

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO.: 09-20423-CIV-GOLD/MCALILEY

UNITED STATES OF AMERICA,

Petitioner,

v.

UBS AG,

Respondent.

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SUPPLEMENTAL ORDER CONCERNING  
RESPONSE BY GOVERNMENT OF SWITZERLAND

This CAUSE is before the Court *sua sponte*. Previously, I entered an Order granting leave to *amicus curiae* Government of Switzerland to file a Response, in which the Government of Switzerland represents it will use its legal authority to prevent UBS AG from complying with the John Doe Summons should the United States' Petition be granted [DE 95-2]. More particularly, the Government of Switzerland has stated in part:

*UBS is unable to comply with the summons without violating Swiss law. The Government of Switzerland will use its legal authority to ensure that the bank cannot be pressured to transmit the information illegally, including if necessary by issuing an order taking effective control of the data at UBS that is the subject of the summons and expressly prohibiting UBS from attempting to comply .... When the Government of Switzerland issues such an order, it will be an 'Act of State.'*"

(emphasis added) (DE95-2 at pages 3 to 4)

Petitioner is directed to prepare, after consultations with the Executive Branch, the Department of State and/or other relevant government agencies, a Supplemental Response addressing the arguments contained in the latest filing by the Government of Switzerland. This response shall be filed on or before noon on Sunday, July 12, 2009. Such response also shall address, given the evident position of the Government of

Switzerland, what remedies the United States is prepared to request of this Court under Title 26 U.S.C. § 7604(b)<sup>1</sup> in the event the Petition is granted and there is non-compliance. Otherwise stated, the United States shall address, with citation to appropriate authorities, how far it intends to proceed by way of request for enforcement, up through and including receivership and/or seizure of UBS' assets within the United States, should the Government of Switzerland prevent or otherwise prohibit UBS from complying with the John Doe Summons, assuming the Petition is granted following the evidentiary hearing. Accordingly, it is hereby

ORDERED and ADJUDGED that Petitioner's Supplemental Response, as described above, shall be filed on or before noon on Sunday, July 12, 2009.

DONE and ORDERED in Chambers at Miami, Florida, this 8 day of July, 2009.



THE HONORABLE ALAN S. GOLD  
UNITED STATES DISTRICT JUDGE

cc:

All counsel of record  
U.S. Magistrate Judge Chris M. McAiley

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<sup>1</sup> 26 U.S.C. § 7604(b) provides, in part, "[W]henver any person summoned ... refuses to obey such summons, ... the judge ... shall have power to make such order as he shall deem proper, not inconsistent with the law for punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience."