

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
No. 08-CR-364 (RHK/AJB)

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**DEFENDANT'S MOTION FOR
BILL OF PARTICULARS**

THOMAS JOSEPH PETTERS,

Defendant.

Defendant Thomas Joseph Petters, by and through his undersigned attorneys, hereby moves the Court for a Bill of Particulars. Fed. R. Crim. P. 7(f).

The purpose of the Bill of Particulars is to inform Mr. Petters of the nature of the charges with sufficient precision to allow him to prepare for trial, to prevent or minimize the element of surprise, and to allow him to plead his conviction or acquittal in bar of another prosecution for the same offense. United States v. Hernandez, 299 F.3d 984, 989-990 (8th Cir. 2002). We request that the Government be ordered to provide the following information:

1. Who were the persons known to the Government who were involved in the alleged conspiracy?
2. What were the respective roles and responsibilities of the persons known to the Government who were involved in the alleged conspiracy?
3. During what period of time did each member of the conspiracy participate in the alleged criminal activity?

4. Who are the alleged victims?
5. What property was allegedly taken from the alleged victims?
6. What is the date, objective, and substantive content of each representation alleged to have been made in furtherance of a scheme to defraud?
7. As to the money laundering counts, under what rationale does the Government allege that the monies at issue are profits and not receipts?
8. What is the Government's calculation of loss vis-à-vis time. When, say, did the alleged loss reach three billion, as opposed to two, as opposed to one, four-hundred million, and so on down the guideline grid?
9. Whether the hedge funds are considered unindicted co-conspirators. And does the Government consider the hedge fund executives agents of their respective clients/investors?
10. Whether the alleged victims, or their agents, were implicitly aware of the alleged scheme, and hence could not be considered victims as a matter of law. See United States v. Brown, 459 F.3d 509, 522-523 (5th Cir. 2006).

Our intent here is not to use a Bill of Particulars for mere discovery. See United States v. Hill, 589 F.2d 1344, 1352 (8th Cir. 1979). Rather, the defense needs to find order in the Government's mishmash, which confuses the righteous with the damned, and demurs Dewey's challenge to find the intersection of the real and ideal, the legitimate as opposed to idealized loss. This Court has always had abundant discretion to grant this kind of motion. United States v. Shepard, 462 F.3d 847, 860 (8th Cir. 2006).

This motion is based upon a plain reading of what, by any standard, is an indefinite indictment.

Dated: February 25, 2009

s/ Jon M. Hopeman

Jon M. Hopeman, MN #47065
Eric J. Riensche, MN #309126
Jessica M. Marsh, MN #388353
Felhaber, Larson, Fenlon & Vogt, P.A.
220 South Sixth Street, Suite 2200
Minneapolis, MN 55402-4504
Telephone: (612) 339-6321

Paul C. Engh, MN #134685
Engh Law Office
220 South Sixth Street, Suite 215
Minneapolis, MN 55402
Telephone: (612) 252-1100

Attorneys for Defendant Thomas J. Petters