

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 16-mc-2688
)	
JOHN B. TROWBRIDGE,)	
)	
Respondent.)	

PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO WITHDRAW
TAG-END ORDER in OSC

TO THE HONORABLE JUDGE OF THE COURT:

PETITIONER MOVES, that this Court deny respondent's Motion to Withdraw Tag-End Order in OSC (Document #19) as it is frivolous, meritless, and fails to state grounds for which relief can be granted.

IN SUPPORT THEREOF, petitioner respectfully states:

1. Petitioner filed a Petition to Enforce Internal Revenue Service Summons on November 15, 2016.
2. Respondent filed a Motion to Dismiss on February 9, 2017
3. On March 27, 2017, this Court held a Show Cause hearing and also a hearing regarding respondent's Motion to Dismiss.

Docket No. 16-mc-2688

4. After this hearing, respondent filed the following documents:

(a) A Response to Petitioner's Petition to Enforce I.R.S. Summons;

(b) Motion to Dismiss by Reason of Coram Non Judice; and

(c) Motion to Withdraw Tag-End Order in OSC.

5. As is more fully set forth in the Memorandum of Law attached to this Response, respondent's Motion to Withdraw Tag-End Order in OSC is frivolous, meritless, and fails to state grounds for which relief can be granted.

Docket No. 16-mc-2688

WHEREFORE, the petitioner respectfully prays that this Court deny respondent's Motion to Withdraw Tag-End Order in OSC, as it is frivolous, meritless, and fails to state a grounds for which relief can be granted.

Respectfully submitted,

ABE MARTINEZ
Acting United States Attorney

By: /s/ Lewis A. Booth II
LEWIS A. BOOTH II
Special Assistant
United States Attorney
S.D. Texas Federal Bar No. 1581145
8701 S. Gessner, Ste. 710
Houston, Texas 77074
Telephone: (281) 721-7340
Facsimile: (281) 721-7343

Docket No. 16-mc-2688

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,)
)
 Petitioner,)
)
 v.) CIVIL ACTION NO. 16-mc-2688
)
 JOHN B. TROWBRIDGE,)
)
 Respondent.)

PETITIONER'S MEMORANDUM OF LAW

Respondent's Motion to Withdraw Tag-End Order in OSC alleges that this Court lacks the ability to issue an Order to Show Cause in this case (Document #3). Specifically, respondent argues that there is no procedural or constitutional authority for the aforesaid order in the last paragraph of the instant Order as no district judge has the capacity to issue an order in Harris County, TX. For the reasons set forth below, respondent's Motion to Withdraw Tag-End Order in OSC should be denied, as it is frivolous, meritless, and fails to state grounds for which relief can be granted.

Docket No. 16-mc-2688

It is well-settled that this Court is vested with the Power to enforce a validly issued Internal Revenue Service Summons.

If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the United States district court **for the district in which such person resides or is found** shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data. I.R.C. § 7604(a). (emphasis added)

Whenever any person summoned ... neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary may apply to the judge of the district court ... for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. It shall be the duty of the judge ... to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge ... shall have power to make such order as he shall deem proper, not inconsistent with the law for

Docket No. 16-mc-2688

the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience. I.R.C. § 7604(b).

In this case, respondent admits that he is a resident of Harris County, TX. The jurisdiction of the United States District Court for the Southern District of Texas includes Harris County, TX. As I.R.C. § 7604(a) makes clear, the United States district court **for the district in which such person resides or is found** shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data. This Court validly issued an Order to Show Cause in this case directing respondent to show cause why he should not be compelled to comply with the summons served on him on August 9, 2016. It is clear that this Court has the authority to issue this Order. Petitioner's motion should be denied.

Respondent's Motion is a frivolous filing; the likes of which this Court should not give credence or legitimacy.

Respondent is a frequent litigant in Federal Courts and has made several spurious claims concerning the Internal Revenue Service and its authority in several cases. These cases include affirmation of a District Court

Docket No. 16-mc-2688

Order enforcing an IRS administrative summons. See United States v. Trowbridge, 251 F.3d 157(5th Cir. 2001).¹

Respondent's arguments in this case are similar to the arguments presented in Crain v. Commissioner, 737 F.2d. 1417 (5th Cir. 1984). The Court in Crain noted:

We are sensitive to the need for the courts to remain open to all who seek in good faith to invoke the protection of law. An appeal that lacks merit is not always—or often—frivolous. However, we are not obliged to suffer in silence the filing of baseless, insupportable appeals presenting no colorable claims of error and designed only to delay, obstruct, or incapacitate the operations of the courts or any other governmental authority. Crain's present appeal is of this sort. It is a hodgepodge of unsupported assertions, irrelevant platitudes, and legalistic gibberish. The government should not have been put to the trouble of responding to such spurious arguments, nor this court to the trouble of “adjudicating” this meritless appeal.

¹ See also Trowbridge v. Dept. of Treasury, 90 AFTR2d ¶ 2002-7636 (5th Cir.), 2002 WL 31730286, (affirming district court order dismissing petition for writ of mandamus), 89 AFTR2d ¶ 2002-466, 2001 WL 1750765, Civil No. H-01-0369 (USDC SD Texas, Houston); Trowbridge v. Dept. of Treasury, et al., 539 U.S. 924 (2003), (denying motion for leave to file an objection in the nature of a writ of error); Trowbridge v. Internal Revenue Service, 90 AFTR2d ¶ 2002-6419 (5th Cir.), 2002 WL 31017638, (affirming district court order dismissing petition for writ of mandamus, 88 AFTR2d ¶ 2001-5861, 2001 WL 1172417, Civil No. H-00-4426, USDC SD Texas, Houston); Trowbridge v. Commissioner, T.C. Memo. 2003-165, 2003 WL 21278414, appealed to the 5th Circuit, No. 04-60014; Trowbridge v. Commissioner, T.C. Memo. 2003-164, 2003 WL 21278475, appealed to the 5th Circuit, No. 04-60029; John Parks v. Carol Barthel and Mark Everson, Civil Action No. h-04-1708 (USDC SD TX, Houston Division)

Docket No. 16-mc-2688

Respondent's argument that this Court lacks the authority to issue the Order to Show Cause in this case because it does not have jurisdiction over individuals residing in Harris County, TX is simply wrong. Respondent's arguments are frivolous and meritless. Respondent's Motion should be denied.

Docket No. 16-mc-2688

WHEREFORE, the petitioner respectfully prays that this Court deny respondent's Motion to Withdraw Tag-End Order in OSC, as it is frivolous, meritless, and fails to state a grounds for which relief can be granted.

Respectfully submitted,

ABE MARTINEZ
Acting United States Attorney

By: /s/ Lewis A. Booth II
LEWIS A. BOOTH II
Special Assistant
United States Attorney
S.D. Texas Federal Bar No. 1581145
8701 S. Gessner, Ste. 710
Houston, Texas 77074
Telephone: (281) 721-7340
Facsimile: (281) 721-7343