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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

LEO RIOS, JR.,

 Movant,

 v.

OFFICE OF THE TREASURY
INSPECTOR GENERAL FOR TAX
ADMINISTRATION,

 Respondent.

14-mc-00058 GSA

**ORDER TO MOVANT REQUIRING THE
FILING OF THE SUBPOENA AND
RELATED DOCUMENTS**

The movant, Leo Rios, Jr. (“movant”), filed a Motion for an Order Pursuant to the Customer Challenge Provisions of the Right to Financial Privacy Act of 1978 against the Office of the Treasury Inspector General for Tax Administration (“Office of the Treasury”) on August 28, 2014. As a general matter, the RFPA permits challenges by customers of financial institutions to government subpoenas. See, 12 U.S.C. § 3410(a). These challenge procedures constitute the sole judicial remedy available to customers who oppose the disclosure of their financial records pursuant to the RFPA. 12 U.S.C. § 3401 *et seq.*, 12 U.S.C. § 3410(e).

Pursuant to 12 U.S.C. § 3410(a), a customer of a financial institution “may file a motion

1 to quash an administrative summons or judicial subp[o]ena, or an application to enjoin a
2 Government authority from obtaining financial records pursuant to a formal written request”
3 within “*ten days of service or within fourteen days of mailing*” of said summons or subpoena,
4 with “copies served upon the Government authority.”¹ A motion to quash a judicial subp[o]ena
5 shall be filed in the court which issued the subp[o]ena. Such a written request shall be filed in
6 the appropriate United States district court and shall contain an affidavit or sworn statement
7 providing the following:

- 9 (1) stating that the applicant is a customer of the financial institution from which financial
10 records pertaining to him have been sought; and
11 (2) stating the applicant's reasons for believing that the financial records sought are not
12 relevant to the legitimate law enforcement inquiry stated by the Government authority
13 in its notice, or that there has not been substantial compliance with the provisions of
14 this chapter.

15 Service shall be made under this section upon a Government authority by delivering or
16 mailing by registered or certified mail a copy of the papers to the person, office, or department
17 specified in the notice which the customer has received pursuant to this chapter.

18 Plaintiff is advised that the Supreme Court has held that “[a] customer's ability to
19 challenge a subpoena is cabined by strict procedural requirements.” *S.E.C. v. Jerry T. O'Brien,*
20 *Inc.*, 467 U.S. 735, 745 (1984). Thus, failure to follow these procedural requirements may be
21 grounds for a denial of the motion.

22 Here, the Movant has filed a motion to challenge the government’s access to the financial
23 records under this Act. However, the movant has not filed a copy of the Subpoena Duces Tecum
24 requesting financial documents from Wells Fargo Bank, or the related documentation the Office
25 of the Treasury sent to him. Plaintiff is advised that the Court cannot assess whether the
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27 ¹ Pursuant to 12 U.S.C. § 3401(5), “ ‘customer’ means any person or authorized representative of that person who
28 utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as
a fiduciary, in relation to an account maintained in the person's name[.]” 12 U.S.C. § 3401(5).

1 procedural requirements of the Act have been met without this information.

2 Accordingly, no later than **October 3, 2014**, the movant shall file a copy of the original
3 notice and the Subpoena Duces Tecum he received from the Office of the Treasury and any other
4 related paperwork accompanying the subpoena.

5
6 **Plaintiff is advised that failure to comply with this order will result in dismissal of**
7 **this action.**

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9 IT IS SO ORDERED.

10 Dated: September 5, 2014

11 /s/ Gary S. Austin
12 UNITED STATES MAGISTRATE JUDGE

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