

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 1:14MC67
)	
ROGER M. NAVA-ROCINCUNET,)	
)	
Respondent.)	

**ORDER AND RECOMMENDATION OF UNITED STATES MAGISTRATE
JUDGE ON PETITION TO ENFORCE INTERNAL REVENUE SERVICE
SUMMONS**

This matter came before the Court on January 21, 2015, on the Petition of the United States of America, on behalf of the Internal Revenue Service, under the authority of 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce two Internal Revenue Summonses.

Joan B. Binkley, Assistant United States Attorney, and Revenue Officer Cynthia D. Cooke appeared on behalf of the Petitioner, United States of America. Respondent Roger M. Nava-Rocincuet appeared *pro se*. Maria Stafford appeared as a sworn Spanish Interpreter.

The United States tendered the Declarations of Revenue Officer Cynthia D. Cooke who is a Revenue Officer of the Internal Revenue Service, employed in the Small Business/Self-Employed Division of the Internal Revenue Service located in Winston-Salem, North Carolina, and is authorized to issue Internal Revenue Service summonses pursuant to the authority contained in 26 U.S.C. § 7602, and Treasury Regulations, 26 C.F.R. § 301.7602-1.

Based on the Declarations, the Court found that the Government made a prima facie showing that:

1) An investigation is being conducted by Revenue Officer Cynthia D. Cooke pursuant to a legitimate purpose; specifically that the summonses were issued for the legitimate purpose of investigating the federal income tax liability of Roger M. Nava-Rocincuet for the calendar years ending December 31, 2009, December 31, 2011, December 31, 2012, and December 31, 2013 and for the legitimate purpose of investigating the collection of the tax liability of Roger M. Nava-Rocincuet, as set forth in the Declarations of Revenue Officer Cynthia D. Cooke attached to the Petition;

2) The inquiry made is relevant to the legitimate purpose;

3) The information sought is not already within the IRS's possession and the Respondent, Roger M. Nava-Rocincuet, is believed to be in possession and control of testimony and documents concerning the above-described investigation; and

4) The administrative steps required by the Code have been followed. *See United States v. Powell*, 379 U.S. 48, 57-58 (1964); *Alphin v. United States*, 809 F.2d 236, 238 (4th Cir.1987).

The United States Marshals Service personally served Roger M. Nava-Rocincuet with a copy of the Petition on December 17, 2014. The Respondent did not file or serve a

written response to the Petition nor did he make any motions in response. At the hearing, Respondent Nava-Rocincuet appeared and did not object to the entry of an Order and Recommendation requiring him to appear and produce for examination all documents and records he possesses or controls related to the income he received for the years 2009, 2011, 2012, and 2013 and documents and records regarding assets, liabilities or accounts held in his name or for his benefit which he wholly or partially owns, or in which he has a security interest. These records and documents include but are not limited to: all bank statements, checkbooks, cancelled checks, saving account passbooks, records or certificates of deposit for the period July 1, 2013 to July 1, 2014, as provided in the summonses.

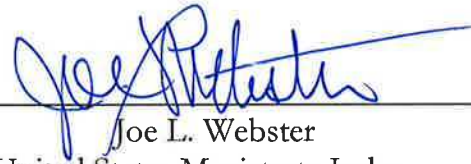
There is no Department of Justice referral in effect with respect to the Respondent under investigation, as that term is defined in Title 26 U.S.C. § 7602(d).

Based on these determinations, this Court recommends that the Petition by the United States of America be granted and that Respondent Nava-Rocincuet be ordered to appear and produce for examination the books, papers, records or other data as provided in the summonses.

IT IS THEREFORE RECOMMENDED that the Petition (Docket Entry 1) be **GRANTED** and that an Order be entered compelling Respondent Roger M. Nava-Rocincuet to obey the Internal Revenue Service Summonses served on him on July 22, 2014, by appearing on March 4, 2015, at 9:00 a.m., before Revenue Officer Cynthia D. Cooke, at 1677 Westbrook Plaza Drive Winston-Salem, North Carolina to testify and to produce for examination documents and records as described in the Summonses.

IT IS FURTHER ORDERED that the United States Marshal for this District serve a copy of this Order personally upon Roger M. Nava-Rocincuet, within 14 days of the date of this Order.

This, the 22nd day of January, 2015.



Joe L. Webster
United States Magistrate Judge