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ORIGINAL FILED  
FEB 14 2011  
LOS ANGELES  
SUPERIOR COURT

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

RSS MARKETING,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA, by and through the CALIFORNIA CORPORATIONS COMMISSIONER

Respondent.

Case No.: BS128145

**[PROPOSED] ORDER DENYING RSS MARKETING’S MOTION TO QUASH THE ADMINISTRATIVE SUBPOENA DUCES TECUM ISSUED ON CITY NATIONAL BANK**

DEPARTMENT OF CORPORATIONS

In the Matter of the Investigation and Examination of:

RSS MARKETING

**And of its books, records, documents and other papers pursuant to § 25531 of the CORPORATIONS CODE and §§ 11180-11182 of the GOVERNMENT CODE**

Hearing Date: February 2, 2011  
Hearing Time: 9:00 a.m.  
Dept: 61  
Judge: Hon. David L. Minning

The motion of Petitioner, RSS Marketing, to quash the administrative subpoena duces tecum issued to City National Bank by Respondent, the People of the State of California, by and through the California Corporations Commissioner, came on regularly for hearing in Department 61 of this Court

1 on February 2, 2011.

2 Having read the motion, opposition and reply papers filed by the parties and good cause  
3 appearing,

4 IT IS ORDERED RSS Marketing’s motion to quash the subpoena issued to City National  
5 Bank for the financial records of Gourmet Asset Management is DENIED.

6 Firstly, the subpoena issued is governed by California Government Code sections 7470 et seq.  
7 and not California Code of Civil Procedure sections 1985.3 or 1985.6. California Government Code  
8 section 7470, subdivision (a), authorizes the issuance of a subpoena for financial documents and  
9 requires the subpoena to comply with California Government Code section 7474. California  
10 Government Code section 7474, subdivision (a)(3), allows the customer to move to quash the  
11 subpoena. RSS Marketing is not the customer subject to the subpoena and has no standing to file the  
12 motion. Gourmet is the customer.

13 Additionally, the bankruptcy of SmartWear Technologies, Inc. is sufficient to stay the San  
14 Diego action against SmartWear. However, such has no impact on this subpoena which seeks  
15 financial records of Gourmet, not SmartWear.

16 The privacy rights of any party who may be affected by production of Gourmet’s bank  
17 records are adequately protected by several provisions of the law. (see *Tom v. Schoolhouse Coins,*  
18 *Inc.* (1987) 191 CA 3d 827, 830.)

19 Dated: FEB 14 2011

21 DAVID L. MINNING  
22 JUDGE OF THE SUPERIOR COURT

23 Approved as to form:

24 Dated: 2/10/11

25 Mr. Steven Ostrove, Esq.  
26 Attorney for Petitioner

26 Dated: 2/10/11

27 Mr. Alex Calero, Esq.  
28 Attorney for Respondent