

# Obtaining Financial Records

“Indeed, the totality of bank records provides a virtual current biography”<sup>1</sup>

A suspect’s financial records often provide investigators with a wealth of incriminating information. Granted, it is unlikely they will find a cancelled check payable to “Al’s Murder Weapon Emporium” or “Alibis-R-Us.” Still, knowing that he is in dire straits might disclose his motive for murder and various theft-related offenses, such as embezzlement. ATM records and credit card receipts may reveal the suspect’s whereabouts at a particular time. Cancelled checks and other bank drafts may enable officers to track the flow of drug-money or other ill-gotten gains. The list goes on.

Although officers may also find copies of these records in the suspect’s home or business, they will usually find a more complete set at his bank, credit union, and credit card company. Plus, by postponing their search of the suspect’s home or business, officers can avoid tipping him off that he is under investigation. These are some of the reasons why securing a suspect’s financial records is, in the words of the United States Supreme Court, “a proper and longstanding law enforcement technique.”<sup>2</sup>

But how can officers obtain copies of these records? While a search warrant will do the job, there are several other methods, as we discuss in this article. First, however, it will be helpful to review the basics.

## FINANCIAL RECORDS:

### HOW “PRIVATE” ARE THEY?

With the exception of general account information,<sup>3</sup> an account holder’s financial records are viewed by the law as confidential. This is hardly surprising, as they may reveal such private matters as his income, assets, debts, credit card and ATM use, credit rating, spending habits, and the names of his associates. A single document—the loan or credit card application—can provide officers with an instant snapshot of the account holder’s financial affairs. Commenting on this, the California Supreme Court pointed out that a person’s financial records “may reveal his habits, his opinions, his tastes, and political views, as well as his movements and financial affairs.”<sup>4</sup>

And yet, these papers are, by no means, “private.” In fact, most are nothing but business records that are accessible on a daily basis to many, maybe most, of the financial institution’s employees. Moreover, the account holder has little, if any, control over them, and may even lack free access.<sup>5</sup>

So, both sides on the privacy issue have valid points. But the “not private” side scored an early victory in 1976 when the United States Supreme Court announced its decision in *United*

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<sup>1</sup> *Burrows v. Superior Court* (1974) 13 Cal.3d 238, 247.

<sup>2</sup> *United States v. Miller* (1976) 425 U.S. 435, 444.

<sup>3</sup> See “Records were exempt” on page 6.

<sup>4</sup> *People v. Blair* (1979) 25 Cal.3d 640, 652. ALSO SEE *Burrows v. Superior Court* (1974) 13 Cal.3d 238, 247 [“In the course of [his dealings with banks], a depositor reveals many aspects of his personal affairs, opinions, habits and associations.”]; *People v. Nosler* (1984) 151 Cal.App.3d 125, 131 [“In California, a credit card holder has a reasonable expectation of privacy in the issuer’s records.”].

<sup>5</sup> *United States v. Miller* (1976) 425 U.S. 435, 443 [“[T]he Fourth Amendment does not prohibit the obtaining of information revealed to a third party and conveyed by [the third party] to Government authorities”]. ALSO SEE *United States v. Payner* (1980) 447 U.S. 727, 732 [“[*Miller*] established that a depositor has no expectation of privacy and thus no protectable Fourth Amendment interest in copies of his checks and deposit slips retained by his bank.”].

*States v. Miller*.<sup>6</sup> In *Miller*, a bootlegging case, ATF agents served grand jury subpoenas on Miller's banks and, as the result, obtained incriminating records that were used against him at trial.

Miller appealed his conviction to the Supreme Court, arguing that the records should have been suppressed because the subpoenas were defective. It didn't matter, said the Court, because his bank records did not constitute suppressible "private papers" under the Fourth Amendment. Even the checks written by Miller were "not confidential communications," said the Court, but were merely "negotiable instruments to be used in commercial transactions."

Why, then, are California investigators unable to obtain these records by simply phoning the suspect's bank and saying, "Send me everything you've got on this guy?" There are two reasons.

First, the California Supreme Court ruled in *Burrows v. Superior Court*<sup>7</sup> that the California Constitution, unlike its federal counterpart, views these types of records as private, at least sufficiently so that they cannot be released indiscriminately. As the court pointed out:

To permit a police officer access to [financial] records merely upon his request, without any judicial control as to relevancy or other traditional requirements of legal process . . . opens the door to a vast and unlimited range of very real abuses of police power.

Second, in 1976 the California Legislature enacted the Right to Financial Privacy Act (RFPA) which created a statutory right of privacy as to most customer records in the possession of financial institutions.<sup>8</sup> (As we will discuss, the RFPA also created the legal mechanism by which investigators can obtain these records.) Two years later, the United States Congress followed California's lead by enacting a federal right to financial privacy act which restricts the release of these records to federal agents.<sup>9</sup>

The question arises: Didn't California's Proposition 8 render *Burrows* and the RFPA irrelevant? After all, Prop 8 prohibits the suppression of evidence based on anything other than violations of the United States Constitution.<sup>10</sup> Consequently, it would appear that, per *Miller*, these records cannot be suppressed, no matter how they were obtained.

While this might be true, some things are more important to officers than obtaining evidence that cannot be suppressed. One of them is staying out of jail. And because it is a misdemeanor to violate the RFPA,<sup>11</sup> they tend to comply. So do bankers, who can be sued for releasing records to officers in violation of the rules.

What, then, are the rules? As we will explain, the RFPA permits the release of an account holder's financial records to officers only under the following situations: (1) a search warrant was issued, (2) the financial institution was the victim of the crime under investigation, (3) the records were evidence of a crime, (4) a crime report was filed, (5) a subpoena duces tecum was issued, (6) the account holder consented, or (7) the records were exempt.

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<sup>6</sup> (1976) 425 U.S. 435.

<sup>7</sup> (1974) 13 Cal.3d 238, 247. ALSO SEE *People v. Blair* (1979) 25 Cal.3d 640, 651-2. **NOTE:** The court later ruled that *Burrows* also applies to credit card records. See *People v. Blair* (1979) 25 Cal.3d 640, 652; *People v. Nosler* (1984) 151 Cal.App.3d 125, 131.

<sup>8</sup> **NOTE:** The RFPA defined the term "financial record" very broadly; i.e., "The term 'financial records' means any original or any copy of any record or document held by a financial institution pertaining to a customer of the financial institution." Gov. Code § 7465(b).

<sup>9</sup> See 12 U.S.C. 3401 et seq.

<sup>10</sup> See *People v. McKay* (2002) 27 Cal.4<sup>th</sup> 601, 608 ["With the passage of Proposition 8, we are not free to exclude evidence merely because it was obtained in violation of some state statute or state constitutional provision."]; *In re Lance W.* (1985) 37 Cal.3d 873; *People v. May* (1988) 44 Cal.3d 309.

<sup>11</sup> See Gov. Code §§ 7470, 7485 et seq.

## Search warrant

The most common method of obtaining a suspect's financial records is to obtain a search warrant.<sup>12</sup> Although a standard warrant will suffice (see the sample warrant at the end of this article), officers should know the following.

**NON-DISCLOSURE ORDERS:** The RFPA permits a financial institution to notify its account holders that it has received a warrant for their records. The judge who issues the warrant may, however, include a nondisclosure directive if the affidavit contains information that reasonably indicates that the release of this information "would impede the investigation" by, for instance, alerting the suspect of the progress and focus of the investigation.

**SERVICE ON CUSTODIAL OF RECORDS:** The warrant will usually be mailed, faxed, or e-mailed to the institution's custodian of records.<sup>13</sup>

**TIME EXTENSION:** The financial institution must produce the records within ten days after the warrant is served.<sup>14</sup> This can create problems because, depending on the number and nature of the records, the firm may need more time. If so, it can ask the court to extend the time limit to "whatever period of time is reasonably necessary."<sup>15</sup>

Practice note: If officers know beforehand that an extension will be needed, they should take the initiative and seek it when they apply for the warrant. A request and order are included in the sample warrant.

**DESCRIBING THE RECORDS:** The records must be described with reasonable particularity. (This issue is discussed on page 6.)

## Institution was the victim

A financial institution may voluntarily furnish an account holder's records to investigators if the firm reasonably believes, (1) it was the victim of a crime, and (2) information contained in the records will assist in the investigation.<sup>16</sup> To put it another way, the firm may voluntarily furnish the records when it is not a "neutral" party.<sup>17</sup>

The institution is, of course, a "victim" if it has suffered a financial loss as the result of the crime.<sup>18</sup> But it is also a victim if there exists a *potential* for a loss. This typically occurs when the account holder is suspected of writing bad checks on his account, in which case the firm may suffer a loss if it honors the check.<sup>19</sup> As the Court of Appeal explained, "Where a defendant

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<sup>12</sup> See Gov. Code § 7475.

<sup>13</sup> **NOTE:** Although the Penal Code contains no express authority by which a warrant may be served on the custodian of records, there is comparable authority permitting service of a subpoena duces tecum on the custodian. See Ev. Code § 1560(b).

<sup>14</sup> See Gov. Code § 7475.

<sup>15</sup> See Gov. Code § 7475.

<sup>16</sup> See Gov. Code § 7470(d); *People v. Nece* (1984) 160 Cal.App.3d 285, 290 ["The criterion for the institution's decision, should it be inclined to make same, is that it believe itself to be a victim of a crime."]. **NOTE:** The "bank as victim" exception had been previously recognized in *Burrows*. See *Burrows v. Superior Court* (1974) 13 Cal.3d 238, 245 ["[I]f the bank is not neutral, as for example where it is itself a victim of the defendant's suspected wrongdoing, the depositor's right of privacy will not prevail."]; *People v. Hole* (1983) 139 Cal.App.3d 431, 438 ["The so-called 'bank as victim' exception was recognized by the Supreme Court in *Burrows*"].

<sup>17</sup> See *People v. Blair* (1979) 25 Cal.3d 640, 652 ["We recognized [in *Burrows*] that if the bank is not neutral in the matter as for example, where it is itself a victim of the depositor's alleged wrongdoing—the accused's right of privacy will not prevail."]; *People v. Nosler* (1984) 151 Cal.App.3d 125, 132 ["[T]he bank had a vested interest in the court of the criminal investigation."].

<sup>18</sup> See *State v. Parker* (1996) 661 So.2d 603,609 [no RFPA violation because "defendant had files numerous fraudulent credit card applications and had defrauded American Express of more than \$34,000."].

<sup>19</sup> See Pen. Code §§ 476a, 484e; Com. Code §§ 4301, 4302; *People v. Nosler* (1984) 151 Cal.App.3d 125, 131 ["Typically, in the criminal cases that have concluded the bank is a victim, the defendant is charged with passing bad checks."].

attempts to pass a check in violation of Penal Code section 476a, the drawee bank is a 'victim of the crime' regardless of whether or not it has suffered financial loss."<sup>20</sup>

A financial institution is also considered a potential victim if the account holder would have a motive to dispute the charge or deny having knowledge of the transaction in question. For example, in *People v. Nosler*<sup>21</sup> one of the defendants, Owens, used his Visa card to buy gasoline for trucks that were later used by his accomplice to transport stolen cattle. When an officer questioned Owens about this, he claimed his Visa card was "missing." Later, Owens' bank voluntarily provided investigators with the original credit card receipts, which were admitted into evidence at the defendants' trial for grand theft. He was convicted.

On appeal, Owens contended that the receipts should have been suppressed, claiming the "bank as victim" exception did not apply because his bank had not suffered a loss. The court ruled, however, that the exception applies when, as here, the account holder will likely claim that his credit card had been stolen or misplaced, in which case the bank might be on the hook. As the court explained, "[T]he disputed credit card charge directly implicates Owens in the theft and his innocence can only be maintained if he disaffirms making the charge."

### **Records are "evidence"**

The RFPA also permits a financial institution to furnish investigators with an account holder's records if there was reason to believe the records were evidence of a crime, regardless of whether the firm is a victim or potential victim.<sup>22</sup> This is permitted because it is simply good public policy. As the Court of Appeal noted:

Without such an exception, a bank aware of facts indicating criminal activity, involving its customer and/or itself, would be forced to stand idly to the side, without any other sensible recourse other than to merely *hint* such to the police.<sup>23</sup>

For example, in *People v. Nece*<sup>24</sup> the defendant was embezzling large sums from his employer, Baker Commodities, by transferring the money into his personal account at the Bank of America. A bank administrator happened to notice the transfers and found them "unusual." Consequently, she froze the account and alerted Baker Commodities which, in turn, notified police. She later gave officers the original credit card receipts.

In refusing to suppress the records, the court pointed out that the RFPA allows "the disclosure of normally private information to the police, by a financial institution, when the latter has a genuine reason to suspect that a crime has or is being committed, and/or that it may suffer as a victim thereof."

### **Crime report filed**

If a crime report has been filed alleging that a bank's checks or other drafts were being used fraudulently, the officers may notify the bank and seek the release of the following information:

- The number of items dishonored.
- The number of items paid which created overdrafts.
- The amount of dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank and customer to pay overdrafts.
- The dates and amounts of deposits and debits, and account balances on these dates.
- A copy of the signature and any addresses on a customer's signature card.
- The date the account opened and, if applicable, the date it was closed.<sup>25</sup>

The purpose of this exception is mainly to provide investigators with a mechanism for quickly obtaining the information they need in bad check cases; i.e., they can simply notify the bank that

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<sup>20</sup> *People v. Hole* (1983) 139 Cal.App.3d 431, 438.

<sup>21</sup> (1984) 151 Cal.App.3d 125.

<sup>22</sup> See Gov. Code § 7471(c). ALSO SEE Pen. Code § 14164(b).

<sup>23</sup> *People v. Nece* (1984) 160 Cal.App.3d 285, 291.

<sup>24</sup> (1984) 160 Cal.App.3d 285.

<sup>25</sup> Gov. Code § 7480(b).

a crime report has been filed pertaining to a particular transaction, and request the necessary information.<sup>26</sup> (See page 10 for a sample certification form.)

Although this information may also be obtained via the “bank as victim” and “records are evidence” exceptions, it appears this provision was enacted because there had been some uncertainty as to whether officers could lawfully initiate contact with the suspect’s bank, or whether they must wait for the bank to make the overture. This uncertainty was later eliminated by the California Court of Appeal when it ruled that officers could initiate contact if their decision to do so was neither “random” nor “unwarranted.”<sup>27</sup>

### **Subpoena duces tecum**

In grand jury proceedings and in cases where the suspect has been charged with the crime under investigation, officers may obtain copies of his financial records by means of a subpoena duces tecum.<sup>28</sup> This is essentially a court order directing the firm’s custodian of records to send copies of the listed records to the court—not to the officers.<sup>29</sup> The procedure for obtaining a subpoena duces tecum is similar to the procedure for obtaining a search warrant; i.e., officers must submit to the court an affidavit demonstrating probable cause to believe the information is relevant to the investigation.<sup>30</sup>

For this reason, and also because subpoenas are not suited for pre-charging criminal investigations, they are seldom used.

### **Consent**

An account holder may authorize a financial institution to release copies of any or all of his records to investigators. (A sample consent form is on page 9.) The firm is not, however, required to release them unless the following requirements are met:

- (1) **Writing:** The authorization must be in writing.
- (2) **Signed and dated:** It must be signed and dated.
- (3) **Agency identified:** It must specify the law enforcement agency whose officers are authorized to receive the records.
- (4) **Records described:** The records must be particularly described. (See the discussion of this issue on page 6.)
- (5) **Notice:** The form must include a notice that the account holder may revoke his consent at any time before the records are delivered.<sup>31</sup>

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<sup>26</sup> See *People v. Muchmore* (1979) 92 Cal.App.3d 32, 35 [“Here the police sent a form letter to Bank which says the signatory certifies “a crime report has been filed alleging the fraudulent use of checks drawn upon your back against the account of [defendant].”].

<sup>27</sup> *People v. Nece* (1984) 160 Cal.App.3d 285, 292.

<sup>28</sup> See Gov. Code §§ 7470(a)(4), 7474 [administrative subpoena], 7476 [judicial subpoena duces tecum]; Pen. Code § 1326(b); Code Civ. Proc. § 1985 [“The process by which the attendance of a witness is required is the subpoena. It is a writ or order directed to a person and requiring the person’s attendance at a particular time and place to testify as a witness. It may also require a witness to bring any books, documents, or other things under the witness’s control which the witness is bound by law to produce in evidence.”].

<sup>29</sup> See *People v. Blair* (1979) 25 Cal.3d 640, 651 [“The issuance of a subpoena duces tecum pursuant to section 1326 of the Penal Code is purely a ministerial act and does not constitute legal process in the sense that it entitles the person on whose behalf it is issued to obtain access to the records described therein until a judicial determination has been made that the person is legally entitled to receive them.”]; *People v. Blair* (1979) 25 Cal.3d 640, 651, fn.9 [institution violated *Burrows* by sending financial records to officers, instead of the court]; *Carlson v. Superior Court* (1976) 58 Cal.App.3d 13, 22 [“Here, petitioner’s bank records were not produced in court as required by the subpoenas. They were voluntarily turned over to the district attorney”].

<sup>30</sup> See *Carlson v. Superior Court* (1976) 58 Cal.App.3d 13, 22 [“[L]aw enforcement officials may not gain access to an accused’s private papers by subpoena until there has been a judicial determination there is probable cause”].

<sup>31</sup> See Gov. Code § 7473.

## Records were exempt

The following information is exempt from the RFPA, which means it may be released to officers upon request.

**GENERIC INFORMATION:** Information in which the account holder is not identified.<sup>32</sup>

**BASIC ACCOUNT INFORMATION:** The firm may confirm that the suspect has an account with the institution. It may also reveal the account number and location of the branch in which the account is located.<sup>33</sup> (This information is often needed to obtain a warrant.)

**INFORMATION FOR FAMILY SUPPORT:** A California family support agency may request information that is necessary to enforce a family support order. Specifically, upon written request, a financial institution may disclose the number of each account that is owned by the parent, the current balance in the account, and the address of the branch where each account is located.<sup>34</sup>

## DESCRIBING THE RECORDS

Officers who are seeking a suspect's financial records by way of search warrant, subpoena duces tecum, or consent must describe them in some detail.<sup>35</sup> This requirement not only serves the customer's privacy interests by preventing the disclosure of irrelevant records, it helps the firm's employees determine what records they must produce. It also assists the investigators who, otherwise, might have to wade through boxes of useless documents.

How much particularity is required? If officers are utilizing a search warrant, they must furnish any information that is both, (1) reasonably available to them, and (2) reasonably necessary to identify the evidence.<sup>36</sup> Although the RFPA does not expressly adopt this standard when the records are sought on any of the other grounds, it should suffice.

**TIME WINDOW:** Officers will usually want records that pertain only to transactions that occurred during a certain period of time. If so, this should incorporate this in the request; e.g., "All deposit slips and account statements from August 17, 2005 through and including May 13, 2006."

**"INCLUDING, BUT NOT LIMITED TO . . ."** In many cases, investigators will not know exactly what records contain the information they need. They may, however, know that the information is likely to be found in certain *types* of records, such as deposit slips or cancelled checks. If so, there is a way to describe the records in a way that will satisfy most courts. Start by describing the information as narrowly as possible. Then insert a phrase such as, "including but not limited to." After that, provide examples of the types of records in which such information is commonly found.

Although it has been argued that the phrase, "including, but not limited to," renders the warrant overbroad, the courts permit it in situations where officers cannot be expected to know precisely what records contain the needed information.<sup>37</sup>

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<sup>32</sup> Gov. Code § 7480(a).

<sup>33</sup> Gov. Code § 7480(e). ALSO SEE

<sup>34</sup> Gov. Code § 7480(j).

<sup>35</sup> See Gov. Code § 7470.

<sup>36</sup> See *Andresen v. Maryland* (1976) 427 U.S. 463, 480; *Maryland v. Garrison* (1987) 480 U.S. 79, 84; *U.S. v. Leary* (10<sup>th</sup> Cir. 1988) 846 F.2d 592, 600, fn.12 ["The common theme of all descriptions of the particularity standard is that the warrant must allow the executing officer to distinguish between items that may and may not be seized."]; *People v. Rogers* (1986) 187 Cal.App.3d 1001, 1007 ["[I]t is more accurate to say that the warrant must be sufficiently definite so that the officer executing it can identify the property sought with reasonable certainty."].

<sup>37</sup> See *People v. Balint* (2006) 138 Cal.App.4th 200, 206-7; *U.S. v. Riley* (2nd Cir. 1990) 906 F.2d 841, 844-5 ["In upholding broadly worded categories of items available for seizure, we have noted that the language of a warrant is to be construed in light of an illustrative list of seizable items. . . ."].

For example, in *People v. Schilling*<sup>38</sup> a search warrant in a murder case authorized the seizure of, among other things, “Scientific evidence, including but not limited to fingerprints, powder burns, blood, blood spatters . . .” In rejecting the argument that the warrant was overbroad, the court ruled that the phrase “including but not limited to” must be read “in conjunction with the language which immediately follows.” In that light, the court concluded, “This inclusive generic description of specific evidence followed by a specific description of particularized scientific evidence to be seized clearly passes constitutional scrutiny.”

**USING BOILERPLATE:** “Boilerplate” is essentially a description of records copied from one search warrant or court order and inserted into another.<sup>39</sup> In many cases, boilerplate will accurately describe the records that should be produced. This is because, as the First Circuit pointed out, descriptions sometimes become boilerplated “because they are so often true and relevant.”<sup>40</sup> More often, however, many of the boilerplated records are irrelevant or are unsupported by probable cause. For this reason, officers who use boilerplate must be sure to carefully review the list and make sure it is accurate.<sup>41</sup> POV

### **Credit Reports**

Information contained in a person’s credit report is confidential under the Federal Fair Credit Reporting Act and the California Consumer Credit Reporting Agencies Act.<sup>42</sup> Both, however, expressly permit the release of this information to officers if, (1) the person consented to the release, or a court issued a search warrant for the information.<sup>43</sup>

## **Forms available: See next page**

To obtain these forms in Microsoft Word format,  
send a request via e-mail to [mark.hutchins@acgov.org](mailto:mark.hutchins@acgov.org).

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<sup>38</sup> (1987) 188 Cal.App.3d 1021, 1031. ALSO SEE *People v. Balint* (2006) 138 Cal.App.4th 200, 207; *U.S. v. Riley* (2<sup>nd</sup> Cir. 1990) 906 F.2d 841, 844-5 [“In upholding broadly worded categories of items available for seizure, we have noted that the language of a warrant is to be construed in light of an illustrative list of seizable items. . . .”].

<sup>39</sup> See *U.S. v. Ribeiro* (1<sup>st</sup> Cir. 2005) 397 F.3d 43, 51 [“Boilerplate” is “stereotyped or formulaic writing.”].

<sup>40</sup> *U.S. v. Ribeiro* (1<sup>st</sup> Cir. 2005) 397 F.3d 43, 51.

<sup>41</sup> See *People v. Frank* (1985) 38 Cal.3d 711, 728 [“But nowhere in all these 24 pages was there alleged one single fact that gave probable cause to believe that any of the boilerplate allegations of the warrant were true.”].

<sup>42</sup> See 15 U.S.C. § 1681 et seq.; Civ. Code § 1785.1 et seq.

<sup>43</sup> See 15 U.S.C. §§ 1681b(1)-(2); Civ. Code §§ 1785.11(a)(1)-(2).

# SUPERIOR COURT OF CALIFORNIA

County of \_\_\_\_\_



## SEARCH WARRANT

Financial Records of Customer  
Gov. Code §§ 7460 *et seq.*

### THE PEOPLE OF THE STATE OF CALIFORNIA

to any peace officer in \_\_\_\_\_ County      Warrant No. \_\_\_\_\_

**ORDER:** The affidavit below, sworn to and subscribed before me on this date, has established probable cause for this search warrant which you are ordered to execute as follows:

**Financial institution:** Name and address of institution to be searched:

**Customer:** Identification of customer whose records are to be seized:

**Records:** The record(s) to be seized are described in Exhibit A, attached hereto and incorporated by reference.

**Nondisclosure Order:** Pending further order of this court, employees and agents of the financial institution shall not disclose to the customer any information regarding this warrant's content, existence, or execution.

**Execution by custodian of records:** This warrant will be deemed executed if the custodian of records or other designated employee causes the listed records to be delivered to the affiant within ten days of service.

**Time extension:**  None     Compliance date is extended to:

\_\_\_\_\_  
Date and time issued

\_\_\_\_\_  
Judge of the Superior Court

## ◆ AFFIDAVIT ◆

**Affiant's name and agency:**

**Statement of Probable Cause:** The facts in support of this warrant are contained in the Statement of Probable Cause, which is filed herewith and incorporated by reference.

**Evidence type:** The listed records tend to show, (1) that a felony has been committed, or (2) that a particular person has committed a felony. Pen. Code § 1524(a)(4).

**Request for nondisclosure order:** Per Gov. Code § 7475, the financial institution is permitted to notify the customer that it has been served with this warrant unless ordered to withhold notification. Based on my training and experience, I believe there is probable cause that such notification would impede this criminal investigation by alerting the customer of its progress and focus. I therefore request an order directing the institution not to disclose to any person any information regarding the existence or execution of this warrant, pending further court order.

**Time extension:** I have been informed by [name of institution official] of [name of institution] that, because of the number and nature of the records to be seized, the listed records cannot reasonably be produced within the ten days required pursuant to Gov. Code § 7475. I therefore request an order extending the compliance date to [date records are to be produced].

**Declaration:** I declare under penalty of perjury that the information within my personal knowledge contained in this affidavit, including all incorporated documents, is true.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Affiant



# CONSENT

**Release of Financial Records  
To Law Enforcement Officer**  
California Government Code § 7473

**Account holder's name, address, and date of birth:**

**Name of financial institution:**

**Account information:** (If known, list the location of the branch office in which accounts are held, the type of accounts, and account numbers:

**Release records to**

**Officer:** [Insert officer's name]

**Agency:** [Insert officer's agency]

**Address:** [Insert address of agency]

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**To the financial institution identified above:** Subject to the limitations below (if any), I hereby request that you provide the law enforcement officer identified above with the following records pertaining to my account(s):

- Copies of all records listed on Exhibit A, which is attached hereto and initialed by me.
- Copies of the following records pertaining to my account(s):

## Limitations

- Time window: The records to be released shall be limited to those pertaining to transactions and/or account activity that occurred during the following period(s) of time:
- Other limitations:
- No limitations.

**Right to cancel:** I have been informed that I may revoke this consent at any time before the financial institution has complied with this request.

**Acknowledgment:** I have been given a copy of this document and all attachments, if any.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Account holder's signature

# CERTIFICATION AND REQUEST

## Financial Crime Report Filed

California Government Code § 7480(b)

**Name of financial institution:**

**Method of notification to institution:**

- U.S. Mail:** [insert postal address]
- Fax:** [insert fax number]
- E-mail:** [insert e-mail address]

**Account holder identification**

**Name:**

**Date of birth or Social Security Number** (if known):

**Account number** (if known):

**Certifying law enforcement agency**

**Name of agency:**

**Certifying officer:**

**Name:**

**Phone number:**

**CERTIFICATION:** I hereby certify the following:

- (1) **“Financial institution”:** The institution identified above is a “financial institution” as defined by Gov. Code § 7465(a), and is doing business in California.
- (2) **Account holder:** The account holder identified above is a person who has, (a) transacted business with the financial institution identified above, (b) has used the services of the institution, or (c) has a fiduciary relationship with the institution. Gov. Code § 7465(d).
- (3) **Certifying agency:** The certifying agency is a California police department, sheriff’s department, or district attorney’s office. Gov. Code § 7480(b).
- (4) **Crime report filed:** A crime report was filed with, or forwarded to, the certifying agency as follows:
  - Fraud:** This report “involves the alleged fraudulent use of drafts, checks, or other orders drawn upon the financial institution identified above.
  - Date(s) of occurrence:** The date(s) on which these drafts, checks, or other orders were fraudulently used were: [insert dates(s)]

**TO THE FINANCIAL INSTITUTION IDENTIFIED ABOVE:** Based on the above certification, and pursuant to Government Code § 7480(b), I hereby request the following:

**Transmit documents:** Transmit copies of the following documents pertaining transactions on the above account during the 30 days before and after the date(s) of occurrence.

- The number of items dishonored during the following time period: 30 days before and after the date(s) of occurrence.
- The number of items paid which created overdraft
- The amount of dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank and account holder to pay overdrafts.
- The dates and amounts of deposits and debits, and account balances on these dates.
- A copy of the signature card.
- The date the account opened and, if applicable, the date it was closed.

**Method of transmission:** Please send the documents to be as follows:

- U.S. Mail:** [insert agency’s postal address]
- Fax:** [insert agency’s fax number]
- E-mail:** [insert agency’s e-mail address]

**DECLARATION:** I declare under penalty of perjury that the information within my personal knowledge contained in this affidavit, including all incorporated documents, is true.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Declarant