

UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF TENNESSEE  
 AT GREENEVILLE

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	
v.	)	
	)	No. 2:16-CV-359
SHON MANN,	)	
Respondent,	)	
	)	
	)	

MEMORANDUM AND ORDER

This "Petition to Enforce Internal Revenue Service Summons" came before the Court on February 6, 2017, for a show cause hearing for the Respondent, Shon Mann, to show cause why he should not be compelled to obey the Internal Revenue Service ("IRS") summons served upon him on January 11, 2016, which required him to give testimony to the IRS as well as produce and permit the copying of all documents responsive to the requests set forth in the summons.

To establish a prima facie case for enforcement, the government relied on the previously submitted affidavit of Revenue Officer Shane Murray who issued the summons and who is seeking enforcement.<sup>1</sup> As required by *United States v. Powell*, 379 U.S. 48 (1964), this affidavit clearly establishes a prima facie case for enforcement because it establishes:

- (1) the investigation for which the summons was issued has a legitimate purpose, that is, to investigate the tax liability for Brian Snow for the tax years of ending on December 31, 2006, December 31, 2007, and December 31, 2008;
- (2) the summoned materials are relevant to that investigation;

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<sup>1</sup> The requisite showing is generally made by the submission of the affidavit of the agent who issued the summons and who is seeking enforcement. *United States v. Will*, 671 F.2d 963, 966 -967 (6<sup>th</sup> Cir. 1982), citing *United States v. Garden State National Bank*, 607 F.2d 61, 68 (3rd Cir. 1979).

(3) the information sought is not already within the IRS's possession; and

(4) the IRS has followed the procedural steps outlined in 26 U.S.C. § 7603.

This affidavit also shows that there is no Justice Department referral in effect within the meaning of 26 U.S.C. §7602 with respect to the Respondent which would prevent the enforcement of the summons. *United States v. LaSalle National Bank*, 437 U.S. 298, 318 (1978).

Once this showing is made, the burden shifts to the taxpayer to demonstrate that enforcement of the summons would be an abuse of the court's process. "Such an abuse would take place if the summons had been issued for an improper purpose, such as to harass the taxpayer or to put pressure on him to settle a collateral dispute, or for any other purpose reflecting on the good faith of the particular investigation." *Powell*, 379 U.S. at 58. The Respondent chose to rely on the affidavits he submitted, [Docs. 11-17], which are largely nonsensical. The Respondent also submitted a handwritten exhibit stating that he had offered to settle the claims but refused to explain the exhibit any further when questioned by the Court.

Reviewing this record as a whole, the Respondent did not meet his burden of showing that enforcement of summons would be an abuse of process or that the summons was issued in bad faith or for purposes of harassment. Accordingly, the summons will be enforced, and it is hereby **ORDERED** that the Respondent shall appear in open court before the undersigned at 1:30 p.m. on Wednesday, February 22, 2016, and that he bring the items set out in the summons as well as be prepared to give testimony to the IRS regarding his tax liability for the identified period. When the Respondent appears on February 22, 2017 at 1:30 p.m., the Respondent is ordered to comply with the Summons served on him on January 11, 2016 and he must be prepared to give testimony and to bring for examination the following materials and information relating to the collection of tax liability: all documents and records Respondent possesses or

controls regarding assets, liabilities, or accounts held in the taxpayer's name or for the taxpayer's benefit which the taxpayer wholly or partially owns, or in which the taxpayer has a security interest. These records and documents include but are not limited to: all bank statements, checkbooks, canceled checks, savings account passbooks, records or certificates of deposit for the period from 01/01/2015 to date of compliance. Also include all current vehicle registration certificates, deeds or contracts regarding real property, stocks and bonds, accounts, notes and judgments receivable, and all life or health insurance policies.

So ordered.

ENTER:

s/J. RONNIE GREER  
UNITED STATES DISTRICT JUDGE