

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 10-cv-01049-PAB

UNITED STATES OF AMERICA,

Petitioner,

v.

KELLY ROE,
as Member of Roe Ecological Services LLC,
a/k/a Wildlife Property Management LLC, and
CHRISTOPHER ROE,
as Member of Roe Ecological Services LLC,
a/k/a Wildlife Property Management LLC,

Respondents.

ORDER ENFORCING SUMMONSES

This matter is before the Court on the “United States’ Petition to Enforce Internal Revenue Service Summonses” [Docket No. 1], filed on May 6, 2010. On June 1, 2010, the Court issued an order to show cause [Docket No. 5] to the respondents to show cause why the petition should not be granted and the summonses enforced. On July 14, 2010, the respondents filed a response and affidavit and memorandum of law in support thereof [Docket Nos. 7, 8]. On July 22, 2010, the United States filed a reply [Docket No. 9]. On July 29, 2010, the Court conducted a hearing on this matter at which the parties appeared.

Pursuant to the Court’s oral statements at the July 29, 2010 hearing, the Court finds and concludes that petitioner has met the criteria for summons enforcement under *United States v. Powell*, 379 U.S. 48 (1964), that respondents have failed to

demonstrate that such enforcement would constitute an abuse of the Court's process or that the summonses were issued by the Internal Revenue Service for an improper purpose, and that respondents have not presented a valid defense to enforcement.

Therefore, based upon the petition filed by the United States, the related filings, the argument of the parties at the July 29, 2010 hearing, the Court's stated findings at that hearing, and because good cause appears, it is

ORDERED that the United States' petition [Docket No. 1] to enforce Internal Revenue Service summonses issued to respondents Kelly Roe, as Member of Roe Ecological Services, LLC aka Wildlife Property Management, LLC, and Christopher Roe, as Member of Roe Ecological Services, LLC aka Wildlife Property Management, LLC, is GRANTED. It is further

ORDERED that respondents shall produce the documents and testimony required in the summonses on or before **Thursday, September 2, 2010** to Revenue Agent Tommy McDonald, at the Small Business/Self-Employed Division of the Internal Revenue Service at 301 South Howes St., Suite 302, Fort Collins, Colorado 80521. It is further

ORDERED that respondents shall contact Revenue Agent Tommy McDonald at (970) 495-1368 on or before **Wednesday, August 18, 2010** in order to arrange the date and time for production and testimony and that, if the parties are unable to mutually agree upon a date and time, respondents shall produce the documents and testimony required in the summonses to Revenue Agent Tommy McDonald, or any IRS officer designated by Revenue Agent Tommy McDonald, on **Thursday, September 2, 2010** at 10:00 a.m. at 301 South Howes St., Suite 302, Fort Collins, Colorado 80521. It

is further

ORDERED that respondents' non-compliance with the terms and conditions of this order may serve as grounds for a finding of civil contempt against them.

DATED August 3, 2010.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge