

EDWARD H. KUBO, JR. 2499
United States Attorney
District of Hawaii

HARRY YEE 3790
Assistant U.S. Attorney
Room 6-100, PJKK Federal Bldg.
300 Ala Moana Boulevard
Honolulu, Hawaii 96850
Telephone: (808) 541-2850
Facsimile: (808) 541-3752
Email: Harry.Yee@usdoj.gov

Attorneys for Petitioner
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CIVIL NO. 08-00355 HG LEK
)	
Petitioner,)	MAGISTRATE'S REPORT AND
)	RECOMMENDATION ON
v.)	PETITION TO ENFORCE INTERNAL
)	REVENUE SERVICE SUMMONS
HOWARD ISHII, AS PRESIDENT OF)	
HOWARDS PLUMBING INC.,)	
)	
Respondent.)	
_____)	

MAGISTRATE'S REPORT AND RECOMMENDATION ON
PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

A hearing was held on Monday, October 6, 2008, before the Honorable Leslie E. Kobayashi, United States Magistrate Judge, on the Petition to Enforce Internal Revenue Service Summons filed by the United States of America. Harry Yee, Assistant United States Attorney appeared on behalf of the United States with Revenue Officer Joseph Ingalls of the IRS Honolulu Office. Howard Ishii, the Respondent, was present.

At the hearing Respondent Ishii informed the Court that he would comply with IRS summons issued on May 21, 2008 and will appear with the records and financial information requested on or before 9:00 am on November 6, 2008 at the IRS offices in Honolulu.

With the Declaration of Revenue Office Ingalls, the government has established a prima facie case that the summons is enforceable. All the government needs to do to establish a prima facie case for enforcement of a summons is to show that the summons is issued for a legitimate purpose, the data sought may be relevant to that purpose, the data is not already in the Internal Revenue Service's possession, and the administrative steps for issuance and service of a summons have been followed. United States v. Powell, 379 U.S. 48 (1964). The Petitioner's burden of satisfying the Powell requirements is a "slight one" that can be met merely by presenting the sworn affidavit of the agent who issued the summons attesting to these facts. United States v. Dynavac, Inc., 6 F.3d 1407, 1414 (9th Cir. 1993); United States v. Gilleran, 992 F.2d 232, 233 (9th Cir. 1993); Crystal v. United States, 172 F.3d 1141, 1144 (9th Cir. 1999).

Therefore, it is the recommendation of this Court to the United States District Chief Judge that an order be entered as follows:

(1) That the Internal Revenue Service summons served on Howard Ishii, as President of Howards Plumbing Inc. shall be enforced and he shall obey the summons in full on or before 9:00am on Thursday, November 6, 2008;

(2) That the respondent shall provide to United States all documents showing his and Howards Plumbing Inc.'s income, assets, and liabilities for January 1, 2008 to the Present;

(3) And that should respondent fail to fulfill the either of the requirements of this order then the United States may forthwith move this court for a hearing on motion for contempt of this order.

DATED: at Honolulu, Hawaii, October 7, 2008.



/S/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States Magistrate Judge

USA v. Howard Ishii, as President
Of Howards Plumbing Inc.
Civil No. 08-00355 HG LEK
"Magistrate's Report and
Recommendation on Petition
to Enforce Internal
Revenue Service Summons"