

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**DEFENDANT'S MOTION FOR
DISCOVERY AND INSPECTION**

THOMAS JOSEPH PETTERS,

Defendant.

Defendant Thomas Joseph Petters, by and through his undersigned attorneys, hereby moves the Court for an order that the Government produce for inspection and copying the following, which are known to or are in the possession of the Government or any of its agents, or which through due diligence would become known from the investigating officers or witnesses or persons having knowledge of this case. The undersigned brings this motion pursuant to Rule 16, Federal Rules of Criminal Procedure.

The following are hereby requested:

1. Any books, papers, documents, data, photographs, or tangible objects, or copies or portions of any of these items within the Government's possession, custody, or control where: the item is material to preparing the defense; the Government intends to use the item in its case-in-chief at trial; or the item was obtained from or belongs to the defendant.

2. A particularized list of items or other evidence that the Government intends to use in its case-in-chief at trial, no later than sixty days prior to trial.

3. A true, accurate, and complete exhibit list, no later than sixty days prior to trial.

4. A true, accurate, and complete witness list, no later than sixty days prior to trial.

5. The name, substance of opinion, and report of any proposed expert witness, at least sixty days prior to trial.

6. Any oral, written, or recorded statement of any kind, made by or purported to be made by Mr. Petters, either before or after his arrest, whether to Government agents or to third parties, and whether or not the Government intends to introduce such statement at trial.

7. Any and all recordings to which the defendant or any alleged co-conspirator is purported to be a party, including transcripts.

8. Any and all documents, instruments, or forms of any kind signed or purported to have been signed by Mr. Petters or by any alleged co-conspirator.

9. Any search warrants and affidavits in support thereof, arrest warrants and affidavits in support thereof, or other process utilized in the instant case.

10. Any and all documents or records reflecting the criminal record of Mr. Petters.

11. Any and all memoranda, reports, summaries, records or documents reflecting the results of laboratory tests performed, whether or not the Government intends to utilize the results at the time of trial.

12. Any and all books, papers, documents, written statements, accounts, letters, photographs, tapes, or any tangible object or thing that were solicited, obtained or seized by any person or agency from the defendant, any alleged co-conspirator, any co-defendant, or any witness.

13. Any and all evidence in the form of tapes and/or wire recordings or transcriptions of conversations to which Mr. Petters, any alleged co-conspirator, or any other witness was a party, which recordings were obtained as a result of bugging, electronic eavesdropping or wiretapping, including conversations overheard or evidence secured as a result of such conversations.

14. The personnel files of each Government agent witness that would reflect on the credibility of the agent witness or otherwise be favorable to the defense.

15. Any documents, electronic files or the like regarding the regulation or lack thereof of hedge funds in general, and the hedge funds at issue in this case in particular.

16. The names of any governmental employee or official who has provided information about this matter to the news media or to like third parties where public dissemination would be reasonably anticipated.

17. Any exculpatory material (see separate motion) at least sixty days prior to trial, with a continuing duty to search for and disclose such material up to, during, and after trial.

18. Any statements of Government witnesses at least sixty days prior to trial (see separate motion).

This motion shall be deemed continuous under Fed. R. Crim. P. 16(c), and if the Government discovers additional evidence or material previously requested or ordered to be produced which is subject to discovery or inspection, the Government is requested to disclose such additional material immediately upon discovery.

The undersigned submits a memorandum of law in support of this motion, and relies in part of the Declaration of C. Tom Fisher, filed separately.

Dated: February 25, 2009

s/ Jon M. Hopeman

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