

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN A. JOKINEN,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendant.

OPINION and ORDER

10-mc-026-slc

On November 5, 2011, plaintiff John A. Jokinen filed a motion, pursuant to the Right to Financial Privacy, 12 U.S.C. § 3410, to quash a subpoena served on him by the United States Postal Service, Office of Inspector General, seeking his financial records held by the Superior Choice Credit Union. This motion will be denied.

FACTS

The United States Postal Service is investigating whether plaintiff committed fraud associated with his receipt of worker's compensation by failing to report outside income. On October 12, 2010, the United States Postal Service Office of the Inspector General issued an administrative subpoena duces tecum to Superior Choice Credit Union ("Superior"), pursuant to the Inspector General Act of 1978, 5 U.S.C. app. 3, § 6(a)(4). On October 28, 2010, Inspector Rachel Williams served plaintiff with a copy of the subpoena as well as the customer notice, challenge forms and instructions required by 12 U.S.C. § 3405(2). A copy of the subpoena also was served on Superior. Information requested in the subpoena will allow the Postal Service to determine whether plaintiff received in come that he failed to report to the Department of Labor, which could constitute a fraud associated with his claim for federal worker's compensation.

OPINION

Under the Inspector General Act the duties of the Inspector General of the Postal Service include: (1) preventing and detecting fraud and abuse in Postal Service programs and operations; (2) conducting, supervising and coordinating audits and investigations relating to those programs and operations; and (3) helping identify and prosecute those participating in defrauding Postal Service programs. *See* 5 U.S.C. app.3 §§ 4(a)(1), (a)(3). The Act expressly confers broad subpoena power on the Inspector General, stating that each Inspector General is authorized:

to require by subpoena the production of all information, documents, reports answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act . . .

5 U.S.C. app. 3 § 6(a)(4). A subpoena issued by the Inspector General is enforceable “by order of any appropriate United States district court.” *Id.*

A subpoena issued by an Inspector general is enforceable where (1) the subpoena was issued for a lawful purpose within the statutory authority of the agency that issued it; (2) the documents requested are relevant to that purpose; and (3) the subpoena demand is reasonable and not unduly burdensome. *See United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950). In establishing that the requirements for enforcement have been met. *In re EEOC*, 709 F.2d. 392, 400 (5th Cir. 1983).

In addition, under the Right to Financial Privacy Act (“RFPA”), a subpoena shall be enforced so long as “there is demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, 12 U.S.C. § 3410, and the RFPA’s procedural requirements have been met, he government is authorized to rely on affidavits or declarations.. 12 U.S.C. § 3405.

In this case, the government has submitted a declaration by Rachel Williams in which she states that the documents sought by subpoena from Superior are relevant to her investigation of plaintiff's alleged fraud. She also asserts that she has complied with the procedural requirements of the RFPA. Plaintiff has submitted no evidence to contradict Williams' declaration. The court concludes that the subpoena issued for plaintiff's Superior financial records is enforceable because (1) the information sought is relevant to the investigation of the Inspector General, (2) the records request is reasonable and (3) the procedural requirements of the RFPA have been met. Therefore, plaintiff's motion to quash the subpoena will be denied.

ORDER

IT IS ORDERED that plaintiff John A. Jokinen's motion to quash the subpoena issued by the Inspector General is DENIED and this case is closed.

Entered this 25th day of February, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge