

1 submitted.

2 This Court has already advised the Movant that as a general matter, the RFPA permits
3 challenges to government subpoenas by customers of financial institutions. *See*, 12 U.S.C. §
4 3410(a). These challenge procedures constitute the sole judicial remedy available to customers
5 who oppose the disclosure of their financial records pursuant to the RFPA. 12 U.S.C. § 3401 *et*
6 *seq.*, 12 U.S.C. § 3410(e).

7 Pursuant to 12 U.S.C. § 3410(a), a customer of a financial institution “may file a motion
8 to quash an administrative summons or judicial subp[o]ena, or an application to enjoin a
9 Government authority from obtaining financial records pursuant to a formal written request”
10 within “*ten days of service or within fourteen days of mailing*” of said summons or subpoena,
11 with “copies served upon the Government authority.”¹ A motion to quash a judicial subp[o]ena
12 shall be filed in the court which issued the subp[o]ena. Such a written request shall be filed in
13 the appropriate United States district court and shall contain an affidavit or sworn statement
14 providing the following:

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

22 Service shall be made under this section upon a Government authority by delivering or
23 mailing by registered or certified mail a copy of the papers to the person, office, or department
24 specified in the notice which the customer has received pursuant to this chapter. “A customer's
25 ability to challenge a subpoena is cabined by strict procedural requirements.” *S.E.C. v. Jerry T.*
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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 *O'Brien, Inc.*, 467 U.S. 735, 745 (1984). Thus, failure to follow these procedural requirements
2 may be grounds for a denial of the motion.

3 Here, the Movant has failed to provide the Court with the documentation establishing that
4 the procedural requirements of the Act have been met, despite being ordered to do so.

5 Accordingly, **no later than December 31, 2014**, the Movant shall respond to this Order to Show
6 Cause Why the Motion for an Order Pursuant to the Customer Challenge Provisions of the Right
7 to Financial Privacy Act of 1978, shall not be denied. Alternatively, no later than **December 31,**
8 **2014**, the Movant shall file **a complete copy of the original notice and all of the**

9 **documentation the Office of the Treasury sent to him as part of its subpoena request.** This
10 includes, but is not limited to, any explanation the government gave for the issuance of the
11 subpoena, as well as any proof of service of when the Movant was served with those documents.

12 **The Movant is advised that failure to respond to this Order to Show Cause will result in a**
13 **denial of the motion.**

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17 IT IS SO ORDERED.

18 Dated: November 20, 2014

19 /s/ Gary S. Austin
20 UNITED STATES MAGISTRATE JUDGE