

U.S. DISTRICT COURT
DISTRICT OF N.H.
FILED

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE** P 2: 18

UNITED STATES OF AMERICA)

v.)

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

Criminal No. 1:06-cr-00071-SM

2007 JAN -3 P 2: 18

U.S. DISTRICT COURT
DISTRICT OF N.H.
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MOTION FOR BILL OF PARTICULARS

Elaine A. Brown and Edward L. Brown, husband and wife, Respondents herein, again move the Court for an order pursuant to rule 7(f) of the Federal Rules of Criminal Procedure, directing the government to furnish a written Bill of Particulars with respect to the indictment in this case and all related matters as requested herein to narrow and focus the issues before trial and save the court's time and energy. The purpose of this motion is to avoid injection into trial of matters which are irrelevant, inadmissible and prejudicial and granting of this motion is not a ruling on evidence and therefore cannot be error.

DEMAND FOR BILL OF PARTICULARS

Each of the matters requested herein is absolutely essential to enable the defendants (1) to prepare for trial, (2) prevent surprise at the time of trial, and (3) to interpose a plea of

double jeopardy in the event of a subsequent prosecution for the same offense. The particulars requested are also necessary because the allegations set forth in the indictment are wholly conclusory, vague, overbroad and further, fail to set forth with specificity the time, place and manner it is alleged that the defendant engaged in criminal activity.

It is submitted that each of the items requested herein comes well within the scope of Rule 7(f) particularly in view of the fact that respondents requests particulars of what the government intends to prove, not how it intends to prove those facts; therefore, any argument that the requests are evidentiary in nature is unfounded. Without answers to the request for specifics in this case it is impossible to determine whether any defenses are available.

Rule 7(f) Bill of Particulars:

The court may direct the government to file a bill of particulars. **The defendant may move for a bill of particulars before or within 10 days after arraignment or at a later time if the court permits.** The government may amend a bill of particulars subject to such conditions as justice requires.

The 1966 amendment of Rule 7(f) eliminated the requirement of a showing of cause, thereby encouraging a more liberal attitude by the courts towards bills of particulars. See *United States v. Smith*, 16 F.R.D. 372 (W.D. Mo. 1954); *United States v. Bortnovsky*, 820 F.2d 572 (2d Cir. 1987) (As amended Feb. 28, 1966, eff. July 1, 1966; Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 30, 1979, eff. Aug. 1, 1979; Mar. 9, 1987, eff. Aug. 1, 1987; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 29, 2002, eff. Dec. 1, 2002.)

The Respondents, in the nine months since their arrests, still have not been informed by the government 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 Respondents be fully informed of the crimes they allegedly committed.

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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondent 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 Respondents, as alleged in Counts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, and
 - (b) The Respondents 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 Respondents 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 Respondents 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 Respondents' 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 Respondents' 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 Respondents did business;
 - (c) For each year, the identity of all banks to which the Respondents or one acting on behalf of the Respondents made deposits;
 - (d) For each year, the identity of all persons who made deposits on behalf of the Respondents;
 - (e) For each year, the date, amount, and recipient of each deposit which made up the Respondents' 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 Respondents' 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 Respondents did business;
 - (c) For each year, the identity of all banks to which the Defendants, or one acting on behalf of the Respondents, made deposits;
 - (d) For each year, the identity of all persons who made deposits on behalf of the Respondents;
 - (e) For each year, the date, amount, and recipient of each deposit which made up the Respondents' 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 Respondents' 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 Respondents did business;
 - (c) For each year, the identity of all banks to which the Respondents or one acting on behalf of the Respondents made deposits;
 - (d) For each year, the identity of all persons who made deposits on behalf of the Respondents;
 - (e) For each year, the date, amount, and recipient of each deposit which made up the Respondents' 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 Respondents' 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 Respondents 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 Respondents' 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 Respondents received income;
 - (g) For each year, the source or sources of the Respondents' income;
 - (h) For each year, any percentages or assumption used in reconstructing the Respondents' 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 Respondents 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 Respondents had taxable income in excess of the exempt amount for the prosecution years?
- (19) What specific "tax" do the Respondents stand accused of having evaded?
- (20) Please identify the specific provision or provisions of the tax code or regulation, that that the Respondents 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 Respondents 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 Respondents that they were required to make the respective form that the Respondents 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 Respondents.
- (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 Respondent 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 Respondents' 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 Respondents' 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 Respondents did business;
 - (c) For each year, the identity of all banks to which the Respondents or one acting on behalf of the Respondents made deposits;
 - (d) For each year, the identity of all persons who made deposits on behalf of the Respondents;
 - (e) For each year, the date, amount, and recipient of each deposit which made up the Respondents' 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 Respondents' 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 Respondents did business;
 - (c) For each year, the identity of all banks to which the Respondents, or one acting on behalf of the Respondents, made deposits;
 - (d) For each year, the identity of all persons who made deposits on behalf of the Respondents;
 - (e) For each year, the date, amount, and recipient of each deposit which made up the Respondents' 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 Respondents' 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 Respondents did business;
 - (c) For each year, the identity of all banks to which the Respondents or one acting on behalf of the Respondents made deposits;
 - (d) For each year, the identity of all persons who made deposits on behalf of the Respondents;
 - (e) For each year, the date, amount, and recipient of each deposit which made up the Respondents' 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 Respondents' 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 Respondents 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 or sources of the Respondents' 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 Respondents received income;
 - (g) For each year, the source or sources of the Respondents' income;
 - (h) For each year, any percentages or assumption used in reconstructing the Respondents' 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 Respondents 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 Respondents 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 Respondents 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 Respondents that they were required to make the respective form that the Respondents 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 Respondents 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 respondents 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 protestor
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 Respondents 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

before trial, 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 Jan. 2, 2007

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 Hand Delivery 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. 4th Flr, Concord, NH 03301-0001.

Date January 2, 2007

Edward L. Brown
Edward L. Brown

James R. Starr, Clerk
Clerk's Office
Warren B. Rudman U.S. Courthouse
55 Pleasant Street, Room 110
Concord, NH 03301-3941.

January 3, 2006

Via Certified Mail

Re: 01:06-cr-00071-SM UNITED STATES OF AMERICA v. Elaine Brown; Ed Brown

Received on this date, **MOTION FOR BILL OF PARTICULARS**

Signature

James R. Starr, Clerk
Clerk's Office
Warren B. Rudman U.S. Courthouse
55 Pleasant Street, Room 110
Concord, NH 03301-3941.

December 30, 2006


By Hand

Re: 01:06-cr-00071-SM UNITED STATES OF AMERICA v. Elaine Brown; Ed Brown

Dear Mr. Starr:

Please timely file the enclosed Respondents' motion into the above captioned case file and make a suitable docket entry. I have already mailed a true copy of the enclosed motion to the United States Attorneys office.

With all due respect,


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