

To obtain documents from financial institutions, by far the easiest way to get them is to get a consent from the customer. With the consent the institution will even give you a business records affidavit.

Otherwise, you must follow Tex. Fin. Code 59.006 to the letter. If you do not, the financial institution can ignore your subpoena and the court is prohibited from signing an order compelling the institution from producing them. If you are unable to obtain consent, here's the application I drafted for such records (make sure you read 59.006(c) and (d) carefully). And you need to start the process early.

No. _____

STATE OF TEXAS

v.

In the _____

District Court

_____ County

**APPLICATION TO THE CLERK OF THE COURT FOR A
SUBPOENA DUCES TECUM TO _____ BANK
REQUIRING PRODUCTION OF DOCUMENTS**

To the Clerk of the Court:

Per Tex. Code Crim. Proc. Art. 24.03, Michael Mowla, attorney for _____, makes this request for a subpoena duces tecum to the financial institution identified in this application, and requests that the subpoena duces tecum substantially provide as follows:

TO: _____, _____ BANK OF TEXAS,

_____, _____, Texas _____:

Greetings:

Per Tex. Fin. Code §59.005, YOU ARE COMMANDED to produce and permit inspection and copying of the documents and electronic mail identified below, which was served on all parties and the person to whom this subpoena is addressed no later than the **24th day** following your constructive receipt of this Subpoena Duces Tecum and Notice to Produce, or on or before _____. The requested documents are to be produced at the following time and place: Law Office of Michael Mowla, PLLC, P.O. Box 868, Cedar Hill, TX 75106, or 183 Parkhouse St, Dallas, TX 75207, phone 972-795-2401, fax 972-692-6636, michael@mowlalaw.com. The requested documents may be produced in electronic format. The requested documents are to be accompanied with the enclosed **AFFIDAVIT FOR BUSINESS RECORDS**, which must be completed and verified. You are hereby commanded to produce:

1. A true and correct copy of _____, account number _____.
2. A true and correct copy of _____.

Required notices under Tex. Fin. Code §59.006(b), (c), & (d)

Per Tex. Fin. Code §59.006(b)(2), the Attorney named above agrees to pay the financial institution's reasonable costs of complying with the record request, including costs of reproduction, postage, research, delivery, and attorney's fees, or posts a cost bond in an amount estimated by the financial institution to cover those costs.

Because the customer of the financial institution is not a party to the proceeding in which this request is issued, the Attorney gives notice that:

This subpoena has been served on the customer per Tex. Rule Civ. Proc. 21(a) and the customer bears the burden of preventing or limiting the financial institution's compliance with a record request subject to this section by seeking an appropriate remedy, including filing a motion to quash the record request or a motion for a protective order. Any motion filed shall be served on the financial

institution and the requesting party before the date that compliance with the request is required. A financial institution is not liable to its customer or another person for disclosure of a record in compliance with this section;

The Attorney filed a certificate of service indicating that the customer has been mailed or served with the notice and a copy of the record request as required by this subsection with the tribunal and the financial institution; and

The Attorney requested the customer's written consent authorizing the financial institution to comply with the request no later than 24 days after the request was served, but the customer refused or did not respond.

Warning

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

This subpoena is issued at the request of _____, whose attorney of record is MICHAEL MOWLA.

Date of Issuance: _____

INFORMATION REQUESTED BY:

Michael Mowla
P.O. Box 868
Cedar Hill, TX 75106
Phone: 972-795-2401
Fax: 972-692-6636
michael@mowlalaw.com
Texas Bar No. 24048680
Attorney for Defendant

/s/ Michael Mowla
Michael Mowla