

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

BANC OF AMERICA INVESTMENT)	
SERVICES INC.,)	
)	
)	Plaintiff,
vs.)	Case No. 06-0714-CV-W-FJG
)	
BART AARON MARTIN,)	
)	
)	Defendant.

ORDER

Pending before the Court is Defendant’s Motion to Quash and for Protective Order regarding Plaintiff’s Rule 45 Subpoena to Produce Documents, and Suggestions in Support (Doc. No. 19). Plaintiff has recently filed two subpoenas *duces tecum* directed to Martin, directing him to produce various documents by Friday, September 15, 2006, at 10:00 a.m. See Doc. No. 15 (executed on September 11, 2006, and entered on ECF on September 13, 2006), and Doc. No. 20 (executed and entered on ECF on September 14, 2006). Defendant objects to these subpoenas *duces tecum* as (1) they are premature under Rule 26(d); (2) they do not allow reasonable time for compliance under Rule 45 (c)(3)(A)(I); (3) compliance would subject defendant to an undue burden under Rule 45(c)(3)(A)(iv); and (4) the subpoenas seek trade secret or confidential information under Rule 45(c)(3)(B)(I).

Upon reviewing defendant’s motion, the Court finds defendant’s objections to be persuasive, particularly those as to the premature nature of the subpoenas. As plaintiff has requested compliance with these subpoenas by 10:00 a.m. tomorrow, the Court finds that it should preliminarily **GRANT** defendant’s motion to quash. If plaintiff desires to obtain the

information sought in its subpoenas *duces tecum* directed to defendant prior to the parties' Rule 26 conference, plaintiff may re-visit this issue with the Court during the preliminary injunction hearing on Monday, September 18, 2006.

IT IS SO ORDERED.

Dated: September 14, 2006
Kansas City, Missouri

/s/Fernando J. Gaitan, Jr.
Fernando J. Gaitan, Jr.
United States District Judge