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8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA, and
12 DAVID PALMER, Revenue Officer,
Internal Revenue Service,

13 Petitioners,

14 v.

15 ANTHONY ELKINS and ALICE
16 WIGHT,

17 Respondents.
18

2:08-mc-00005-FCD-GGH

**ORDER TO SHOW CAUSE RE:
TAX SUMMONS ENFORCEMENT**

Taxpayer: NIRVANA
PROFESSIONAL RESOURCES UA

Date: Thursday, March 13, 2008
Time: 10:00 a.m.
Ctrm: Hon. Gregory G. Hollows
(Crtrm. #24, 8th Floor)

19 Upon the petition of McGREGOR W. SCOTT, United States Attorney for the
20 Eastern District of California, and the Exhibit attached thereto, including the verification
21 of Revenue Officer DAVID PALMER, it is hereby:

22 ORDERED that the Respondents, ANTHONY ELKINS and ALICE WIGHT,
23 appear before United States Magistrate Judge Gregory G. Hollows, in that Magistrate
24 Judge's courtroom in the United States Courthouse, 501 I Street, Sacramento, California,
25 on Thursday, March 13, 2008, at 10:00 a.m., to show cause why the respondents should
26 not be compelled to obey the Internal Revenue Service summonses issued on April 18,
27 2007.

28 It is further ORDERED that:

1 1. The United States Magistrate Judge will preside, under to 28 U.S.C. Section
2 636(b)(1) and Local Rule 72-302(c)(9), at the hearing scheduled above. After hearing,
3 the Magistrate Judge intends to submit proposed findings and recommendations under
4 Local Rule 304(a), with the original thereof filed by the Clerk and a copy provided to all
5 parties.

6 2. The Court hereby appoints the group manager of the petitioning Internal
7 Revenue Service employee, and all federal employees designated by that group manager,
8 under Fed. R. Civ. P. 4(c)(1), to serve process in this case.

9 3. A copy of this order, the Verified Petition and its Exhibit, and the Points and
10 Authorities, shall be personally served upon the respondents within 21 days of the date
11 this order is served upon the United States Attorney, unless personal service cannot be
12 made despite reasonable efforts.

13 4. If the federal employee assigned to serve the order, together with the Verified
14 Petition and its Exhibit, is unable to serve these documents personally despite making
15 reasonable efforts to do so, other means of service may be used. See Fed. R. Civ. P.
16 81(a)(5). Such means may include verifying the respondent's place of abode or business
17 by postal trace or otherwise, posting the documents on the door of the respondents' place
18 of abode or business, and mailing an additional copy by ordinary or certified mail. The
19 federal employee shall make a declaration detailing the efforts made within the 21-day
20 period to serve the respondents personally, and the other means of service used.

21 5. Proof of any service done pursuant to paragraph 3 or 4, above, shall be filed
22 with the Clerk as soon as practicable.

23 6. The file reflects a prima facie showing that the investigation is conducted
24 pursuant to a legitimate purpose, that the inquiry may be relevant to that purpose, that the
25 information sought is not already within the Commissioner's possession, and that the
26 administrative steps required by the Code have been followed. United States v. Powell,
27 379 U.S. 48, 57-58 (1964). The burden of coming forward therefore has shifted to
28 whoever might oppose enforcement.

1 7. If the respondents have any defense or opposition to the petition, such defense
2 or opposition shall be made in writing and filed with the Clerk and a copy served on the
3 United States Attorney at least 10 days prior to the date set for the show cause hearing.

4 8. At the show cause hearing, the Magistrate Judge intends to consider the issues
5 properly raised in opposition to enforcement. Only those issues brought into controversy
6 by the responsive pleadings and supported by affidavit will be considered. Any
7 uncontested allegation in the petition will be considered admitted.

8 9. The respondents may notify the Court, in a writing filed with the Clerk and
9 served on the United States Attorney at least 10 days prior to the date set for the show
10 cause hearing, that the respondents have no objections to enforcement of the summonses.
11 The respondents' appearance at the hearing will then be excused.

12 10. The Clerk shall forward a copy of this Order to the United States Attorney.

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14 DATED: 01/15/08

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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