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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CIVIL NO. 09-00554 JMS LEK
)	
Petitioner,)	MAGISTRATE'S REPORT AND
)	RECOMMENDATION ON PETITION TO
v.)	ENFORCE INTERNAL REVENUE
)	SERVICE SUMMONSES
PAUL Y. YOKOYAMA,)	
)	
Respondent.)	
_____)	

**REPORT AND RECOMMENDATION ON
PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONSES**

A hearing was held on Monday, January 4, 2010, before this Court on the Petition to Enforce Internal Revenue Service Summons ("Petition") filed by the United States of America ("United States"). Assistant United States Attorney Thomas A. Helper and Internal Revenue Service ("IRS") Revenue Officer Allan Chow appeared on behalf of the United States. Respondent Paul Y. Yokoyama ("Respondent") did not appear. Based upon the

written and oral argument of counsel, and the pleadings filed herein, the Court hereby makes the following findings of fact:

1. The IRS is conducting an investigation to (a) determine Paul Y. Yokoyama's liabilities for the trust fund recovery penalty for the quarters ended September 30, 2002, December 31, 2002, March 31, 2003, June 30, 2003, September 30, 2003, December 31, 2003, March 31, 2004, June 30, 2004, September 30, 2004, December 31, 2004, March 31, 2005, June 30, 2005, September 30, 2005, December 31, 2005, March 31, 2006, June 30, 2006, September 30, 2006, December 31, 2006, March 31, 2007, and June 30, 2007; and (b) determine his federal income tax liabilities for the years 2005, 2006, and 2007.

2. On August 27, 2009, the IRS served two duly issued summonses upon Respondent which directed Respondent to appear before IRS Revenue Officer Jamie L. Bent on September 16, 2009, to testify and produce his books, records and papers described in the summonses.

3. Respondent did not appear before Revenue Officer Jamie Bent on September 16, 2009, in response to the IRS summonses.

4. Respondent's failure to comply with the IRS summonses continued until November 20, 2009, when the United

States filed the instant Petition, and the district judge issued the Order to Show Cause on November 20, 2009.

5. On December 8, 2009, the Petition and the Order to Show Cause were personally served upon Respondent.

6. To date, Respondent has not filed any substantive response or objection to the Petition, and has not complied with the IRS summonses.

7. Respondent failed to appear at the hearing on the Order to Show Cause.

Based upon the above findings, and the Court being otherwise fully advised in the matter, this Court concludes as follows:

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. See United States v. Powell, 379 U.S. 48, 57-58 (1964). In the present case, the United States has established a prima facie case for enforceability with the Declaration of Revenue Officer Jamie L. Bent.

Therefore, this Court HEREBY RECOMMENDS that the district judge enter an order as follows:

(1) That the Internal Revenue Service summonses served upon Respondent Paul Y. Yokoyama shall be enforced and he shall obey the summonses in full;

(2) Respondent Paul Y. Yokoyama is directed to produce all documents responsive to the Internal Revenue Service Summonses by January 28, 2010; and

(3) That should Respondent fail to fulfill the requirements of the order, then the United States may forthwith move for a hearing on motion for contempt of the order.

DATED: Honolulu, Hawaii, January 5, 2010.



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

USA v. PAUL Y. YOKOYAMA;
Civil No. 09-00554 JMS LEK;
"Magistrate's Report and Recommendation on Petition to Enforce
Internal Revenue Service Summonses"