

UNITED STATES DISTRICT COURT

(EXEMPT)

DISTRICT OF

(EXEMPT)

TO: (EXEMPT)

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:

(EXEMPT)

PERSON

DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE

United States Courthouse

(EXEMPT)

COURTROOM

2310

DATE AND TIME

9:00 a.m., Wed., 06/07/06

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

See Attachments to Subpoena.

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Please see additional information on reverse.

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK

(EXEMPT)

DATE

(By) Deputy Clerk

(EXEMPT)

May 10, 2006

This subpoena is issued on application of the United States of America

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

EXEMPT

* If not applicable, enter "none".

ATTACHMENT
ADVICE OF RIGHTS

Subpoena No. EXEMPT

1. The grand jury is conducting an investigation of possible violations of federal criminal laws involving:

Violations of the federal tax laws.

2. You may refuse to answer any question if a truthful answer to the question would tend to incriminate you.
3. Anything you do say may be used against you by the grand jury or in a subsequent legal proceeding.
4. If you have retained counsel, the grand jury will permit you a reasonable opportunity to step outside the grand jury room to consult with counsel if you so desire.

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RECEIVED

MAY 26 2006

WESTERN DISTRICT
OF

(EXEMPT)

UNITED STATES DISTRICT COURT

In the matter of:

(EXEMPT) SUBPOENA TO
TESTIFY BEFORE THE GRAND JURY

Case No. EXEMPT

MOVE TO QUASH SUBPOENA

Fed.R.Crim.Pro. 17(c)(2)

COMES NOW (EXEMPT) in and on his own behalf (hereinafter "Petitioner") moving this Court Quash the Subpoena to testify before a grand jury with prejudice. This motion is being filed in accordance with the Federal Rules of Criminal Procedure 17(c)(2) and other applicable court rules. This Court will find that the Petitioner would be unduly prejudiced, as compliance is unreasonable, oppressive and violates the Petitioner's Fifth Amendment Constitutionally protected right not to be a witness against himself, as he would be compelled to his prejudice to invoke the Fifth Amendment as to each and every question, if commanded by this Court to testify or to produce books and records not in his personal possession.

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IN THE UNITED STATES DISTRICT COURT FOR THE

)	UNDER SEAL
)	
IN THE MATTER OF FEDERAL)	Miscellaneous Action No.
GRAND JURY SUBPOENA)	(EXEMPT)
(EXEMPT) ; SERVED ON)	
(EXEMPT))	
)	
)	

UNITED STATES' RESPONSE TO (EXEMPT) MOTION TO QUASH FEDERAL GRAND JURY SUBPOENA (EXEMPT)

The United States of America, through (EXEMPT) United States Attorney for the (EXEMPT) i, submits this response to witness (EXEMPT) motion to quash federal grand jury subpoena number that was served on him in May 2006. The motion was filed with the Court on May 26, 2006.

In his motion to quash and supporting declaration, witness (EXEMPT) s states (1) he does not possess and does not have the ability to recover or gain access to records sought by federal grand jury subpoena (EXEMPT) see paragraphs 24 and 27(d) of the motion and paragraphs 1.13 through 1.15 of the declaration), and (2) that, if required to appear before the federal grand jury, he intends to refuse to answer each and every question based on his Fifth Amendment privilege (see the introductory paragraph and paragraph 8 of the motion and paragraphs 1.16 and 1.17 of the declaration).

The testimony and records sought by federal grand jury subpoena (EXEMPT) 5 relate to transfers of funds to or on behalf of (EXEMPT) ; for what the United States

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suspects are college and personal living expenses. The United States suspects these transfers are gifts to (EXEMPT). If the transfers are gifts, it is difficult to understand how the transfers could incriminate (EXEMPT). Hence, the United States suspects (EXEMPT) Fifth Amendment privilege would not permit him to refuse to testify or produce records about the transfers in question because truthful answers to questions about these transfers would not tend to incriminate him.

In addition, a witness generally is not entitled to claim the Fifth Amendment privilege as a blanket defense, but rather must invoke the privilege in response to specific questions or requests for documents. *See United States v. Vernon*, 187 F.3d 884, 887 n.5 (8th Cir. 1999); *cf. United States v. Ortiz*, 82 F.3d 1066, 1072-73 (D.C. Cir. 1996).

→ However, at this point in the grand jury's investigation in this matter, the information sought by subpoena (EXEMPT) is not sufficiently important to merit the use of the Court's resources to resolve the question of whether (EXEMPT) Fifth Amendment privilege applies to the testimony and records sought by the subpoena. Hence, the United States (1) accepts as true for the time being (EXEMPT) assertions that he does not possess or control records that are responsive to the subpoena, and that truthful answers to any question about the transfers of funds described in the subpoena would tend to incriminate him, and (2) will request that the federal grand jury excuse (EXEMPT) from appearing pursuant to subpoena (EXEMPT) on the basis of those assertions. In the event the importance to the grand jury's

investigation of the information sought by subpoena (EXEMPT) increases in the future and requires resolution of the applicability of (EXEMPT) Fifth Amendment privilege to the

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