1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 12 14-mc-00059 GSA ERNESTINE CHRISTINA MIRANDA, 13 ORDER DIRECTING TIGTA TO FILE, Movant, NO LATER THAN FEBRUARY 27, 2015, A 14 v. RESPONSE TO PLAINTIFF'S PENDING 15 MOTION PURSUANT TO THE RIGHT TO OFFICE OF THE TREASURY FINANCIAL PRIVACY ACT OF 1978 INSPECTOR GENERAL FOR TAX 16 ADMINISTRATION, (Doc. 1) 17 Respondent. 18 19 On August 28, 2014, the movant, Ernestine Christina Miranda ("Movant"), filed a Motion 20 for an Order Pursuant to the Customer Challenge Provisions of the Right to Financial Privacy Act 21 of 1978 ("RFPA"), 12 U.S.C. § 3401 et seq. (Doc. 1). Specifically, Plaintiff seeks an order 22 preventing the Treasury Inspector General for Tax Administration ("TIGTA") from obtaining 23 access, via subpoena, to her financial records held by Wells Fargo Bank. 24 The RFPA permits challenges to government subpoenas by customers of financial 25 institutions. 1 See 12 U.S.C. § 3410(a). Pursuant to 12 U.S.C. § 3410(a), a customer of a 26 27 ¹ Pursuant to 12 U.S.C. § 3401(5), "'customer' means any person or authorized representative of that person who 28

financial institution "may file a motion to quash an administrative summons or judicial subpena, or an application to enjoin a Government authority from obtaining financial records pursuant to a formal written request," within "ten days of service or within fourteen days of mailing" of said summons or subpoena, with "copies served upon the Government authority." (Emphasis added).

The Court has attempted to ascertain the timeliness of Plaintiff's motion and has obtained further documentation from Plaintiff in this regard.² However, upon review of all the documentation provided by Plaintiff, the Court is unable to ascertain when the subpoena at issue was served on Plaintiff or when it was mailed to Plaintiff. *See* 12 U.S.C. § 3410(a). Therefore the Court cannot determine whether Plaintiff has complied with the procedural requirements outlined in 12 U.S.C. § 3410(a). *See S.E.C. v. Jerry T. O'Brein, Inc.*, 467 U.S. 735, 745 (1984) ("a consumer's ability to challenge a subpoena is cabined by strict procedural requirements").

Accordingly, pursuant to 12 U.S.C. § 3410 (b), the Court orders the respondent, TIGTA, to file a sworn response to the movant's motion no later than **February 27, 2015**. The response shall include a declaration or other proof identifying when TIGTA's Subpoena Duces Tecum was mailed or served on the movant, so the Court can assess the timeliness of the movant's filing. *See* 12 U.S.C. § 3410(a) ("a customer of a financial institution "may file a motion to quash an administrative summons or judicial subpoena" within "ten days of service or within fourteen days of mailing" of said summons or subpoena) (emphasis added).

TIGTA has not yet appeared in this action. Accordingly, the Clerk of the Court is directed to serve the government with a copy of this order, as well as the orders previously docketed as Doc. Nos. 2 and 4, at the following addresses: (1) Treasury Inspector General of Tax

a fiduciary, in relation to an account maintained in the person's name[.]" 12 U.S.C. § 3401(5).

² On September 5, 2014, this Court ordered Movant to file a copy of the Subpoena Duces Tecum at issue as well as related documentation served on her by the Treasury Inspector General of Tax Administration. (Doc. 2). The Movant submitted a copy of the Subpoena Duces Tecum on October 1, 2014. (Doc. 3). The Court thereafter ordered Movant to file the related documentation that was served on her along with the Subpoena Duces Tecum. (Doc. 4). On December 31, 2014, the Movant submitted additional documentation. (Doc. 5).

1	Administration (TIGTA), 1401 H Street, NW, Suite 469, Washington, D.C. 20005; AND (2)
2	Special Agent Jason Pritchard, Office of the Treasury Inspector General for Tax Administration
3	(TIGTA), P.O. Box 7881, Fresno, CA 93727.
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7	IT IS SO ORDERED.
8	Dated: January 26, 2015 /s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE
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