

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

U.S. DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE  
2006 JUN 25 A 10:57

CM RR<sup>th</sup> 7002 0860 0001 2711 5510

**UNITED STATES OF AMERICA )**

**v. )**

**ELAINE A. BROWN, and )  
EDWARD LEWIS BROWN, )  
Defendants )**

**Criminal No. 1:06-cr-00071-JD**

**NOTICE AND MOTION FOR BILL OF PARTICULARS**

**NOTICE**

Officers of the court are hereby noticed of their continuing duty under authority of the supremacy; equal protection and full faith and credit clauses of the United States Constitution and the common law authorities of Haines v Kerner, 404 U.S. 519, Platsky v. C.I.A. 953 F.2d. 25, and Anastasoff v. United States, 223 F.3d 898 (8th Cir. 2000). In Haines: pro se litigants are held to less stringent pleading standards than bar licensed attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims. In Platsky: court errs if court dismisses the pro se litigant without instruction of how pleadings are deficient and instructions to repair pleadings. In Anastasoff: litigants' constitutional rights are violated when courts depart from precedent where parties are similarly situated.

**MOTION**

**Elaine A. Brown and Edward L. Brown**, husband and wife, Defendants herein, move the Court for an order pursuant to rule 7(f) of the Federal Rules of Criminal Procedure, directing the government to furnish a certified Bill of Particulars with respect to the indictment in this case and all related matters. The Court appointed two defense attorneys to legitimize the arraignment process, both attorneys refused to provide any counsel to the Defendants regarding the charges or commence procedures to evaluate and refute the indictment. The courthouse attorneys were terminated when they refused to file any motions or a Bill of Particulars into the record. Therefore, the Defendants are not informed of the exact nature and cause of the charges made against them. The cause of justice and adherence to the constitution's mandate for due process requires that the Defendants be fully informed of the crimes they allegedly committed. The failure to fully answer the attached Bill of Particulars from the Defendants or the outright denial of this motion would address substantive due process violations and would instantly deprive the court of subject matter jurisdiction. It is well-established that "Article III of the Constitution confines the jurisdiction of the federal courts to actual 'Cases' and 'Controversies.'" Clinton v. City of New York, 524 U.S. 417 (1998). To demonstrate the standing necessary to invoke the jurisdiction of the federal courts The U.S. Attorney must "allege injury (to the United States) fairly traceable to the Defendants' allegedly unlawful conduct and likely to be redressed by the requested relief." Allen v. Wright, 468 U.S. 737 (1984). This injury may not be speculative or abstract, but must be distinct and definite. In Bryan v. United States, 524 U.S. 184 (1998) the Court cited to Cheek v. United States, 498 U.S. 192 (1991), and said "In certain cases involving willful violations of the tax

laws, we have concluded that the jury must find that the defendant was aware of the specific provision of the tax code that he was charged with violating." In light of the above well settled case law, the Defendants make the following requests from the plaintiff, United States of America, its employees and agents.

### **BILL OF PARTICULARS**

All information requested herein pertains to the Grand Jury Indictment of Elaine A.

Brown and Edward L. Brown, dated April 5, 2006 as filed in the above captioned case.

- (1) With respect to each sub part of Count 1 of the indictment, alleging violations of 18 U.S.C. 371, Conspiracy to Defraud the United States, precisely describe in detail:
  - (a) The exact date of the alleged criminal offense; and
  - (b) The exact federal statute criminal violation serving as the foundational basis for the alleged conspiracy; and
  - (c) How the alleged crime was actually accomplished; and
  - (d) Who committed the violation?
  
- (2) With respect to Count 1 of the indictment, paragraph 5 Overt Acts, section:
  - (a) Identify the exact date; and
    - (1) Identify the tax return preparer; and
    - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
  - (b) Identify the exact date; and
    - (1) Identify the tax return preparer and provide full contact information; and
    - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
  - (c) Identify the exact date; and
    - (1) Provide a true copy of the return.
  - (d) Identify the exact date; and
    - (1) Provide a true copy of the letter.
  - (e) Identify the exact date; and
    - (1) Identify the employee and provide full contact information; and
    - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
  - (f) Identify the exact date; and
    - (1) Identify the IRS employee and provide full contact information; and
    - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).

- (g) Identify the exact date; and  
(1) Provide a true copy of each of the documents .
- (h) Identify the exact date; and  
(1) Identify the bank and employee and provide full contact information; and  
(2) Provide a true copy of each side of the signature card.
- (i) Identify the exact date; and  
(1) Identify the tax return preparer and provide full contact information; and  
(2) Provide a true copy of the written note.
- (j) Identify the exact date; and  
(1) Provide a true copy of the letter.
- (k) Identify the exact date; and  
(1) Identify the insurance provider and employee and provide full contact information; and  
(2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (l) Identify the exact date; and  
(1) Identify the New Hampshire Department of Revenue employee and Provide full contact information; and  
(2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (m) Identify the exact date; and  
(1) Identify the insurance provider and employee and provide full contact information; and  
(2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (n) Identify the exact date; and  
(1) Identify the U.S. Postal Service employee that prepared the money orders and provide full contact information; and  
(2) Provide a true copy of each of the postal money orders.
- (o) Identify the exact date; and  
(1) Identify the U.S. Postal Service employee that prepared the money orders and provide full contact information; and  
(2) Provide a true copy of each of the postal money orders.
- (p) Identify the exact date; and  
(1) Identify the U.S. Postal Service employee that prepared the money orders and provide full contact information; and  
(2) Provide a true copy of each of the postal money orders.
- (q) Identify the exact date; and  
(1) Identify the U.S. Postal Service employee that prepared the money orders and provide full contact information; and  
(2) Provide a true copy of each of the postal money orders.
- (r) Identify the exact date; and  
(1) Identify the person or employee responsible for payroll; and  
(2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (s) Identify the exact date; and

- (1) Identify all the employees involved; and
  - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (t) Identify the exact date(s); and
  - (1) Identify all the patients notified and provide full contact information; and
  - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (u) Identify the exact date; and
  - (1) Identify the insurance provider and employee and provide full contact information; and
  - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (v) Identify the exact date; and
  - (1) Identify the IRS and dental employees and provide full contact information; and
  - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (x) Identify the exact date; and
  - (1) Identify the IRS and dental employees and provide full contact information; and
  - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (y) Identify the exact date; and
  - (1) Identify the IRS agents and provide full contact information; and
  - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (z) Identify the exact date; and
  - (1) Identify the U.S. Postal Inspector and provide full contact information; and
  - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (aa) Identify the exact date; and
  - (1) Identify the IRS agents and provide full contact information; and
  - (2) Provide a certified true copy of the transcript or written statement of the Defendant that gave rise to the charge pursuant to F.R.Cr.P. 16(a)(1)(A).
- (3) Please identify the specific provision or provisions of the tax code that:
  - (a) The indictment claims imposed the tax due and owing upon the Defendants, as alleged in Counts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, and
  - (b) The Defendants stand charged with violating, with respect to Counts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14.
- (4) Which crime under 26 U.S.C. § 7201 do the Defendants stand accused of violating in Counts 2, 3, 4, 5, and 6?
  - (a) Is it to evade or defeat any tax imposed by this title, or
  - (b) Is it to evade or defeat the payment thereof?

- (5) Since tax evasion contains a required element that the indictment must allege and the jury must find beyond a reasonable doubt, please identify what evidence was tendered to the Grand Jury and what evidence the U.S. Attorney intends to present at trial that makes up the deficiency element of the alleged crimes in each count of the indictment.
- (6) With respect to Counts 2, 3, 4, 5, and 6, which claim that unreported income tax was due and owing for each of the listed years 1999, 2000, 2001, 2002, 2003 and which also claim that the Defendants had unreported taxable income during such years, identify whether the government has relied or intends to rely, in whole or in part:
  - (a) On the so-called "net worth method of proof;"
  - (b) On the so-called "net worth plus expenditures method of proof;"
  - (c) On the so-called "bank deposits method of proof;"
  - (d) On the so-called "bank deposits plus cash expenditures method of proof;"
  - (e) On the so-called "bank deposits plus specific items not deposited method of proof;"
  - (f) On the so-called "expenditures method of proof;"
  - (g) On the so-called "specific items method of proof;"
  - (h) On some variation of the foregoing or other method of proof.
- (7) If the government's method of proof with respect to Counts 2, 3, 4, 5, and 6 is, in whole or in part, the so-called "net worth method of proof," state:
  - (a) The Defendants' net worth at the beginning and end of each taxable year;
  - (b) For each year, the taxable source or sources of the net worth increase;
  - (c) For each year, any elimination allowed due to nontaxable receipts;
  - (d) For each year, the items and amount making up net worth; and
  - (e) For each year, deductions, credits, and exemptions which should be allowed.
- (8) If the government's method of proof with respect to Counts 2, 3, 4, 5, and 6 is, in whole or in part, the so-called "net worth plus expenditures method of proof," state:
  - (a) The Defendants' net worth at the beginning and end of each taxable year;
  - (b) For each year, the taxable source or sources of the net worth increases;
  - (c) For each year, any elimination allowed due to nontaxable receipts;
  - (d) For each year, the items and amounts making up net worth;
  - (e) For each year, deductions, credits, and exemptions which should be allowed; and
  - (f) For each year, the date, amount, payee, and manner of payment of each expenditure.
- (9) If the government's method of proof with respect to Counts 2, 3, 4, 5, and 6 is, in whole or in part, the so-called "bank deposits method of proof," state:

- (a) The amount of cash on hand or its equivalent at the beginning of each tax year charged;
  - (b) For each year, the identity of all banks with which the Defendants did business;
  - (c) For each year, the identity of all banks to which the Defendants or one acting on behalf of the Defendants made deposits;
  - (d) For each year, the identity of all persons who made deposits on behalf of the Defendants;
  - (e) For each year, the date, amount, and recipient of each deposit which made up the Defendants' income and whether the deposit was made by cash or check;
  - (f) For each year, the taxable source or sources of the deposits which made up the Defendants' income;
  - (g) For each year, any elimination allowed due to nontaxable receipts, re-deposits, transfers or the like; and
  - (h) For each year, deductions, credits, and exemptions which should be allowed.
- (10) If the government's method of proof with respect to Counts 2, 3, 4, 5, and 6 is, in whole or in part, the so-called "bank deposits plus cash expenditures method of proof," state:
- (a) The amount of cash on hand or its equivalent at the beginning of each tax year charged;
  - (b) For each year, the identity of all banks with which the Defendants did business;
  - (c) For each year, the identity of all banks to which the Defendants, or one acting on behalf of the Defendants, made deposits;
  - (d) For each year, the identity of all persons who made deposits on behalf of the Defendants;
  - (e) For each year, the date, amount, and recipient of each deposit which made up the Defendants' income and whether the deposit was made by cash or check;
  - (f) For each year, the taxable source or sources of the deposits which made up the Defendants' income;
  - (g) For each year, any credit limitations allowed due to nontaxable receipts, re-deposits, transfers or the like;
  - (h) For each year, deductions, credits, and exemptions which should be allowed; and
  - (i) For each year, the date, amount, payee and manner of payment of each expenditure.
- (11) If the government's method of proof with respect to Counts 2, 3, 4, 5, and 6 is, in whole or in part, the so-called "bank deposits plus specific items not deposited method of proof," state:
- (a) The amount of cash on hand or its equivalent at the beginning of each tax year charged;



- (b) For each year, the identity of all banks with which the Defendants did business;
  - (c) For each year, the identity of all banks to which the Defendants or one acting on behalf of the Defendants made deposits;
  - (d) For each year, the identity of all persons who made deposits on behalf of the Defendants;
  - (e) For each year, the date, amount, and recipient of each deposit which made up the Defendants' income and whether the deposit was made by cash or check;
  - (f) For each year, the taxable source or sources of the deposit which made up the Defendants' income;
  - (g) For each year, any elimination allowed due to nontaxable receipts, re-deposits, transfers, or the like;
  - (h) For each year, deductions, credits, and exemption which should be allowed;
  - (i) For each year, the identity of persons from whom the Defendants received money that was not deposited; and
  - (j) For each year, the date, the amount, payor, and manner of payment of each specific item not deposited.
- (12) If the government's method of proof with respect to Counts 2, 3, 4, 5, and 6 is, in whole or in part, the so-called "expenditures method of proof," state:
- (a) The amount of cash on hand or its equivalent at the beginning of each tax year charged;
  - (b) For each year, the date, amount, space and manner of payment of each expenditure and whether the expenditure is deductible;
  - (c) For each year, the taxable source of sources of the Defendants' income;
  - (d) For each year, any eliminations allowed due to nontaxable receipts; and
  - (e) For each year, deductions, credits, and exemptions which should be allowed.
- (13) If the government's method of proof with respect to Counts 2, 3, 4, 5, and 6 is, in whole or in part, the so-called "specific items method of proof," state:
- (a) For each year, the specific items of omitted income, including sources, dates of receipt, and manner of payment;
  - (b) For each year, any deductions, credits, or exemptions which were, but should not have been, claimed, together with the reason or reasons why the item is disallowed.
- (14) If the government's method of proof with respect to Counts 2, 3, 4, 5, and 6 is, in whole or in part, not referenced in requests 6 through 13, supra, state:
- (a) The nature of such method;
  - (b) The beginning and ending net worth for each tax year charged;
  - (c) The opening amount of cash on hand or its equivalent for each tax year charged;
  - (d) The formula used to determine income during each tax year;



- (e) The items included in applying the formula for each tax year;
  - (f) For each year, the identity of all persons from whom the Defendants received income;
  - (g) For each year, the source or sources of the Defendants' income;
  - (h) For each year, any percentages or assumption used in reconstructing the Defendants' income;
  - (i) For each year, any elimination allowed due to nontaxable receipts or the like; and
  - (j) For each year, deductions, credits, and exemptions which should be allowed.
- (15) What is the specific calendar date, and not "on or about", that the Defendants first owed the tax alleged to have become due in Counts 2, 3, 4, 5, and 6, and what was the specific amount allegedly owed on that date?
- (16) Provide a copy of the assessment used for the computation of each year's taxes as charged in the indictment.
- (17) If the evasion charges are not based upon an assessed tax, what law does the government rely upon to create a "tax owed" (theory) without an assessment?
- (18) What provisions of law does the government rely upon for its claim that the Defendants had taxable income in excess of the exempt amount for the prosecution years?
- (19) What specific "tax" do the Defendants stand accused of having evaded?
- (20) Please identify the specific provision or provisions of the tax code or regulation, that that the Defendants stand charged with violating, with respect to Counts 2, 3, 4, 5, and 6, that the government relies upon to accuse them of "Aiding and Abetting" under 18 U.S.C. § 2 and trigger the penalties fixed by 26 U.S.C. § 7201.
- (21) With respect to Counts 2, 3, 4, 5, and 6, what tax information request form do the Defendants stand accused of failing to make for each prosecution year, respectively?
- (22) With respect to Counts 2, 3, 4, 5, and 6, what part of said form informed the Defendants that they were required to make the respective form that the Defendants stand accused of failing to make?
- (23) With respect to Counts 2, 3, 4, 5, and 6, what is the:
- 1) Common name of the income tax form used to report those taxes; and
  - 2) Number of the form with any and all suffixes or prefixes; and
  - 3) OMB control number assigned for the form; and
  - 4) Date of approval of the form by OMB; and

5) Date of expiration of the form; and  
6) Language on the form that informs the citizen whether completion of the form  
is voluntary or mandatory?

- (24) For each tax year charged, state which tax return or other form entries are false or missing and, with respect to each year, state what correct return, entry or each omitted item should have been furnished to the government by the Defendants.
- (25) With respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14, which claim that unreported employment tax and federal insurance contributions act taxes were due and owing for each quarter of the years 2002, and 2003 and which claim that the Defendant Elaine A. Brown failed to collect during such years, identify whether the federal government has relied or intends to rely, in whole or in part:
- (a) On the so-called "net worth method of proof;"
  - (b) On the so-called "net worth plus expenditures method of proof;"
  - (c) On the so-called "bank deposits method of proof;"
  - (d) On the so-called "bank deposits plus cash expenditures method of proof;"
  - (e) On the so-called "bank deposits plus specific items not deposited method of proof;"
  - (f) On the so-called "expenditures method of proof;"
  - (g) On the so-called "specific items method of proof;"
  - (h) On some variation of the foregoing or other method of proof.
- (26) If the government's method of proof with respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14 is, in whole or in part, the so-called "net worth method of proof," state:
- (a) The Defendants' net worth at the beginning and end of each taxable year;
  - (b) For each year, the taxable source or sources of the net worth increase;
  - (c) For each year, any elimination allowed due to nontaxable receipts;
  - (d) For each year, the items and amount making up net worth; and
  - (e) For each year, deductions, credits, and exemptions which should be allowed.
- (27) If the government's method of proof with respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14 is, in whole or in part, the so-called "net worth plus expenditures method of proof," state:
- (a) The Defendants' net worth at the beginning and end of each taxable year;
  - (b) For each year, the taxable source or sources of the net worth increases;
  - (c) For each year, any elimination allowed due to nontaxable receipts;
  - (d) For each year, the items and amounts making up net worth;
  - (e) For each year, deductions, credits, and exemptions which should be allowed;  
and
  - (f) For each year, the date, amount, payee, and manner of payment of each expenditure.

- (28) If the government's method of proof with respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14 is, in whole or in part, the so-called "bank deposits method of proof," state:
- (a) The amount of cash on hand or its equivalent at the beginning of each tax year charged;
  - (b) For each year, the identity of all banks with which the Defendants did business;
  - (c) For each year, the identity of all banks to which the Defendants or one acting on behalf of the Defendants made deposits;
  - (d) For each year, the identity of all persons who made deposits on behalf of the Defendants;
  - (e) For each year, the date, amount, and recipient of each deposit which made up the Defendants' income and whether the deposit was made by cash or check;
  - (f) For each year, the taxable source or sources of the deposits which made up the Defendants' income;
  - (g) For each year, any elimination allowed due to nontaxable receipts, re-deposits, transfers or the like; and
  - (h) For each year, deductions, credits, and exemptions which should be allowed.
- (29) If the government's method of proof with respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14 is, in whole or in part, the so-called "bank deposits plus cash expenditures method of proof," state:
- (a) The amount of cash on hand or its equivalent at the beginning of each tax year charged;
  - (b) For each year, the identity of all banks with which the Defendants did business;
  - (c) For each year, the identity of all banks to which the Defendants, or one acting on behalf of the Defendants, made deposits;
  - (d) For each year, the identity of all persons who made deposits on behalf of the Defendants;
  - (e) For each year, the date, amount, and recipient of each deposit which made up the Defendants' income and whether the deposit was made by cash or check;
  - (f) For each year, the taxable source or sources of the deposits which made up the Defendants' income;
  - (g) For each year, any credit limitations allowed due to nontaxable receipts, re-deposits, transfers or the like;
  - (h) For each year, deductions, credits, and exemptions which should be allowed; and
  - (i) For each year, the date, amount, payee and manner of payment of each expenditure.
- (30) If the government's method of proof with respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14 is, in whole or in part, the so-called "bank deposits plus specific items not deposited method of proof," state:

- (a) The amount of cash on hand or its equivalent at the beginning of each tax year charged;
  - (b) For each year, the identity of all banks with which the Defendants did business;
  - (c) For each year, the identity of all banks to which the Defendants or one acting on behalf of the Defendants made deposits;
  - (d) For each year, the identity of all persons who made deposits on behalf of the Defendants;
  - (e) For each year, the date, amount, and recipient of each deposit which made up the Defendants' income and whether the deposit was made by cash or check;
  - (f) For each year, the taxable source or sources of the deposit which made up the Defendants' income;
  - (g) For each year, any elimination allowed due to nontaxable receipts, re-deposits, transfers, or the like;
  - (h) For each year, deductions, credits, and exemption which should be allowed;
  - (i) For each year, the identity of persons from whom the Defendants received money that was not deposited; and
  - (j) For each year, the date, the amount, payor, and manner of payment of each specific item not deposited.
- (31) If the government's method of proof with respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14 is, in whole or in part, the so-called "expenditures method of proof," state:
- (a) The amount of cash on hand or its equivalent at the beginning of each tax year charged;
  - (b) For each year, the date, amount, space and manner of payment of each expenditure and whether the expenditure is deductible;
  - (c) For each year, the taxable source of sources of the Defendants' income;
  - (d) For each year, any eliminations allowed due to nontaxable receipts; and
  - (e) For each year, deductions, credits, and exemptions which should be allowed.
- (32) If the government's method of proof with respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14 is, in whole or in part, the so-called "specific items method of proof," state:
- (a) For each year, the specific items of omitted income, including sources, dates of receipt, and manner of payment;
  - (b) For each year, any deductions, credits, or exemptions which were, but should not have been, claimed, together with the reason or reasons why the item is disallowed.
- (33) If the government's method of proof with respect to Counts 7, 8, 9, 10, 11, 12, 13, and 14 is, in whole or in part, not referenced in requests 25 through 32, supra, state:
- (a) The nature of such method;

- (b) The beginning and ending net worth for each tax year charged;
  - (c) The opening amount of cash on hand or its equivalent for each tax year charged;
  - (d) The formula used to determine income during each tax year;
  - (e) The items included in applying the formula for each tax year;
  - (f) For each year, the identity of all persons from whom the Defendants received income;
  - (g) For each year, the source or sources of the Defendants' income;
  - (h) For each year, any percentages or assumption used in reconstructing the Defendants' income;
  - (i) For each year, any elimination allowed due to nontaxable receipts or the like; and
  - (j) For each year, deductions, credits, and exemptions which should be allowed.
- (34) Provide a copy of the assessment used and the government's computation for each quarter of each year's unreported employment tax and federal insurance contributions act taxes as charged in the indictment.
- (35) If the unreported employment tax and federal insurance contributions act tax evasion charges are not based upon an assessed tax, what law does the government rely upon to create a "tax owed" theory without an assessment?
- (36) What provisions of law does the government rely upon for its claim that the Defendants had employees subject to the alleged tax and employee's with income for each of the prosecution years?
- (37) Please identify the specific offense provision or provisions of the tax code or regulations, that that the Defendants stand charged with violating, with respect to Counts 7 through 14 that the government relies upon to accuse them of "Aiding and Abetting" under 18 U.S.C. § 2 and trigger the penalties fixed by 26 U.S.C. § 7202.
- (38) With respect to Counts 7 through 14, what tax information request form do the Defendants stand accused of failing to make regarding employment tax and federal insurance contributions act taxes for each prosecution year, respectively?
- (39) With respect to Counts 7 through 14, what part of said form informed the Defendants that they were required to make the respective form that the Defendants stand accused of failing to make?
- (40) With respect to Counts 7 through 14, what is the:
- 1) Common name of the form used to report the employment taxes; and
  - 2) Number of the form with any and all suffixes or prefixes; and
  - 3) OMB control number assigned for the form; and
  - 4) Date of approval of the form by OMB; and

- 5) Date of expiration of the form; and
  - 6) Language on the form that informs the citizen whether completion of the form is voluntary or mandatory?
- (41) What affirmative acts does the government contend that the Defendants did in furtherance of the evasion of income tax, employment tax, and federal insurance contributions act taxes with identification of all specific dates?
- (42) What element of any criminal charge does the government allege to be proven in whole or in part by the allegations contained in the indictment with respect to the Half Hollow Dental Center or alleged representations to or from any of the dental patients, members or associates of such center?
- (43) What element of any criminal charge does the government allege to be proven in whole or in part by the allegations contained in the indictment with respect to the Rock Solid Trust or alleged representations to or from any of the members or associates of such trust?
- (44) Define the precise legal meaning and give the government's reference authority for each of the following words, terms, and phrases of art, indicating separately, the explanations used in presentations to influence the Grand Jury and secondly, as used against the defendants in the criminal charges of the indictment:

Accomplished  
Act  
Agent(s)  
Aggregate amount  
Agree  
Aiding and Abetting  
All  
Amount  
Approximately  
Ascertainment  
Assessment

Bank account  
Breaking up  
Business

Calendar year  
Calendar quarters  
Caused  
Collect  
Collecting taxes  
Collection of revenue  
Combine

Committed  
Common law pure trust  
Compensation  
Computation  
Concealing and attempting to conceal  
Conducted  
Confederate  
Conspiracy  
Conspiracy to structure  
Conspire  
Constitutional  
Criminal  
Criminal forfeiture  
Currency transaction

Deducting  
Defeat  
Defeating  
Defendant(s)  
Defraud  
District of New Hampshire  
Domestic financial institution  
Due and owing

Each other  
Earned  
EDWARD LEWIS BROWN  
ELAINE A. BROWN  
Elsewhere  
Employee(s)  
Employment tax(es)  
Evade  
Evading  
Executed

Fact(s)  
Failing  
Failing to collect  
Failure to collect  
Failing to pay  
Failure to pay  
Falsely reporting  
Federal  
Federal employment tax(es)  
Federal income tax(es)  
Federal income tax return



Federal Insurance Contributions Act

Federal law

File return(s)

Financial transaction(s)

Forfeit

Foreperson

Government

Grand Jury

Impeding

Impairing

In

Included

Including

Income

Income tax

Income tax return

Indictment

In furtherance

Internal Revenue Service

Internal Revenue Service of the Treasury Department

Individual(s)

Information

Involved

IRS

IRS form 1040 (provide official OMB identification number)

IRS form 1099 (provide official OMB identification number)

IRS form W-2 (provide official OMB identification number)

IRS form W-4 (provide official OMB identification number)

Joint

Joint tax return

Jurisdiction

Jurisdiction of the court

Knowingly

Known and unknown

Law(s)

Lawful

Lawful government functions

Lawful government functions of the Internal Revenue Service

Legal

Legal obligation(s)

Liability

Make  
Manner and means

New Hampshire  
New Hampshire Department of Revenue Administration  
Non-employee  
Non resident(s)

Object(s)  
Obstructing  
Of  
Offenses against the United States  
Officer(s)  
Officer(s) of the United States of America  
Omission  
On  
On or about  
Order(s)  
Other(s)  
Overt act(s)  
Owing

Pay  
Person(s)  
Plainfield New Hampshire  
Postal money order(s)  
Preventing  
Properties, real and personal  
Proper officer(s)  
Purchased

Refusing to provide  
Reporting requirements  
Reporting threshold  
Resident(s)  
Resident of Plainfield, New Hampshire  
Revenue(s)  
Required by law

\$ (the meaning of the symbol)  
Self employed  
Sole proprietorship  
State  
State tax authorities  
Structure

Structuring financial transactions  
Style  
Sum and substance

Taxable income  
Taxable wages  
Tax liability  
Taxpayer Identification Number  
Tax return  
Tax return preparer  
Tax year  
THOMAS P. COLANTUONO  
Traceable  
Transactions  
Transactor  
Treasury Department  
TRUE BILL  
Trust

UNITED STATES  
UNITED STATES ATTORNEY  
UNITED STATES CODE  
UNITED STATES OF AMERICA  
UNITED STATES POSTAL SERVICE  
Unlawfully  
Unknown  
U.S.  
U.S.C.  
U.S. citizen(s)  
U.S. Postal Inspector

Violation of Title \_\_\_\_  
Voluntary

Wages  
Well-knowing and believing  
Willfully  
Withholding tax(es)

Zero 0

- (45) With respect to each of the following 17 Counts and their indicated subparts, precisely identify the correct nature, date, amount, payor and payee, and manner of computation with respect to each sum alleged, comprising or referred to in such count and allegation:

Count 1

- (4)(c): Revenues that were funneled into trust; and
- (4)(d): State tax revenues owed; and
- (4)(e): Payroll taxes uncollected; and
- (4)(f): Financial transactions structured; and
- (5)(c): Gross income and federal income tax liability; and
- (5)(n): Postal money orders alleged of approximately \$2800; and
- (5)(o): Postal money orders alleged of approximately \$2800; and
- (5)(p): Postal money orders alleged of approximately \$2800; and
- (5)(q): Postal money orders alleged of approximately \$2800; and
- (5)(v): Income paid to employees for 2002; and
- (5)(x): Income paid to employees for 2003.

Count 2 (1999)

- (a) Taxable income alleged of \$269,284; and
- (b) Income tax alleged of \$96,969 due and owing.

Count 3 (2000)

- (a) Taxable income alleged of \$201,466; and
- (b) Income tax alleged of \$70,946 due and owing.

Count 4 (2001)

- (a) Taxable income alleged of \$164,327; and
- (b) Income tax alleged of \$56,991 due and owing.

Count 5 (2002)

- (a) Taxable income alleged of \$346,654; and
- (b) Income tax alleged of \$124,862 due and owing.

Count 6 (2003)

- (a) Taxable income alleged of \$328,975; and
- (b) Income tax alleged of \$110,510 due and owing.

Count 7 1Q 2002

- (1) Taxable wages alleged of \$54,187; and
- (2) Payroll taxes alleged of \$14,226 due and owing.

Count 8 2Q 2002

- (1) Taxable wages alleged of \$63,698; and
- (2) Payroll taxes alleged of \$17,009 due and owing.

Count 9 3Q 2002

- (1) Taxable wages alleged of \$51,517; and
- (2) Payroll taxes alleged of \$13,479 due and owing.

Count 10 4Q 2002

- (1) Taxable wages alleged of \$59,483; and
- (2) Payroll taxes of \$15,571 due and owing.

Count 11 1Q 2003

- (1) Taxable wages alleged of \$57,609; and
- (2) Payroll taxes alleged of \$15,249 due and owing.

Count 12 2Q 2003

- (1) Taxable wages alleged of \$63,655; and
- (2) Payroll taxes alleged of \$17,087 due and owing.

Count 13 3Q 2003

- (1) Taxable wages alleged of \$46,999; and
- (2) Payroll taxes alleged of \$12,251 due and owing.

Count 14 4Q 2003

- (1) Taxable wages alleged of \$44,440; and
- (2) Payroll taxes alleged of \$11,626 due and owing.

Count 15

Manner and Means

- (a) The single transaction amount; and
- (b) The separate transaction amounts.

Overt acts

- (a) May 25, 1999 alleged money orders for \$5,198; and
- (b) November 19, 1999 alleged money orders for \$5,600; and
- (c) November 29, 2000 alleged money orders for \$5,600; and
- (d) November 30, 2000 alleged money orders for \$5,600; and
- (e) February 26, 2001 alleged money orders for \$5,600; and
- (f) February 27, 2001 alleged money orders for \$5,600; and
- (g) April 27, 2001 alleged money orders for \$5,600; and
- (h) April 28, 2001 alleged money orders for \$5,600; and
- (i) November 30, 2001 alleged money orders for \$5,600.

Counts 16 and 17

- (a) Sums of money alleged in excess of \$3,000; and
- (b) Postal money orders; and
- (c) Illegal activity alleged more than \$100,000 in 12 month period; and
- (e) Elaine Brown April 27 alleged money orders for \$5,600; and
- (f) Elaine Brown April 28 alleged money orders for \$5,600; and
- (g) Elaine and Edward Brown November 30, 2001 alleged money orders for \$5,600; and
- (h) Elaine and Edward Brown November 30, 2001 second group alleged money orders for \$5,600.

Notice of Criminal Forfeiture

(a) Value of the forfeitable property.

- (46) Identify all un-indicted coconspirators, giving names and addresses. If no others are involved then so state.
- (47) Identify all persons to whom the Defendants made oral statements upon which the government relied to support the charges, including:
  - (a) The names and addresses of the persons to whom the statements were made; and
  - (b) The times and places at which the statements were made; and
  - (c) Whether the witnesses to the statements were government agents and whether any transcripts or memoranda of the statements were prepared and given to the government.
- (48) Define the precise geographical boundaries of the federal area and the identifiable location therein where the alleged crimes occurred as charged in each count of the indictment.
- (49) What constitutional law provision, Admiralty, Common, Equity, or Treaty does each crime charged in the indictment originate under?
- (50) Who is the actual living plaintiff and real party in interest in this matter?
- (51) How is the fictitious plaintiff, UNITED STATES OF AMERICA, a victim as claimed in each count of the indictment? Furnish verifiable proof of injury.
- (52) Provide supporting documentation for the exact damages and costs of repairs or rehabilitation expenses actually suffered by the plaintiff.
- (53) Provide the names of all unnamed others known to the Grand Jury but not fully set out and named or identified in the indictment.

**WHEREFORE**, the Defendants', **Elaine A. Brown** and **Edward L. Brown**, Move the Court to **ORDER** the U.S. Attorney prosecutor to provide full and complete answers to the above Bill of Particulars and all information requested therein, to narrow and clarify

the Counts and issues of the indictment clouded with surplusage and poorly set out in the government's bloated and incomprehensible style of writing.

Date June 22, 2006

Prepared and submitted by:

Elaine A. Brown  
Elaine A. Brown  
c/o 401 Center of Town Road  
Plainfield, New Hampshire

Edward L. Brown  
Edward L. Brown  
c/o 401 Center of Town Road  
Plainfield, New Hampshire

### **CERTIFICATE OF SERVICE**

I, **Edward L. Brown**, certify, that I delivered via postage paid First Class U.S. Mail a true and correct copy of the above and foregoing **NOTICE AND MOTION FOR A BILL OF PARTICULARS** to the office of the Clerk of Court U.S. District Court, District of New Hampshire for entry into the record and to **LEAD ATTORNEYS TO BE NOTICED**, Jean B. Weld and William E. Morse in the office of **THOMAS P. COLANTUONO**, the United States Attorney for the District of (NH) located at 53 Pleasant St. 4<sup>th</sup> Flr, Concord, NH 03301-0001.

Date June 22, 2006

Edward L. Brown  
Edward L. Brown