, 2017. [Id. at ¶ 6.]

8 Respondent failed to appear and provide the summoned information. [Id. at ¶
9 9.] On May 18, 2017, the Office of Division Counsel of the IRS sent letters to
10 Respondent directing her to appear before Revenue Officer Wooldridge on May 31,
11 2017. [Id. at Ex. B.] Respondent again failed to appear for this meeting and provide
12 the summoned information. On June 13, 2017, Respondent’s attorney contacted
13 Revenue Officer Wooldridge, and Ms. Wooldridge agreed to give Respondent until
14 June 27, 2017, to appear before her and provided the summoned information. [Id. at
15 ¶ 10, Ex. C.] Respondent did not appear. To date, Respondent has not provided the
16 IRS with any of the summoned information.

17 On November 27, 2017, the Government filed an amended petition to enforce
18 the IRS summonses. That same day, Respondent was ordered to appear before the
19 Court on January 12, 2018. That hearing was continued until February 9, 2018. The
20 Court also ordered Respondent to respond with any defense or opposition to the
21 petition at least 14 days prior to the hearing date. Respondent did not file a written
22 response. Respondent did not object to the issuance of an order enforcing the
23 summonses.

24 DISCUSSION

25 Pursuant to 26 U.S.C. § 7602(a)(1), the Secretary of the Treasury may
26 “examine any books, papers, records, or other data which may be relevant or
27 material” in connection with “ascertaining the correctness of any return, making a
28 return where none has been made, determining the liability of any person for any

1 internal revenue . . . or collecting any such liability.” Section 7602(a)(1) authorizes
2 the Secretary to issue summonses to compel persons in possession of such books,
3 papers, records, or other data to appear and produce the same and/or give testimony.

4 In order to obtain judicial enforcement of an IRS summons, the United States
5 “must first establish its ‘good faith’ by showing that the summons: (1) is issued for a
6 legitimate purpose; (2) seeks information relevant to that purpose; (3) seeks
7 information that is not already within the IRS’ possession; and (4) satisfies all
8 administrative steps required by the United States Code.” Fortney v. United States,
9 59 F.3d 117, 119 (9th Cir. 1995) (citing United States v. Powell, 379 U.S. 48, 57-58
10 (1964)). “The government’s burden is a ‘slight one’ and typically is satisfied by the
11 introduction of the sworn declaration of the revenue agent who issued the summons
12 that Powell requirements have been met.” Id. at 120. Once the government has
13 made a prima facie showing that enforcement of the summons is appropriate, the
14 burden shifts to the Respondent to show that enforcement of the summons would be
15 an abuse of the court’s process. Powell, 379 U.S. at 58. The Supreme Court has
16 characterized Respondent’s burden as a heavy one. Id.

17 Respondent does not object to granting the Government’s petition, but in any
18 case, the Government’s petition and Revenue Officer Wooldridge’s supporting
19 declaration satisfy all four elements of the Powell standard. First, the IRS is
20 conducting an investigation to determine the collectability of Respondent’s tax
21 liabilities for the 2002–2008 tax years and to determine her tax liabilities for the
22 2009–2015 tax years. [Wooldridge Decl., ¶ 4.] Such an investigation is expressly
23 authorized by 26 U.S.C. § 7602(a). The Internal Revenue Code explicitly allows the
24 issuance of a summons for the purpose of determining “the liability of any person
25 for any internal revenue tax . . . or collecting any such liability . . .” 26 U.S.C. §
26 7602(a). Thus, the summonses were issued for a legitimate purpose. Second,
27 Revenue Officer Wooldridge has declared in her declaration that the information
28 requested by the summonses may be relevant to determine Respondent’s tax

1 liabilities and collectability of her tax liabilities. [Id. at ¶ 12.] Third, the IRS does
2 not already possess the testimony, papers, records, and other data sought by the
3 summonses issued to Respondent. [Id. ¶ 13.] Finally, the IRS has followed and
4 exhausted all required administrative steps, but Respondent has not complied with
5 the summonses. [Id. at ¶ 15.] Thus, the Government has made a prima facie
6 showing that it is entitled to judicial enforcement of the summonses.

7 CONCLUSION

8 For the reasons set forth herein, the Government's petition to enforce the IRS
9 summonses is GRANTED. Respondent, Patricia Connors, is directed to appear
10 before Revenue Officer Wooldridge on March 16, 2018, at 9:30 a.m., at the offices
11 of the Internal Revenue Service located at 1 Civic Center Drive, Suite 400, San
12 Marcos, California, 92069, and to produce the documents and give testimony as
13 directed in the summonses.

14 Respondent is hereby notified that failure to comply with this Order may
15 subject her to sanctions for contempt of court.

16 IT IS SO ORDERED.

17 **DATED:** February 28, 2018

18 
19 **BARRY TED MOSKOWITZ, Chief Judge**
20 **United States District Court**