

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>CIVIL ACTION NO. 1:14-mc-9</b>
	)	
	)	
<b>JAMES E. MACALPINE,</b>	)	
	)	
<b>Respondent.</b>	)	

**PETITIONER’S MOTION TO MODIFY SHOW CAUSE ORDER**

The United States of America, by and through its attorney, Anne M. Tompkins, United States Attorney for the Western District of North Carolina, on behalf of the Internal Revenue Service (“IRS”), hereby moves to modify the Show Cause Order entered in this case on April 8, 2014, Court’s docket # 7.

1. This is a proceeding brought under the authority of I.R.C. § 7402(b) and 7604(a) of Title 26, U.S.C., to judicially enforce an Internal Revenue summons;
2. On February 25, 2014 undersigned counsel filed a petition seeking a show cause order directing the respondent to explain why he has not responded to an IRS summons previously served on him.
3. On April 8, 2014, the court entered a Show Cause Order.
4. The past practice of this office has been to serve a copy of the petition and related exhibits and the Show Cause Order on the Respondent after the Show Cause Order has been filed. However, in this case, undersigned counsel failed to complete that service and the

omission is solely the fault of the undersigned. It was the intention of Petitioner that the Respondent be served with the petition and related exhibits.

5. On April 14, 2014, Respondent filed a motion to dismiss on the grounds that he has not been served with a copy of the petition.

6. Contemporaneously with the filing of this response, undersigned counsel has sent by certified U.S. Mail to Respondent a copy of the petition and related exhibits previously filed in this matter as well as a copy of the prior Show Cause Order. A separate certificate of service attesting to that fact will be filed in this case. In addition to this service by mail, undersigned counsel will arrange to have a second set of these documents served personally on the Respondent.

To further remedy the prior lack of service of the petition, Petitioner hereby moves for a modification of the previous Show Cause Order to provide the Respondent with an additional period of time of thirty days after service to respond to the petition and Order to Show Cause.

A proposed order granting this requested relief is submitted with this motion.

This the 22<sup>nd</sup> day of April, 2014.

ANNE M. TOMPKINS  
UNITED STATES ATTORNEY

**/s Paul B. Taylor**  
Paul B. Taylor  
Assistant United States Attorney  
Chief, Civil Division  
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(828) 271-4661  
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**CERTIFICATE OF SERVICE**

I CERTIFY that I have this day served a copy of the foregoing by mailing a copy thereof, first class mail, postage prepaid, and properly addressed to:

James E. MacALpine  
603 Woodlea Court  
Asheville, NC 28806

This the 22<sup>nd</sup> day of April, 2014.

ANNE M. TOMPKINS  
UNITED STATES ATTORNEY

**/s Paul B. Taylor**

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