

contained in such records, if any records exist, was obtained with the express agreement and understanding that such information was to remain confidential.

4. As a shelter for victims of domestic violence, _____ **[program's name]** receives state funding pursuant to Section 455.215 of the Missouri Revised Statutes (2000). As a recipient of state funds, this organization must abide by the confidentiality provisions of Section 455.220, R.S.Mo. (2000), which provides that employees or volunteers working for the organization "must maintain the confidentiality of any information that would identify individuals served by the shelter and any information or records that are directly related to the advocacy services provided to such individuals."

5. Furthermore, "[a]ny person employed by or volunteering services to a shelter for victims of domestic violence shall be incompetent to testify concerning any confidential information ... unless the confidentiality requirement is waived in writing by the individual served by the shelter." Section 455.220.2, R.S.Mo. (2000).

6. The Missouri Supreme Court upheld the strict confidentiality requirements for domestic violence shelters when it entered an absolute writ of prohibition against a family court judge who had denied a shelter's motion to quash a subpoena. The Missouri Supreme Court held that the family court abused its discretion when it ordered a domestic violence shelter to produce records and information in the absence of a waiver from the individual because the court's order violated the strict confidentiality requirements of Section 455.220. *Hope House, Inc. v. Commissioner Molly M. Merrigan*, 133 S.W.3d 44 (Mo. 2004).

7. _____ **[name of program]** does not have a signed waiver for the release of information from _____ **[initials of person whose information/records are**

sought] for the release of records to _____ [name of person requesting records and name of attorney for the person requesting records]. _____ [Initials of person whose information/records are sought] has neither consented to the release of records nor consented to the presentation of testimony.

8. _____ [name of program] receives state funding pursuant to Section 455.215. R.S.Mo. (2000). In accordance with Section 455.220, R.S.Mo. (2000), any information or records that may or may not exist regarding _____ [initials of person whose information/records are sought] that were requested in the subpoena are confidential and any employees or volunteers subpoenaed to court regarding this matter are incompetent to testify.

9. _____ [name of program] is financed by funds secured through _____ [name of funding source with confidentiality requirement; e.g. Family Violence Prevention and Services Act, 42 U.S.C. Section 10401 *et seq.* and Victims of Crime Act of 1984, 42 U.S.C. Section 10601 *et seq.*] The receipt of these funds is conditioned upon _____ [name of program] maintaining the confidentiality of information received from those who have been victimized by domestic violence. _____ [Cite specific provision in funding statute; e.g. FVPSA's provision is 42 U.S.C. Section 10402(a)(2)(E) and VOCA's provision is 42 U.S.C. Section 10604(d)]. Disclosure of confidential information would result in the termination of funding of, or the imposition of other penalties pursuant to federal law on, _____ [name of program].

10. Disclosure of confidential information would reduce the effectiveness of _____ [name of program] as a service provider. If those victimized by domestic

violence thought that their information could be revealed to third parties, then they would be distrustful of _____ **[name of program]** and would be inhibited from revealing private information. Ultimately, they would be less likely to turn to _____ **[name of program]** for assistance.

11. Disclosure of confidential information also could jeopardize the safety of others who reside or work at _____ **[name of program]**.

12. Missouri Revised Statutes Sections 455.215 and 455.220 and *Hope House v. Merrigan* compel a finding that the subpoena must be quashed.

WHEREFORE, for the reasons set forth above, _____ **[name of program]** respectfully requests that the subpoena in the above styled case be quashed, and for such other relief as this Court deems just and proper.

Respectfully submitted,

[signature]
[name of attorney or director]
[address]
[city, state and zip code]
[telephone number]
[facsimile number]

Attorney for/Director of _____
[program/shelter name]

CERTIFICATE OF SERVICE

I certify that on this _____ day of _____, 20____, I mailed a copy of the Motion to Quash Subpoena by first class mail, postage prepaid, to: **[name and address of person requesting information/document]**.

[signature]