

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Petitioner,	)	Case No. 8:11-mc-
	)	
v.	)	
	)	
ANDREW BADOLATO,	)	
	)	
Respondent.	)	
	)	
_____	)	

**PETITION TO ENFORCE  
INTERNAL REVENUE SUMMONS**

COMES NOW the United States of America, by and through the undersigned Assistant United States Attorney, avers as follows:

1. This is an action for judicial enforcement of an Internal Revenue Service summons pursuant to 26 U.S.C. §§ 7402(b) and 7604(a). This Court has jurisdiction over this action pursuant to 26 U.S.C. §§ 1340 and 1345.

2. The respondent Andrew Badolato resides in Nokomis, Florida, which is within the jurisdiction of this Court.

3. J. Beck, a Revenue Officer of the Internal Revenue Service, employed in the Small Business/Self-Employed Compliance Area 3, with a post of duty in Sarasota, Florida. As a revenue officer, he is authorized to issue Internal Revenue Service summonses pursuant to the authority contained in 26 U.S.C. § 7602.

4. Revenue Officer J. Beck is conducting an investigation for the purpose of examining the income tax liabilities of respondent for the years ended December 31, 2005, December 31, 2006, December 31, 2007, December 31, 2008, and December 31, 2009, as is set forth in the Declaration of Revenue Officer J. Beck attached hereto as Exhibit A.

5. As part of the investigation, on April 7, 2011, Revenue Officer J. Beck issued an Internal Revenue Service Summons (Form 6638) directing the respondent to appear before him on May 2, 2011, to give testimony and to produce for examination and copying certain books, records, papers, or other data, as described in said summons. An attested copy of the summons was served on the respondent by Revenue Officer J. Beck on April 7, 2011, by handing an attested copy of the summons to respondent. The summons is attached to the declaration of Revenue Officer J. Beck as Exhibit A-1, and incorporated herein by reference.

6. The respondent did not appear on May 2, 2011 in response to the summons.

7. On July 15, 2011, Associate Area Counsel for the Internal Revenue Service sent a certified letter to the respondent offering another opportunity to satisfy the summons on August 15, 2011. A copy of that letter is attached to the declaration as Exhibit A-2.

8. On August 5, 2011, the respondent filed his federal income tax returns for the years ended December 31, 2005 and December 31, 2006. However, the respondent's refusal to comply with the summons with respect to the years ended December 31,

2007, December 31, 2008, and December 31, 2009 continues to the date of this petition.

7. The respondent has in his possession, custody, or control information, books, records, papers, and other data which may be relevant and material to the investigation.

8. It is necessary and relevant to obtain the testimony and to examine the books, papers, records or other data sought by the summons in order to properly determine the federal income tax liabilities of respondent for the years ended December 31, 2007, December 31, 2008, and December 31, 2009.

9. All administrative steps required by the Internal Revenue Code for the issuance of the summons have been followed.

10. A Justice Department referral, as defined by § 7602(d)(2) of the Internal Revenue Code of 1986, is not in effect with respect to respondent for the year under investigation.

WHEREFORE, the petitioner respectfully prays:

a. That this Court enter an order directing the respondent to show cause, if any, why he should not comply with and obey the aforementioned summons and each and every requirement thereof;

b. That this Court further order that petitioner be given thirty days (30) from the date of the Order within which to serve respondent with the same;

c. That this Court enter an order directing the respondent to appear before Revenue Officer J. Beck, or any other designated officer of the Internal Revenue Service at such time and place as may hereafter be fixed by Revenue Officer J. Beck and/or his designee, and to give testimony and produce for examination and copying

the books, records, papers, and other data as demanded by the summons for the years ended December 31, 2007, December 31, 2008, and December 31, 2009;

- d. That the United States recover its costs of maintaining this action; and
- e. That this Court grant such other and further relief as is just and proper.

Respectfully submitted,

ROBERT E. O'NEILL  
UNITED STATES ATTORNEY

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Dated: November 10, 2011