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[REDACTED]
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E-mail: [REDACTED]

Attorneys for Petitioner United States of America

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA,
Petitioner,
v.
[REDACTED],
Respondent.

No. [REDACTED]
Reply to Amended Response to Petition
[Exs. Redacted Under LR 5.2-1]
Hearing Date: December 10, [REDACTED]
Hearing Time: 9:00 a.m.
Courtroom: 850
Location: Roybal Federal Building
and United States
Courthouse
255 E. Temple Street
Los Angeles, CA 90012

REPLY

I. Background

On September 12, [REDACTED], the United States filed its petition to enforce an administrative summons issued by the Internal Revenue Service (IRS) to respondent [REDACTED]. (ECF Doc. 1). The summons, issued in February of [REDACTED], relates to an ongoing IRS investigation into respondent’s tax liabilities. (*Id.* ¶ 3). The summons requested documents relating to foreign financial accounts held by respondent and foreign entities that he owned or controlled. (*Id.* ¶¶ 3 and 10; Ex 1). The petition and accompanying declaration made a *prima facie* showing that the summons is enforceable

1 under United States v. Powell, 379 U.S. 48 (1964). (Ord., ECF Doc. 4). Accordingly,
2 respondent bears the heavy burden of demonstrating that enforcement of summons
3 would be an abuse of the Court's process. United States v. Stuart, 489 U.S. 353, 360
4 (1989).

5 On October 25, [REDACTED], respondent filed, then amended without substantive change,
6 his response to the petition. (ECF Docs. 8 and 10). The response does not contest that
7 the IRS made out a *prima facie* case.¹ Instead, it raises two affirmative defenses to
8 enforcement of the summons. Respondent contends that he (1) has complied (or at least
9 substantially complied) with the summons by producing certain documents and
10 testimony requested in the summons and (2) does not possess or control the remaining
11 documents. (Resp., ECF Doc. 10 at 4-5). Both contentions, however, lack merit.
12 Respondent has thus far produced only a fraction of the documents requested in the
13 summons, and he has not averred specific facts demonstrating that he conducted a
14 diligent good faith search for the summonsed documents.

15 II. Analysis

16 A. Respondent has not complied with the summons

17 Respondent's first contention, that he has complied with the summons, can be
18 dispensed of summarily. The IRS has identified two undisclosed Israeli bank accounts
19 that respondent held. (Declaration of [REDACTED] ([REDACTED] Decl) ¶ 4). One account is
20 at the First International Bank of Israel (FIBI); the other is at Bank Leumi le-Israel B.M.
21 (BLI). (Id.). According to respondent, he has complied with the summons by subjecting
22 himself to an interview, providing account statements, and demonstrating that the
23 balances in the accounts were eventually repatriated to accounts based in the United
24 States. (Resp., ECF No. 10 at 4-5). It is true that respondent was interviewed, produced
25

26 ¹ Although the opposition mentions the four Powell factors, it does not contend
27 that the summons was issued for an improper purpose, that the information and
28 documents sought could not be relevant to the IRS's investigation, that the IRS is
already in possession of the summonsed documents, or that the IRS did not comply with
all procedural steps under the Internal Revenue Code. See Powell, 379 U.S. at 57-58.

1 several years of account statements, and demonstrated that he had repatriated the money
2 in his FIBI and BLI accounts.² ([REDACTED] Decl. ¶¶ 11, 17-19). But the summons
3 requested much more from respondent. In addition to account statements and transfer
4 confirmations, respondent was asked to produce for each foreign bank account any:

- 5 • account applications;
- 6 • deposit slips and deposited items;
- 7 • credit and debit memos and advices;
- 8 • cancelled checks;
- 9 • check registers;
- 10 • passbooks;
- 11 • loan applications;
- 12 • promissory notes;
- 13 • certificates of deposit;
- 14 • letters of credit;
- 15 • cashier's checks;
- 16 • safe deposit box rental agreements;
- 17 • safe deposit box visitation ledgers;
- 18 • correspondence;
- 19 • memorandum files maintained by the bank;
- 20 • documents demonstrating how respondent funded the accounts; and
- 21 • documents respondent provided to the financial institution when he set up
22 the accounts (e.g., signature cards, opening deposit slips, certificates of
23 beneficial ownership, letters of reference, certificates of clean funds).

24 (Pet., ECF Doc. 1, Ex. 1 at 14-18).

26
27 ²A few things should be noted. First, respondent produced only a few years of
28 account statements, rather than all account statements generated after the account was
opened (as requested in the summons). Second, respondent did not produce the BLI
statements until October [REDACTED] month after the petition was filed. Third, the interview
conducted by the IRS was [REDACTED], before the summons was issued.

1 The summons also requested that respondent produce various documents relating
2 to any foreign entities that he controlled, including articles of incorporation, assignment
3 agreements, and documents identifying the beneficial owners of the entities. (Id.).
4 However, respondent has not yet produced any of these documents to the IRS. ([REDACTED]
5 Decl. ¶ 21). Nor has he provided for any documents alleged to be “destroyed. . . or
6 otherwise unavailable . . . a description of the document and identify the last known
7 custodian of the document by name, address and telephone number,” as indicated in the
8 summons. (Pet., ECF Doc. 1 at 15).

9 **B. Respondent has not substantially complied with the summons**

10 Relatedly, respondent asserts that the summons should not be enforced because he
11 has “substantially complied” with the summons. (Resp., ECF Doc. 10, p. 4). As
12 described above, respondent has not substantially complied with the summons because
13 there are numerous documents requested by the IRS that have not been produced. In any
14 event, no “substantial compliance” defense is available to respondent. The IRS is
15 authorized by 26 U.S.C. § 7602 to summon any person for the purpose of “examin[ing]
16 any books, papers records or other data which may be relevant” to the IRS’s inquiry
17 (emphases supplied). This authority is “quite broad,” Holifield v. United States, 909
18 F.2d 201, 205 (7th Cir. 1990), and “reflects Congress’ express intention to allow the IRS
19 to obtain items of even potential relevance to an ongoing investigation.” United States v.
20 Arthur Young & Co., 465 U.S. 805, 814 (1984). As such, restrictions on this power are
21 to be avoided, absent unambiguous Congressional direction. Id. at 816; Tiffany Fine
22 Arts, Inc. v. United States, 469 U.S. 310, 318 (1985).

23 The unproduced documents are of obvious relevance to the IRS’s investigation.
24 The IRS investigation concerns, among other things, how respondent initially funded his
25 Israeli accounts and accordingly requested documents such as opening deposit slips and
26 signature cards. ([REDACTED] Decl. ¶ 19.d). However, respondent has not provided account
27 statements or documents demonstrating when and how he funded his Israeli accounts.
28 (Id. ¶¶ 17 and 19.d)

1 The IRS is also determining whether to assert penalties against respondent. (Id.
2 ¶ 3). Many of the documents requested in the summons are relevant to that issue,
3 particularly with respect to the BLI account. In [REDACTED] BLI entered into a deferred
4 prosecution agreement (DPA) with the United States. It admitted “recommend[ing] that
5 U.S. taxpayers utilize certain account features that would reduce the risk of U.S. tax
6 authorities learning the identities of U.S. taxpayers who maintained undeclared
7 accounts.” (Id., Ex. 1 at 51). Such features included “hold mail” service, pursuant to
8 which BLI would retain account statements, notices, and other documents addressed to
9 U.S. taxpayers, rather than sending them to the customer’s address in the United States,
10 and the use of “assumed name” or “numbered” accounts, where the name of the account
11 holder would not appear on any correspondence, account statements, communications, or
12 notices. (Id.) Respondent may have utilized both of these services: his BLI account
13 statement for [REDACTED] includes a “hold mail” notation with a corresponding \$85.00 debit,
14 and none of the statements he has thus far provided includes his name. (Id. ¶ 4.a. and c;
15 Ex. 5).

16 BLI also admitted marketing certain loan products to U.S. taxpayers holding
17 undeclared accounts in Israel. (Id. ¶ 5, Ex 1.) These loans “assisted U.S. taxpayers with
18 concealing their assets and evading their U.S. tax obligations.” (Id., Ex. 1 at 24). The
19 products included “Standby Letter of Credit” (SBLC) loans, which were “issued by Bank
20 Leumi USA [BLI’s U.S. affiliate] [and] secured or collateralized by funds at [BLI]”. (Id.
21 ¶ 7). These loans allowed the accountholders to enjoy the economic benefits of their
22 offshore accounts without directly repatriating the funds that they contained. (Id., Ex. 1
23 at 44). “Bank Leumi USA received interest payments on the loan and [BLI] separately
24 collected a ‘guaranty fee’ or ‘commission’ for the issuance of the SBLC which together
25 usually amounted to 1% of the loan amounts.” ([REDACTED] Decl. ¶ 7; Ex. 1 at 44).
26 Respondent may have had one or more of these loans. The account statements that he
27 has produced include various notations such as “renewal,” “comm. guaran,” and “issue
28 commi”. (Id. ¶ 4.b). Additionally, respondent indicated in an interview with the IRS

1 that Bank Leumi USA extended him a line of credit that he would use funds from his
2 BLI account. [REDACTED] Decl. ¶ 13; Ex. 2). Respondent has not produced to the IRS any
3 documents detailing the terms of this line of credit. (Id. ¶ 20).

4 In short, respondent has not substantially complied with the summons, and the
5 documents he has failed to produce are germane to the IRS’s investigation. If he
6 possesses or controls any documents identified in the summons, he is required to
7 produce them.³

8 **C. Respondent has not demonstrated that he does not possess or control the**
9 **documents in the IRS summons**

10 Respondent’s final contention is that he does not possess or control the documents
11 requested in the summons. Respondent asserts that he made “significant efforts (directly
12 or through his attorney) to obtain the records requested in the summons”. (Resp., ECF
13 Doc. 10 at 6). However, respondent’s alleged efforts were insufficient.

14 1. Respondent only sought account statements, rather than each document
15 listed in the summons

16 The documents attached to the response indicate that respondent only attempted to
17 secure account statements for his Israeli accounts, as opposed to each category of
18 document requested in the summons. Letters and faxes sent to FIBI and BLI requested
19 only that the banks provide “Annual Bank Statements in English for any and all accounts
20 held at [the] bank.” (Id. ¶¶ 9-10, Exs. 1-5). They did not request the other documents
21 listed in the summons, such as the account opening information, loan agreements, or
22 documents indicating how the accounts were funded. Similarly, respondent’s
23 declaration indicates that he called FIBI and BLI for over a year. But again, it appears
24 that respondent only sought bank statements for the accounts, rather than each category
25

26
27 ³ Respondent also argues that “[a]ny further demands for production for [sic]
28 documents would result in a fishing expedition”. (Resp., ECF Doc. 8 at 5). However,
there is no such prohibition on IRS summonses: “[s]ection 7602 authorizes the Secretary
or his delegate ‘to fish.’” United States v. Luther, 481 F.2d 429, 432-33 (9th Cir. 1973).

1 of document listed in the summons. (Id. ¶ 8; Ex. 5 (“[respondent] has been calling every
2 branch of [FIBI] to get the [bank] statements on a weekly basis.”)).

3 2. The affidavit does not contain sufficient factual detail with respect to the
4 other documents listed in the summons

5 Respondent further contends that he traveled to Israel in order to comply with the
6 summons. What he did there, however, is unclear. His declaration indicates only that
7 respondent “request[ed] all documents and information relating to my accounts at Bank
8 Leumi and FIBI” but “all [he] received were bank statements.” (ECF Doc. 10-1, ¶ 12).
9 Such a “conclusory, self-serving [declaration], lacking detailed facts and any supporting
10 evidence” does not discharge respondent’s heavy burden. Larue v. United States, 2015
11 WL 9809798 at *3 (D. Or. Dec. 22, 2015). Rather, to demonstrate that he has conducted
12 a reasonable search for responsive materials, respondent is required to support his
13 declaration with evidence or specific factual allegations demonstrating that he engaged
14 in an iterative process in which he (1) identified potential sources of summonsed
15 information, (2) took all reasonable steps to obtain information from those sources
16 (including, if necessary pursuing rights under local law), and (3) using any newly
17 discovered information to identify additional sources of summonsed information.⁴ See
18 Larue, 2015 WL 9809798 at *3; United States v. Seetapun, 750 F.2d 601, 605 (7th Cir.
19 1984); United States v. Hayes, 722 F.2d 723, 725 (11th Cir. 1984) (“diligent efforts”
20 insufficient to defeat contempt motion because “other avenues for obtaining the
21 materials were never explored”).

22 Respondent’s declaration does not contain sufficient detail to demonstrate that he
23 conducted a reasonably diligent search. He does not indicate, for instance, which bank
24 branches he visited, the dates of those visits, who he talked to, what those individuals
25

26 ⁴ As recognized in Larue, there is a relative dearth of authority regarding what a
27 taxpayer must show to meet his burden of demonstrating a lack of possession, custody,
28 the “iterative process” standard that the government suggests is fair, flexible, and
commonsensical.

1 told him, or whether those individuals suggested additional leads respondent could
2 pursue to obtain the documents in the summons. Without these basic details, his
3 explanation strains credulity. Further, it is improbable that the banks at which he held
4 the accounts would have only his account statements—how, for instance, were they able
5 to confirm that the accounts belonged to respondent? BLI admitted setting up
6 “numbered” accounts intended to shield the accountholder from U.S. taxing authorities
7 and that it “kept records of the true identity of the client pursuant to [its] Know Your
8 Customer obligations” with respect to such accounts. ([REDACTED] Decl. ¶ 9; Ex. 1).
9 Respondent’s assertions to the contrary, without additional factual detail regarding his
10 efforts, are insufficient.

11 Other parts of respondent’s affidavit are dubious. For instance:

- 12 • If, as respondent contends, the only purpose for visiting Israel was to retrieve bank
13 records, why did respondent schedule a 10-day trip?
- 14 • Why did respondent not attempt to secure copies of documents through Bank
15 Leumi USA?
- 16 • Why even take the trip in the first place? Respondent could have simply hired
17 someone familiar with Israeli banks, such as an Israeli attorney, to retrieve the
18 documents on his behalf.

19 In any event, the summons anticipated that respondent might not be able to secure
20 copies of each document it requested. If respondent was unable to provide any of the
21 documents, the summons requested that he “provide a description of the document and
22 identify the last known custodian of the document by name, address and telephone
23 number.” (Petn., ECF Doc. 1, p. 15). Respondent has identified no such documents.
24 Nor did he apparently request that representatives from the banks affirm, in writing, that
25 there were no responsive documents. Indeed, it does not appear that respondent
26 attempted to comply in earnest with the IRS summons until after the United States filed
27 the petition and after the Court issued the show cause order. According to respondent’s
28 October 24, [REDACTED], declaration, he sent, on October 24, [REDACTED], BLI a letter requesting

1 “complete copies . . . of all documents and records in [its] possession, custody, control,”
2 relating to respondent’s account, including account opening documents, correspondence,
3 and other documents. (ECF Doc. 10-1 at 1). The letter, however, constitutes the only
4 documentary evidence filed by respondent suggesting he has made a good faith effort to
5 retrieve the summonsed documents.

6 In sum, respondent’s affidavit contains little more than vague, unsupported, and
7 conclusory allegations, which do not entitle him to an evidentiary hearing. Given the
8 age and balances of respondent’s Israeli accounts, it is not reasonable to infer that a
9 diligent good-faith search would uncover only a few dozen pages of account statements.
10 The Court should enforce the summons without an evidentiary hearing.⁵

11 **D. Even if the Court finds respondent has adequately pleaded and factually**
12 **supported an affirmative defense, he is not entitled to dismiss the petition**

13 The response concludes by suggesting that the Court dismiss the petition pursuant
14 to Fed. R. Civ. P. 12(b)(6). This request, however, is not well-taken. For one thing, it is
15 procedurally improper. No notice of the motion was filed, as required by Local Rule 6-
16 1, and there was no statement that the parties had conferred about the motion, as required
17 by Local Rule 7-3. But even if respondent complied with the rules, the purported motion
18 would fail. A motion filed under Fed. R. Civ. Pro. 12(b)(6) tests the sufficiency of the
19 factual matters alleged in the complaint, which are taken as true and construed in the
20 light most favorable to non-moving party. Bell Atlantic Corp. v. Twombly, 550 U.S.
21 544 (2007); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Dismissal is appropriate only
22 if the Court determines that the non-moving party has failed to allege sufficient facts to
23 state a claim to relief that is plausible on its face. Iqbal, 556 U.S. at 678 (quoting
24

25 ⁵ As noted above, respondent does not challenge the IRS’s *prima facie* case. But
26 even if he did, he would not be entitled to an evidentiary hearing. Such hearings are
27 available only where the taxpayer “can point to specific facts or circumstances plausibly
28 raising an inference of bad faith. Naked allegations of improper purpose are not enough:
The taxpayer must offer some credible evidence supporting his charge.” United States v. Clarke, 134 S.Ct. 2361, 2365 (2014). Here, respondent has not alleged institutional bad faith or offered credible evidence of an improper motive.

1 Twombly, 550 U.S. at 570). Since the government has pled a *prima facie* case for
2 enforcement of the summons, dismissal under Rule 12(b)(6) is inappropriate. If the
3 Court concludes that respondent’s declaration has adequately supported an affirmative
4 defense, the appropriate course—rather than dismissing the petition—is to hold an
5 evidentiary hearing. Such a hearing would be limited to the issues of (1) whether
6 respondent made a diligent good faith search for the records and (2) whether, despite that
7 search, respondent actually lacked possession or control over summonsed records or
8 information at the time of the summons or thereafter. Respondent would bear the burden
9 of proof on these issues. Stuart, 489 U.S. at 360.

10 **III. Conclusion**

11 Respondent has neither rebutted the United States’ *prima facie* case nor factually
12 supported an affirmative defense. Accordingly, the Court should enforce the summons
13 without an evidentiary hearing. It should also deny respondent’s procedurally improper
14 request to dismiss the petition. Alternatively, the Court should hold a limited evidentiary
15 hearing to determine whether respondent made a diligent good faith search for the
16 summonsed records and whether, despite that search, respondent actually lacks
17 possession or control over summonsed records.

18 Dated: November 26, [REDACTED]

Respectfully submitted,

[REDACTED]

[REDACTED]

s Attorney

Chief, Tax Division

[REDACTED]

States Attorney

Attorneys for Petitioner
UNITED STATES OF AMERICA

DECLARATION OF [REDACTED]

I, [REDACTED], pursuant to 28 U.S.C. § 1746(2), declare as follows:

1. This declaration supplements my declaration that was filed with the Petition. All of my previous statements are incorporated by reference.

2. I am currently investigating the federal tax liabilities of respondent Farajolla Kashani for the taxable periods ended December 31, [REDACTED], through December 31, [REDACTED].

3. My investigation concerns, among other things, whether respondent received, but failed to report, income relating to foreign financial accounts that he held. I am also determining whether respondent is liable for penalties.

4. I have thus far identified two foreign financial account that respondent held. Both were in Israel. One account was at the First International Bank of Israel (FIBI).

5. Respondent's Bank Leumi-Israel account is of particular interest to the IRS. In [REDACTED], Bank Leumi-Israel and affiliated entities, including Bank Leumi USA, its U.S. affiliate, entered into a deferred prosecution agreement (DPA) with the United States. A copy of the DPA, filed in United States District Court for the Central District of California case number is 2:14-CR-0731-UA, is attached as **Exhibit 1**.

6. In the DPA, Bank Leumi-Israel and related entities admitted that they:
offered an array of services and products that aided and assisted [] U.S. taxpayers in opening and maintaining undisclosed accounts. These products and services included: (1) the issuance of guarantees and Standby Letters of Credit to collateralize loans issued by Bank Leumi, USA; (2) the use of offshore entities and the Bank Leumi Trust to serve as nominee accountholders; (3) the use of "Hold Mail" service that prevented any mail from [foreign Bank Leumi entities] from coming to the U.S. client in the United States; [and] (4) the use of 'assumed name' and 'numbered' accounts that

1 concealed the name of the U.S. account holder on all external
2 correspondence. (Ex. 1 at 3, ¶ 2)

3 7. According to the DPA, Bank Leumi-Israel marketed two types of loans,
4 participation loans and loans guaranteed by Standby Letters of Credit (SBLCs), to U.S.
5 account holder through Bank Leumi USA. (Id. at 43-44, ¶¶ 20-22). These loans
6 allowed “U.S. taxpayers to enjoy the economic benefits of undeclared funds held
7 offshore without repatriating the funds or creating a paper trail that could disclose the
8 existence of the undisclosed foreign accounts to U.S. authorities.” (Id. at 5, ¶ 2(C)).
9 During the years under investigation, SBLC loans were more common than participation
10 loans. These loans were issued by Bank Leumi USA and secured or collateralized by
11 funds at a foreign Bank Leumi office, such as Bank Leumi-Israel. (Id. at 44, ¶ 22).
12 Bank Leumi USA collected interest payments on the loan, and the foreign entity
13 collected a “guaranty fee” or “commission,” that was usually 1% of the loan amount.
14 (Id.) The SBLC loans were oftentimes renewed on an annual basis. (Id.)

15 8. Bank Leumi-Israel also “recommended U.S. taxpayers utilize certain
16 account features that would reduce the risk of U.S. taxing authorities learning the
17 identities of U.S. taxpayers who maintained undeclared accounts.” (Id. at 51, ¶¶ 48-49).
18 One such feature was “Hold Mail” service, in which “every statement of account, notice
19 or other document associated with the account would not be sent to the customer’s
20 address in the United States.” (Id.) Instead, those documents would remain at the
21 foreign branch. (Id.)

22 9. Another feature was the use of “assumed name” and “numbered”
23 accounts. (Id. at 51-52, ¶ 51). For such accounts, Bank Leumi-Israel would “ke[ep]
24 records of the true identity of the client pursuant to Know Your Customer obligations”.
25 (Id.) However, “the name of the account holder would not appear on any
26 correspondence, account statements, communications, or notices”. (Id.)

27 10. Bank Leumi-Israel also “actively assisted or facilitated a number of U.S.
28 taxpayers in maintaining undeclared accounts by [among other things] . . . referring U.S.

1 beneficial owners of accounts to outside advisors to set up offshore corporations to act
2 as nominee account holders, thereby concealing the U.S. taxpayers' beneficial
3 ownership in the accounts." (Id. at 4, ¶ 2(A)). With respect to such accounts, Bank
4 Leumi-Israel accepted and included certain false or misleading IRS forms representing
5 that the offshore companies were the beneficial owners, for tax purposes, of the assets
6 in the accounts. (Id. at 50, ¶ 44).

7 11. On March 28, [REDACTED], I and several other Revenue Agents interviewed
8 respondent in Encino, California. A memorandum I prepared summarizing the interview
9 is attached as **Exhibit 2**. Respondent attended the interview with [REDACTED], his
10 representative. The interview lasted from approximately 10:00 a.m. until 5:00 p.m. It
11 covered a wide range of topics. Among other things, respondent confirmed that he held
12 the FIBI and Bank Leumi-Israel accounts and that the accounts were not reported on
13 any of his tax returns.

14 12. During the interview, respondent indicated that around [REDACTED], Bank Leumi
15 USA, Bank Leumi-Israel's U.S. affiliate, extended him a line of credit. Respondent
16 would use the line of credit to pay his living expenses and repay the line of credit using
17 funds from his Bank Leumi-Israel account. According to respondent, he stopped using
18 the line of credit in [REDACTED].

19 13. Respondent also indicated during the interview that between [REDACTED] and
20 [REDACTED], he would withdraw money from his Bank Leumi-Israel account by visiting Bank
21 Leumi USA, which had a branch on Wilshire Boulevard in Beverly Hills, California.

22 14. On February 8, [REDACTED], I issued respondent the summons that is the subject
23 of this case.

24 15. In April of [REDACTED] in accordance with IRS procedures, see Internal Revenue
25 Manual 4.60.1.2.1, I prepared a memorandum to the IRS's Large Business &
26 International (LB&I) division's Exchange of Information (EOI) office. The EOI office is
27 responsible for facilitating the exchange of documents with other countries. The
28 memorandum requested that FIBI and Bank Leumi-Israel produce documents relating to

1 respondent's accounts. The documents I requested in the memorandum were
2 substantially the same as those I requested in the summons. To date, neither FIBI nor
3 Bank Leumi-Israel has produced any documents in response to my request.

4 16. My experience is that IRS requests for foreign financial records can take
5 months or years to process. Further, the records are eventually produced are
6 frequently sparse. In contrast, banks and other financial institutions process records
7 requests made by account holders relatively quickly. That is why I issued respondent
8 the summons underlying this case in addition to requesting the documents through the
9 LB&I EOI office.

10 17. On July 17, [REDACTED], respondent faxed me 15 pages of account statements,
11 in Hebrew, relating to his FIBI account. Copies of these statements are attached as
12 **Exhibit 3**. The statements cover [REDACTED] to [REDACTED]. Respondent has not, to date, provided
13 any documentation demonstrating how this account was funded or when it was closed.
14 Nor has he provided English language translations of the account statements, as
15 requested in the summons.

16 18. On October 11, [REDACTED], respondent faxed me an annual statement for [REDACTED]
17 for his Bank Leumi-Israel account, along with various wire transfer confirmations and
18 U.S. bank records demonstrating that he had repatriated the money in the Bank Leumi-
19 Israel account in [REDACTED]. Copies of these documents are attached **Exhibit 4**.

20 19. On October 15, [REDACTED], respondent emailed me respondent's annual Bank
21 Leumi-Israel statements for [REDACTED] through [REDACTED]. Copies of these documents are
22 attached as **Exhibit 5**. After reviewing the statements, I noted the following:

23 a. The account statements do not include respondent's name,
24 address, or any other identifying information. They contain only the account
25 number. This suggests that the account was one of the "numbered" accounts
26 referenced in the DPA.

27 b. The account statements include notations such as "renewal" "comm
28 guaran" and "issue commi". These notations suggest that respondent received a

1 loan product—possibly an SBLC loan--from Bank Leumi-Israel or Bank Leumi
2 USA.

3 c. Additionally, it appears that respondent requested “Hold Mail”
4 service with respect to this account. This is indicated by a “Hold Mail” notation
5 dated 1/26 on respondent’s [REDACTED] statement. The notation has a corresponding
6 debit in the amount of \$85.00.

7 d. The documents do not demonstrate when or how respondent
8 funded the Israeli accounts.

9 20. To date, respondent has not provided the following documents requested
10 in the summons:

- 11 a. account applications
- 12 b. monthly or periodic statements (pre-[REDACTED] for the Bank Leumi-Israel
13 and pre-[REDACTED] for the FIBI account)
- 14 c. wire transfer authorizations and confirmations
- 15 d. deposit slips and deposited items
- 16 e. credit and debit memos and advices
- 17 f. cancelled checks
- 18 g. check registers
- 19 h. passbooks
- 20 i. loan applications
- 21 j. promissory notes
- 22 k. certificates of deposit
- 23 l. letters of credit
- 24 m. cashiers checks
- 25 n. money orders
- 26 o. safe deposit box rental agreements
- 27 p. safe deposit box visitation ledgers
- 28 q. all correspondence

- 1 r. memorandum files maintained by the bank or other financial
- 2 institution or any of their officers or employees
- 3 s. documents verifying the origin of all funds used to open the
- 4 accounts or deposited into these accounts
- 5 t. a certified translation into English for requested documents that are
- 6 in any language other than English.
- 7 u. Any "Know Your Customer" information given to the financial
- 8 institution by the taxpayer, including all account set up documents
- 9 (e.g., signature cards, opening deposit slips, passport copies,
- 10 certificates of beneficial ownership, letters of reference, certificates
- 11 of clean funds, other source of funds documentation)
- 12 v. Statements of certificate of deposit

13 21. Further, respondent has not produced any of the documents relating to
14 foreign entities that he owned or controlled (if any).

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed on November 14, [REDACTED], at Laguna Niguel, California.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]