No. 25-

IN THE

Supreme Court of the United States

WILLIAM A. GODDARD; LGI, LLP; GODDARD, LLP; JPF INVESTMENTS I, LLC; JPF REALTY IV LLC,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether a law firm can be denied the opportunity to challenge an IRS summons for law firm trust account records based solely on an IRS declaration which states only in general terms that the summons would aid IRS in the collection of taxes owed by a law firm employee.

2. Whether an allegation of bad faith actions by an IRS employee that were approved by an IRS manager is sufficient to show bad faith by the agency thereby requiring an evidentiary hearing.

RELATED PROCEEDINGS

– *William A. Goddard, LGI, LLP, Goddard, LLP, JPF Investments I, LLC, JPF Realty IV, LLC v. United States*, No. 24-5449, U.S. Court of Appeals for the Ninth Circuit. Judgment entered June 11, 2025.

– *William A. Goddard, LGI, LLP, Goddard, LLP, JPF Investments I, LLC, JPF Realty IV, LLC v. United States*, No. 2:24-cv-01279-FLA-RAO, U.S. District Court for the Central District of California. Order of Dismissal entered August 30, 2024.

– *Goddard v. Commissioner*, No. 22-54, U.S. Supreme Court. Writ of certiorari denied October 3, 2022. Petition for rehearing denied December 5, 2022.

– *Goddard v. Commissioner*, No. 20-73023, U.S. Court of Appeals for the Ninth Circuit. Judgment entered December 17, 2021.

– *Greenberg, et al. v. Commissioner*, Nos. 1143-05, *et al.*, U.S. Tax Court. Decisions entered April 17, 2020.

– *Goddard v. Commissioner*, No. 22334-17L, U.S. Tax Court. Pending.

TABLE OF CONTENTS

Table of Contents

TABLE OF APPENDICES

TABLE OF CITED AUTHORITIES

Page

Cases

Cited Authorities

Page

Statutes

PETITION FOR A WRIT OF CERTIORARI

Petitioners (principally petitioner LGI, LLP) respectfully petition this Court for a writ of certiorari to review the decision of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS AND ORDERS BELOW

The decision of the U. S. Court of Appeals for the Ninth Circuit in *Goddard, et al. v. United States*, 2025 WL 1650016, appears at Appendix 1a–4a. The decision of the U. S. District Court for the Central District of California in *Goddard, et al. v. United States*, 2024 WL 4113035, appears at Appendix 5a–11a.

JURISDICTION

The Court of Appeals for the Ninth Circuit issued a memorandum opinion on June 11, 2025, affirming the decision of the U.S. District Court for the Central District of California dismissing the complaint for lack of jurisdiction (Appendix 1a–4a). This petition is timely filed and confers jurisdiction on this Court pursuant to 28 U.S.C. §1254(1).

STATUTORY AND REGULATORY PROVISIONS INVOLVED

The subject matter of the case involves the exception in 26 U.S.C. §7609(c)(2)(D) to the general rule that notice must be provided to the parties who are the subject of an IRS summons issued to a third party.

26 U.S.C. §7609—Special procedures for third-party summonses

(a) Notice

(1) In General.—If any summons to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summons, then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 23rd day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons.

* * *

(3) Nature of Summons.—Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(D)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

(b) Right to Intervene; Right to Proceeding to Quash.—

(1) Intervention.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

(2) Proceeding to Quash.—

(A) In General.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

* * *

(c) Summons to Which Section Applies.—

(1) In General.—Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7612.

(2) Exceptions.—This section shall not apply to any summons—

* * *

(D) issued in aid of the collection of—

(i) an assessment made or judgment rendered against the person with respect to whose liability the summons is issued; or

(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i); . . .

INTRODUCTION

On February 15, 2024, Appellants filed a petition to quash an IRS summons in the District Court, Case No. 2:24-cv-01279-FLA(RAOx). The summons sought the bank information of 19 listed individuals and entities (including Appellants). IRS moved to dismiss this petition on May 21, 2024, on the grounds that all of the information requested in the summons was needed "in aid of collection" of Goddard's income tax liabilities for 1999, and therefore Appellants were not entitled to notice of the summons and not entitled to file a petition to quash pursuant to 26 U.S.C. §7609(c)(2)(D).

Appellants filed an opposition to the IRS motion on the grounds that (1) the IRS Revenue Officer ("Unger") was not permitted to collect Goddard's 1999 liability, (2) there was no showing that the 18 listed individuals and entities other than Goddard had any connection to Goddard's 1999 liability as required in *Polselli v. Internal Revenue Service*, 598 U.S. 432 (2023), and (3) there was substantial evidence of IRS bad faith that required an evidentiary

hearing under the standard set forth in *United States v. Clarke*, 573 U.S. 248 (2014).

The District Court granted the IRS motion to dismiss on August 30, 2024. (App. 2) Appellant timely appealed to the Court of Appeals for the Ninth Circuit. The Ninth Circuit affirmed on June 11, 2025 (App. 1), and issued Mandate on August 4, 2025.

STATEMENT OF THE CASE

In 2020, IRS assessed income tax deficiencies against Goddard for the tax years 1999, 2000 and 2001. On June 29, 2022, Unger issued a notice of intent to levy pursuant to 26 U.S.C. §6330(a) for Goddard's 2000 tax year. On July 1, 2022, Goddard filed a request for a collection due process ("CDP") hearing pursuant to 26 U.S.C. §6330(b). Pursuant to 26 U.S.C. §6330(c), the timely request for a hearing suspended collection action for the 2000 tax year.

On November 28, 2023, Unger issued a letter to Goddard proposing a conference for the collection of separate civil penalty liabilities that had been assessed against Goddard previously. The civil penalty liabilities were the subject of a separate ongoing CDP case and it was therefore unlawful for Unger to seek to collect these liabilities. IRS Counsel was informed of Unger's illegal activities and instructed Unger to cease collection action.

Also on November 28, 2023, unbeknownst to Goddard, Unger had issued a notice of intent to levy for Goddard's 1999 and 2001 income tax liabilities. On December 23, 2023, five days before the 30-day period to file CDP request with respect to that notice of intent to levy would

lapse, Goddard's attorney, Steven Mather ("Mather"), had a telephone conversation with Unger in which Mather indicated he was waiting for the notice of intent to levy for the 1999 and 2001 tax years because Goddard wanted to file a request for a CDP hearing for those years. Unger affirmatively misled Mather by concealing that the notice of intent to levy had already been issued.

On January 17, 2024, Mather called Unger to inquire about the status of the case and the timing for Unger to issue the notice of intent to levy for 1999 and 2001. Unger told Mather for the first time that the notice of intent to levy had been issued on November 28, 2023, and therefore the 30-day period to file a CDP appeal had lapsed. Unger claimed this entitled Unger to enforce collection by levy for 1999 and 2001.

On January 18, 2024, Goddard filed a request for a CDP hearing or equivalent hearing in response to Unger's November 28, 2023 notice of intent to levy. Goddard's request indicated that the request should be treated as a CDP hearing request due to Unger misleading Mather on issuance of the notice of intent to levy.

In the ongoing CDP hearing for the 2000 tax year, the IRS Appeals Officer set a deadline for Goddard to file an offer in compromise, for all tax years including 1999 and 2001, as a collection alternative by January 31, 2024.

On January 26, 2024, Mather and Unger had a telephone conversation in which Unger indicated he would not allow Goddard's January 18, 2024 filing to be treated as a CDP hearing request and that Unger intended to enforce collection for 1999 and 2001 notwithstanding IRS

policy to withhold collection even if the request is only treated as a request for an equivalent hearing. Mather objected to any enforcement because Goddard would file an offer in compromise by January 31, 2024 as part of the 2000 CDP hearing, which itself would stay collection on all liabilities. Unger indicated he would take action to ensure Goddard's offer in compromise would not be considered by IRS. Mather told Unger that Goddard wanted to pursue a Collection Appeals Program ("CAP") appeal with respect to Unger's stated intention to enforce collection for 1999 and 2001 notwithstanding Goddard's request for an appeal and imminent submission of an offer in compromise.

Pursuant to IRS procedures, Unger arranged for a telephone conference with Unger's manager, L. Martinez ("Martinez"), at 12:15 on January 26, 2024. In that conversation, Mather indicated that Unger's plan to enforce collection was inappropriate and probably unlawful. Martinez approved Unger's actions and gave Mather until January 30, 2024 to file the CAP appeal. Martinez did not tell Mather that a summons would be issued.

After being advised that Mather intended to file a CAP appeal, Unger prepared and Martinez approved the issuance of an administrative summons to US Bank that same day. This summons was ostensibly issued in aid of collection of Goddard's 1999 tax assessment and listed Goddard and 18 other individuals and entities whose accounts Unger intended to be covered by the summons. Unger did not provide notice of the summons to any Appellants.

On January 29, 2024, Mather filed the CAP appeal contesting Unger's decision and authority to enforce collection.

On January 31, 2024, Goddard submitted the offer in compromise as part of the 2000 CDP hearing. The offer in compromise proposed to resolve all of Goddard's IRS liabilities in exchange for a payment of $983,930. Goddard paid the required initial payment of $196,786. Pursuant to 26 U.S.C. §6331(k), IRS is precluded from enforcing collection for all liabilities while the offer in compromise is being considered.

On February 2, 2024, Mather had a telephone conversation with the IRS Appeals Officer handling the 2000 CDP appeal. The Appeals Officer stated that Goddard had satisfied all requirements and that the offer in compromise would be considered in that appeal. Immediately after the call with the Appeals Officer, Mather sent an email to Unger indicating that the offer in compromise would be considered in the 2000 CDP appeal. Unger responded with a FAX stating that Unger would continue with investigation and enforcement and would attempt to get IRS to refuse consideration of the offer in compromise.

On February 5, 2024, Mather had the CAP hearing with a different IRS Appeals Officer. The Appeals Officer was dismayed by Unger's conduct and deception and determined that no enforcement should occur until a determination was made on the offer in compromise. The Appeals Officer issued a letter on February 8, 2024 stating "Appeals is directing for the Field Collection division to refrain from any enforcement action, allowing time for the

Offer in Compromise unit to receive, review and render their decision."

On February 12, 2024, US Bank informed Goddard that Unger's summons had been received and identified seven bank accounts, including the client trust account for LGI LLP, for which the bank intended to provide information in response to the summons. On February 15, 2024, Appellants filed a petition to quash the US Bank summons.

IRS admits that the statutory procedures for providing notice of a third-party summons were not followed with respect to Unger's US Bank summons. IRS contends that the failure of notice and resulting restriction on the District Court's ability to quash the summons are appropriate because the summons was issued "in aid of collection of . . . an assessment . . . " withing the meaning of 26 U.S.C. §7609(c)(2)(D).

It is clear, however, that the courts have a role in determining if a summons is actually issued in aid of collection. The District Court in our case took Unger's unsupported assertions at face value even though Unger's declaration was riddled with errors and omissions and Unger's conduct (approved by Unger's manager) had been rebuked by both IRS Counsel and IRS Appeals in the context of this case. Even though a substantial showing was made of Unger's and Martinez's bad faith in issuing the excessively broad US Bank summons at a time when Unger had no role in collecting Goddard's liabilities, the District Court departed from Supreme Court precedent and refused to conduct an evidentiary hearing to determine if the summons was issued in good faith in aid

of collection. The District Court also required no showing from IRS to establish why the information of the 18 other named individuals and entities (and more particularly with respect to the LGI LLP client trust account) related in any way to the collection of Goddard's 1999 tax. These failures to apply the correct legal standards caused the District Court to erroneously dismiss the case below.

REASONS FOR GRANTING CERTIORARI

I. THIS CASE IS IMPORTANT BECAUSE IT LEAVES NO PROTECTION TO THIRD PARTIES AGAINST RANDOM IRS INVASION OF PRIVACY INTERESTS.

The District Court ignored Supreme Court precedent when it failed to make any meaningful review of whether the summons in this case was in aid of collection of Goddard's 1999 liability. Unger's declaration makes the unsupported and unexplained assertion that Unger issued the summons to aid collection. The District Court took this statement at face value, with no further evaluation, and found that Unger's summons was in aid of collection even as it related to the private records of 18 individuals and entities other than Goddard. The law must be clarified concerning the use of an IRS summons on third party records.

Section 7602(a) broadly authorizes IRS to issue a summons to collect a liability. Summonses issued to third parties (such as the summons in our case) are subject to additional procedural rules. The general rule of 26 U.S.C. §7609 expressly authorizes a taxpayer to file a petition to quash an IRS summons issued to a third party. IRS

seeks to rely on a limited exception that denies this right to quash for a summons issued "in aid of collection." 26 U.S.C. §7609(c)(2)(D).

IRS asserts that a summons is "in aid of" collection if IRS says so. IRS said so on the summons form and in Unger's flawed declaration. The District Court accepted the IRS statements at face value. This is not the correct standard. As this Court noted recently, "the phrase 'in aid of collection' is not 'limitless'". *Polselli v. Internal Revenue Service*, 598 U.S. 432, 444 (2023). As explained in the concurring opinion, "the statute's balancing of interests indicates that Congress did not give the IRS a blank check, so to speak, to do with as it will in the collection area." *Polselli, supra*, at 446-447 (Jackson, J. concurring). IRS could potentially label every summons as in aid of collection, essentially amending the Code and eliminating all court review of third-party summonses. *See*, *Polselli, supra*, at 447 (Jackson, J. concurring).

While the Supreme Court in *Polselli* noted that *Polselli* was not "the case to try to define the precise bounds of the phrase "in aid of the collection," such a statement implies that it is within the court's authority to do so. *Polselli, supra*, at 445. Our case is this other case. "In aid of collection" must be subject to court review under a defined standard.

Ninth Circuit precedent historically held a more protective view on which third party information could be summonsed by the IRS. The Ninth Circuit previously found a limitation, "that the notice exception in §7609(c)(2)(B) applies only where the assessed taxpayer 'has a recognizable [legal] interest in the records summoned.'"

Ip v. United States, 205 F.3d 1168, 1175 (9th Cir. 2000). This interpretation was specifically struck down as too restrictive by *Polselli*. *Polselli, supra*, at 438. In striking down this interpretation and explicitly refusing to adopt another interpretation, however, *Polselli* established that the courts must determine what "in aid of collection" actually means. The phrase has meaning beyond mere IRS say so. IRS determinations must be subject to judicial review.

This District Court in our case erred by applying no standard and making no meaningful determination about whether Unger's US Bank summons for the records of the 18 other individuals and entities was in aid of collection of Goddard's 1999 tax. In the order granting the motion to dismiss, the District Court effectively stated that so long as the IRS was lawfully allowed to investigate and collect outstanding tax liabilities for Goddard, then any summons can be issued in aid of collection. Accepting unsupported IRS statements with such a minimal review effectively gives the IRS a blank check to issue summonses for any reason. Such a permissive view cannot be reconciled with *Polselli* and other Supreme Court precedent.

An IRS summons must be "no broader than necessary to achieve its purpose." *United States v. Bisceglia*, 420 U.S. 141, 151 (1975). Absent a connection between the information requested and the summons' purpose, the summons must (at a minimum) be limited to relevant information. *See*, *United States v. Goldman*, 637 F.2d 664, 667 (9th Cir. 1980).

The most troubling overbreadth is our summons' request for the client trust account information for LGI,

LLP. IRS launched a blind attack into law firm client data and property that involves individuals/entities that were not assessed any tax by the IRS. IRS nevertheless asserts that it should be able to review these client documents without restriction and without a stated reason simply because Goddard was employed by LGI, LLP.

The District Court dismissal wholly fails to recognize and address the lack of any collection purpose with respect to the business entities named in the summons. IRS never contended that the summons related to the collection of the taxes assessed against LGI, LLP or any other listed entity. IRS did not even allege any connection of these entities to Goddard similar to the assertions in *Polselli*. Certainly Unger's declaration provides no such connection. Unger's only statement concerning the entities was that Unger "listed the names of entities that (to my knowledge at the time) might fall under the scope of the subject U.S. Bank Summons." (Case No. 2:24-cv-01279-FLA-RAO (C.D. Cal.), Doc. No. 18-1, p. 5) This says essentially nothing. The summons, therefore, could not have been issued in aid of collection with respect to those entities either in their own right or in connection with Goddard's liabilities. The District Court's dismissal wrongfully denies the only meaningful opportunity to contest a "collection" summons for these uninvolved entities.

Even though *Polselli* clearly indicates there are bounds on IRS's ability to request information "in aid of collection," the District Court in our case ruled the IRS freedom is essentially boundless. IRS offered no explanation why the information of the 18 listed third parties (other than Goddard himself) related in any way to the collection of Goddard's 1999 tax. Yet the District Court

refused to allow the third parties to challenge the IRS summons and refused to hold an evidentiary hearing to explore IRS's justification for requesting the information. Under the District Court's standard, Unger could have listed a Supreme Court justice as someone whose bank records Unger would like to see and the summons would be enforced. The law and this Court's precedent requires more.

II. THE CONDITIONS FOR AN EVIDENTIARY HEARING NEED REINFORCEMENT CONCERNING BAD FAITH IRS ACTIONS.

Once it is determined there is some District Court review of the IRS claims about the purpose for a summons, the standards of *United States v. Powell*, 379 U.S. 48, 57-58 (1964) come into play. Under *Powell*, a court is allowed to inquire if a summons has been issued in bad faith or was issued for an improper purpose such as harassment or to pressure the taxpayer to surrender procedural rights. *Powell, supra*, at 58.

This Court has unanimously held that if a credible claim of bad faith has been raised, an evidentiary hearing is required, observing " . . . the taxpayer is entitled to examine an IRS agent when he can point to specific facts or circumstances plausibly raising an inference of bad faith . . . circumstantial evidence can suffice to meet that burden, after all, direct evidence of another person's bad faith, at this threshold, will rarely if ever be available." *United States v. Clarke*, 573 U.S. 248, 254 (2014).

The District Court erred by failing to take *Clarke* into account and applying the incorrect standard. The

District Court held under *Crystal v. United States*, 172 F.3d 1141, 1144 (9th Cir. 1999), that a declaration from an IRS agent accused of bad faith claiming no illegitimate action was sufficient to overcome any allegations. In doing so, the District Court ignored Unger's excessive actions which earned the rebuke of IRS itself, Appellants' detailed declaration showing the untrustworthiness of Unger's declaration (Case No. 2:24-cv-01279-FLA-RAO (C.D. Cal.), Doc. No. 23-1), and the superseding holding of this Court in *Clarke* which requires an evidentiary hearing in such circumstances.

Appellants raised a substantial question of the lack of any legitimate collection purpose for Unger to issue the summons and cited facts supporting IRS bad faith. In fact, Unger had no legitimate or authorized role in collecting Goddard's tax when the summons was issued. Goddard's case was not even currently considered part of Unger's "inventory" of cases pursuant to IRS procedures. When the legitimate purposes of a summons are eliminated, only the illegitimate remain. At a minimum, a hearing was required under the *Clarke* standard to see if some legitimate collection purpose exists.

The Ninth Circuit seemed to circumvent the bad faith issue by suggesting that Unger's actions did not show bad faith by IRS as an agency, citing *United States v. Stuckey*, 646 F.2d 1369, 1375 (9th Cir. 1981). This is the wrong standard.

In our case, all of Unger's actions were approved by Unger's manager (Martinez) either prospectively (when the summons was issued) or retroactively (when Martinez rejected the CAP appeal of Unger's proposed enforcement

by levy). Almost the entire range of IRS collection can be implemented by the Revenue Officer (e.g., Unger) with only the approval of the immediate manager (e.g., Martinez). Unger's actions were actually approved by everyone who needed to approve them. Suggesting that a bad faith showing requires a higher level of involvement than the deeds themselves is the exception that swallows the rule. Bad faith could never be established under this phantom standard. The Court's input is needed to prevent the lower courts from eliminating the bad faith requirement altogether.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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September 9, 2025

APPENDIX

TABLE OF APPENDICES

APPENDIX A — MEMORANDUM OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED JUNE 11, 2025

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 24-5449
D.C. No. 2:24-cv-01279-FLA-RAO

WILLIAM A. GODDARD; LGI, LLP;
GODDARD, LLP; JPF INVESTMENTS I LLC;
JPF REALTY IV LLC,

Petitioners-Appellants,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

MEMORANDUM[*]

Appeal from the United States District Court
for the Central District of California
Fernando L. Aenlle-Rocha, District Judge, Presiding

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* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Appendix A

Submitted June 9, 2025**
Pasadena, California

Before: CLIFTON, IKUTA, and FORREST, Circuit Judges.

Petitioners appeal the district court's dismissal and denial of their petition to quash a summons issued by the Internal Revenue Service (IRS). We have jurisdiction pursuant to 28 U.S.C. § 1291. Under de novo review, we affirm. *Libitzky v. United States*, 110 F.4th 1166, 1171 (9th Cir. 2024).

The district court correctly concluded that it lacked jurisdiction over the petition. When issuing a third-party summons, the IRS must normally give notice to anyone identified in the summons, and sovereign immunity is waived to permit them to petition to quash. 26 U.S.C. §§ 7609(a)(l), (b)(2), (h). But no notice is needed—and sovereign immunity is thus not waived—when the summons is "issued in aid of the collection" of "an assessment made ... against the person with respect to whose liability the summons is issued." *Id.* § 7609(c)(2)(D)(i); *see Polselli v. IRS*, 598 U.S. 432, 438 (2023).

The summons at issue here satisfies this exception. The IRS assessed nearly $400,000 against William Goddard for tax year 1999. The summons named "William A. Goddard" and stated as relevant the income tax form "for the period

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

ending December 31, 1999." It sought documents from January 2023 to the present, indicating that its purpose was collection, not a liability determination. The summons also cited to 26 U.S.C. § 7609(c)(2)(D), the very provision that contains the "in aid of the collection" exception, which further reveals that the summons was issued to aid collection. A declaration from an IRS agent confirms that "[t]he purpose of issuing the summons was to aid in the collection of Mr. Goddard's unpaid assessed tax liabilities for, among other periods, the tax year 1999." Accordingly, Petitioners were not entitled to notice of the summons, sovereign immunity was not waived, and the district court lacked jurisdiction over the petition.

To the extent Petitioners argue that the summons was not "in aid of the collection" because it was issued in bad faith, this argument falls short. The IRS has met its "slight" burden of showing that the summons was issued in good faith, *United States v. Dynavac, Inc.*, 6 F.3d 1407, 1414 (9th Cir. 1993), by submitting an IRS agent's declaration attesting that (1) the summons was issued for the "legitimate purpose" of obtaining financial information related to Goddard's "unpaid tax liabilities"; (2) the U.S. Bank records would contain information "relevant to [the] investigation"; (3) this information was "not already in the IRS'[s] possession"; and (4) "[t]he administrative steps preceding the issuance of the U.S. Bank summons ha[d] been satisfied." *See United States v. Powell*, 379 U.S. 48, 57-58 (1964). This "simple affidavit from the investigating agent" satisfies the IRS's burden. *United States v. Clarke*, 573 U.S. 248, 254 (2014). And Petitioners fail to "point[] to specific facts or circumstances plausibly raising an

inference of improper motive." *Id.* at 256. Petitioners' allegations do not give rise to such an inference because they identify no evidence that the IRS as an institution, as opposed to a single agent, acted with an improper motive. *See United States v. Stuckey*, 646 F.2d 1369, 1375 (9th Cir. 1981).

AFFIRMED.

APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, FILED AUGUST 30, 2024

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Case No. 2:24-cv-01279-FLA (RAOx)

WILLIAM A. GODDARD, ET AL.,

Petitioners,

v.

UNITED STATES OF AMERICA,

Defendant

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS AND DENY AMENDED PETITION TO QUASH IRS SUMMONS [DKT. 18]

RULING

Before the court is Defendant United States of America's ("government") Motion to Dismiss and Deny Amended Petition to Quash IRS Summons ("Motion"). Dkt. 18 ("Mot."). Petitioners William Goddard ("Goddard"), LGI LLP, Goddard LLP, JPF Investments I LLC, and JPF Realty IV LLC (together, "Petitioners") oppose the Motion. Dkt. 23 ("Opp'n"). On July 25, 2024, the court found the Motion appropriate for resolution without oral

argument and vacated the hearing set for July 26, 2024. Dkt. 29; *see* Fed. R. Civ. P. 78(b); Local Rule 7-15.

For the reasons set forth below, the court GRANTS the Motion.

BACKGROUND

On January 26, 2024, the Internal Revenue Service ("IRS") issued an administrative summons (the "IRS Summons") to "U.S. Bank N.A." ("U.S. Bank") pertaining to "income tax deficiencies against Goddard[.]" Dkt. 3 (First Amended Petition, "FAP").[1] Petitioners bring the instant action to quash the IRS Summons on grounds the IRS had no legitimate purpose for investigating Goddard's tax liabilities and failed to follow proper administrative procedures in issuing the summons. *Id.* ¶ 27. The government moves to dismiss the FAP for lack of subject-matter jurisdiction pursuant to Fed. R. Civ. P. ("Rule") 12(b)(1).

DISCUSSION

I. Legal Standard

Federal courts are courts of "limited jurisdiction," possessing "only that power authorized by the Constitution and statute[.]" *Kokkonen v. Guardian Life Ins. Co. of Am.*,

1. Petitioners commenced this action on February 15, 2024, and filed a First Amended Petition the same day. Dkts. 1, 3. The court relies on the allegations in the FAP

511 U.S. 375, 377 (1994); U.S. Const. art. III, § 2, cl. 1. "It is to be presumed that a cause lies outside [of federal courts'] limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction." *Kokkonen*, 511 U.S. at 377 (citations omitted); *Sopcak v. N. Mountain Helicopter Serv.*, 52 F.3d 817, 818 (9th Cir. 1995). A challenge to subject matter jurisdiction "can be either facial, confining the inquiry to allegations in the complaint, or factual, permitting the court to look beyond the complaint." *Savage v. Glendale Union High Sch.*, 343 F.3d 1036, 1039 n. 2 (9th Cir. 2003). Therefore, when considering a motion under Rule 12(b)(1), the court is not restricted to the face of the pleadings, but may review evidence, such as declarations and testimony, to resolve any factual disputes concerning the existence of jurisdiction. *McCarthy v. United States*, 850 F.2d 558, 560 (9th Cir. 1988).

II. Analysis

The government argues the court lacks subject-matter jurisdiction because the "commencement and maintenance of this action is barred by the sovereign immunity of the United States." Mot. at 2.[2]

26 U.S.C. § 7609 ("§ 7609")[3] governs issuance of third-party summonses by the IRS and requires that notice be

2. The court cites documents by the page numbers added by the court's CM/ECF system, rather than any page numbers that appear within the documents natively

3. The IRS Code is contained within Title 26 of the United States Code.

provided to "any person (other than the person summoned) who is identified in the summons[.]" *Id.* § 7609(a). Any person entitled to receive such notice "shall have the right to begin a proceeding to quash such summons" in the manner provided for by the statute. *Id.* § 7609(b)(2)(A). § 7609(c)(2)(D)(i), however, exempts from the notice requirement summons "issued in the aid of the collection of … an assessment made or judgment rendered against the person with respect to whose liability the summons is issued[.]"

The government argues the IRS Summons "was issued in aid of collection of Goddard's tax debt," and, thus, the government was not required to provide Goddard any notice. Mot. at 6. Accordingly, the government contends, "no petition to quash may be brought" against the United States. *Id.* The court agrees.

Petitioners include in the FAP a copy of the IRS Summons, which orders production of testimony and books, records, papers, and other data "relating to the tax liability or the collection of the tax liability" of Goddard, and states explicitly, "[u]nder [§] 7609(c)(2)(d), this summons is exempt from the notice requirements pertaining to third party summonses." FAP at 7–8. On its face, the IRS Summons appears to be issued in the aid of collection of Goddard's alleged tax liabilities.

Petitioners do not meaningfully challenge the government's position or offer evidence establishing otherwise, and contend summarily the IRS Summons was not issued in aid of collection. Mot. at 7. Petitioners

challenge the veracity of the declaration of IRS Officer Joseph Unger ("Unger"), who issued the IRS Summons (Opp'n at 3–8), but concede the IRS Summons sought "financial records related to Goddard's 1999 tax liability," and "[t]he only liability Unger was lawfully entitled to collect in November 2023, were income tax liabilities for 1999 and 2001." Opp'n at 1–3; *see also* FAP at 7 (requiring production of testimony and records "relating to the tax liability or the collection of the tax liability" of Goddard "for the period" ending December 31, 1999). Thus, Plaintiffs do not contest that Unger was entitled to investigate and collect outstanding tax liabilities for the year 1999.[4]

Accordingly, the government has established the IRS Summons was issued in aid of collection and the statute does not confer upon Petitioners a right to "begin an action to quash such summons[.]" 26 U.S.C. § 7609.

Petitioners also contend the IRS Summons is invalid under *United States v. Powell*, 379 U.S. 48 (1964). Under

4. To the extent Petitioners argue 26 U.S.C. §§ 6330(e) and 6331(k) preclude issuance of the IRS Summons based on Goddard's request for a hearing or proposed offer to settle his outstanding liabilities (also referred to as an offer-in-compromise), the court is not persuaded. *See* Opp'n at 3, 5. 26 U.S.C. § 6330(e) provides, "levy actions which are the subject of the requested hearing … shall be suspended for the period during which such hearing, and appeals therein, are pending." 26 U.S.C. § 6331(k)(1) provides, "[n]o levy can be made … on the property … of any person with respect to any unpaid tax … during the period that an offer-in-compromise by such person … of such unpaid tax is pending[.]" Petitioners do not offer legal authority establishing the terms "levy" or "levy action" encompass the issuance of subpoenas.

Powell, the government may establish a *prima facie* case of validity as to an IRS summons if it establishes: (1) the summons was issued for a legitimate purpose; (2) the summoned data may be relevant to that purpose; (3) the data is not already in the IRS's possession; and (4) the IRS has followed the administrative steps for issuing and serving the summons. *Id.* at 57–58. "The government's burden is a slight one, and may be satisfied by a declaration from the investigating agent that the *Powell* requirements have been met." *Crystal v. United States*, 172 F.3d 1141, 1144 (9th Cir. 1999) (internal quotation marks and citation omitted). Once the government has established the *Powell* factors have been met, "those opposing enforcement of a summons … bear the burden to disprove the actual existence of a valid purpose. … [T]his burden is a heavy one." *Id.* (cleaned up).

The government offers the declaration of IRS Revenue Officer Unger, who attests the summons was issued for the legitimate purpose of obtaining information regarding Goddard's outstanding tax liabilities; the information sought was relevant to Unger's investigation as it pertained to Goddard's income, assets, income sources, and expenses; the IRS did not already possess the information requested; and Unger complied with all administrative requirements prior to the issuance of the IRS Summons. Dkt. 18-1 ¶¶ 20–23. Petitioners do not offer sufficient evidence disproving Unger's statements. Accordingly, the government has established the IRS Summons is valid.

Appendix B

CONCLUSION

For the foregoing reasons, the court GRANTS the Motion in its entirety and dismisses the action. The Clerk of Court is directed to close the case administratively.

IT IS SO ORDERED.

Dated: August 30, 2024

/s
FERNANDO L. AENLLE-ROCHA
United States District Judge