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*United States v. Parker*  
10CR757

**Proposed Lodged Document**

**Defendants' Joint Motion for Bill of Particulars**

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11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**

13 **UNITED STATES OF**  
14 **AMERICA,**

15 **Plaintiff,**

16 **v.**

17 **JAMES R. PARKER, and**  
18 **JACQUELINE PARKER**

19 **Defendants.**

20 **Case No. 10-CR-757-ROS-PHX**

21 **DEFENDANTS' JOINT MOTION**  
22 **FOR BILL OF PARTICULARS**

23 COMES NOW the Defendants JAMES PARKER and JACQUELINE  
24 PARKER, by and through counsel Joy M. Bertrand, and hereby moves the  
25 Court pursuant to Federal Rules of Criminal Procedure Rule 7(f) for an  
26 order directing the United States to furnish Defendants with a bill of  
particulars with respect to the matters set forth as follows.

1  
2                   **PROCEDURAL HISTORY AND UNDERLYING FACTS**

3           **I.     The Indictment’s Allegations**

4           James Parker stands charged in Counts One through Eight of an  
5 eight-count indictment. (ECF Doc. 1) His wife, Jacqueline Parker, stands  
6 charged in counts seven and eight of that Indictment. (*Id.*) These counts  
7 allege that Ms. Parker did willfully and knowingly made materially false  
8 statements to the IRS in the Parkers’ 2005 Offer in Compromise and request  
9 for installment agreement.  
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12           Counts One through Four allege that Mr. Parker violated 26 U.S.C. §  
13 7201, evasion of payment of tax. Counts One and Two address tax years  
14 1997 and 1998. Counts Three and Four address Mr. Parker’s tax liability for  
15 2001 and 2002.  
16

17           Counts Five through Eight allege that the defendants submitted false  
18 statements to the IRS in violation of 26 U.S.C. 7206(1). Count Five alleges  
19 that Mr. Parker did willfully and knowingly submit or caused to be  
20 submitted a materially false Offer in Compromise (Form 656), along with  
21 materially false statements contained on IRS Forms 433-A, Collection  
22 Information Statement for Wage Earners and Self-Employed Individuals,  
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1 and IRS Form 433-B to the IRS on or about July 30, 2004. Count Six alleges  
2 that Mr. Parker did willfully and knowingly submitted or caused to be  
3 submitted a materially false Form 656, along with materially false  
4 statements contained on IRS Forms 433-A and 433-B to the IRS on or about  
5 November 16, 2004.  
6

7 Count Seven alleges that both Mr. and Ms. Parker submitted a  
8 materially false Form 656, along with materially false statements contained  
9 on IRS Forms 433-A and 433-B to the IRS on or about April 13, 2005. Count  
10 Eight alleges that both Mr. and Ms. Parker did willfully and knowingly  
11 submit or caused to be submitted to the IRS a materially false Request for  
12 Installment Agreement, along with materially false statements on IRS  
13 Forms 433-A and 433-B on or about August 5, 2005.  
14  
15

## 16 **II. The Status of Discovery**

17 On September 7, 2010, the parties submitted to the Court their joint,  
18 revised proposed scheduling order in this case. (ECF Doc. 38) That order  
19 addressed, *inter alia*, when the parties would exchange discovery. (*Id.* at 1)  
20 Specifically, the order provided that the Government would turn over its  
21 Jencks materials by October 8, 2010. (*Id.*) The Court accepted and signed  
22 this scheduling order on September 13, 2010.  
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1 On November 1, 2010, the Government stated to defense counsel that  
2 it will only turn over the grand jury testimony, pursuant to the Jencks Act,  
3 “when we [the Government] have determined a witness who appeared  
4 before the grand jury is to be used in the Government’s case at trial.” The  
5 Government’s position that, in essence, its Jencks materials are to be  
6 dolled-out on an as-needed basis. According to the Government, that need  
7 is to be determined by the Government.  
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10 The Government’s position directly contradicts the order that it  
11 initially proposed. The Government agreed to turn over these materials by  
12 October 8, 2010. Therefore, according to its own proposed order, the  
13 Government should have determined what witnesses will be called at trial  
14 well before October 8, 2010, so that it could timely produce these materials.  
15 As discussed further below, the Government’s resistance to releasing these  
16 materials provides direct support for the Defendants’ Motion for a Bill of  
17 Particulars.  
18  
19

## 20 ARGUMENT

21  
22 Defendants seek an order that requires the United States to furnish  
23 Defendants with a bill of particulars with respect to the matters set forth  
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1 below. These responses will minimize danger of surprise at trial, aid in  
2 preparation of their defenses, and to protect against double jeopardy.

3 A. *Burden of Proof and Standard of Review*

4 Although Rule 7 of the Federal Rules of Criminal Procedure states  
5 that the defendant may move for a bill of particulars before or within  
6 fourteen days after arraignment, a defendant may also do so at a later time  
7 if the court permits. Fed. R. Crim. Proc., Rule 7(f). This Motion for a Bill of  
8 Particulars falls well within the pretrial motions deadline the court has set  
9 for this case. (ECF Doc. 39)

10 The Sixth Amendment provides, "In all criminal prosecutions, the  
11 accused shall enjoy the right ... to be informed of the nature and cause of  
12 the accusation...." The Sixth Amendment guarantees a criminal defendant  
13 a fundamental right to be clearly informed of the nature and cause of the  
14 charges in order to permit adequate preparation of a defense. *See e.g.*  
15 *Sheppard v. Rees*, 909 F.2d 1234 (9<sup>th</sup> Cir. 1990); *Cole v. Arkansas*, 333 U.S.  
16 196,(1948); *Gray v. Raines*, 662 F.2d 569, 571 (9<sup>th</sup> Cir. 1981).

17 A bill of particulars is appropriate where a defendant requires  
18 clarification to prepare a defense. *United States v. Long*, 706 F.2d 1044, 1054  
19 (9<sup>th</sup> Cir.1983) (citing *Will v. United States*, 389 U.S. 90, 99 (1967); *United*  
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1 *States v. Clay*, 476 F.2d 1211, 1215 (9<sup>th</sup> Cir.1973).). A bill of particulars  
2 apprises a defendant of the charges in sufficient detail to minimize surprise  
3 at trial, assist the defendant in preparation of his or her defense, and  
4 protect against double jeopardy. *United States v. Burt*, 765 F.2d 1364, 1367  
5 (9<sup>th</sup> Cir.1985); *United States v. Long*, 706 F.2d 1044, 1054 (9<sup>th</sup> Cir.1983). “[It]  
6 is intended to supplement the indictment by providing more detail of the  
7 facts upon which the charges are based. *United States v. Inryco, Inc.*, 642  
8 F.2d 290 (C.A. Cal., 1981). Furthermore, the defendant is entitled to know  
9 the theory of the government’s case. *See e.g. United States v. Giese*, 597 F.2d  
10 1170, 1180 (9<sup>th</sup> Cir.), *cert. denied*, 444 U.S. 979 (1979); *Yeargain v. United*  
11 *States*, 314 F. 2d 881, 882 (1963); *Remmer v. United States*, 205 F.2d 277, 281  
12 (9<sup>th</sup> Cir. 1953); *United States v. Caserta*, 199 F.2d 905 (3<sup>rd</sup> Cir. 1952)

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16 In determining if a bill of particulars should be ordered in a specific  
17 case, a court should consider whether tor not he defendant has been  
18 advised adequately of the charges through the indictment and all other  
19 disclosures made by the government. *Giese*, 597 F.2d at 1180 (1979). The  
20 scope and specificity of a bill of particulars rests within the sound  
21 discretion of the trial court. *United States v. Long*, 706 F.2d 1044, 1054 (9<sup>th</sup>  
22 Cir. 1983)  
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1 The Ninth Circuit noted in *Long* that full discovery will obviate the  
2 need for a bill of particulars where the defendant has been advised  
3 adequately of the charges through the indictment and other disclosures  
4 made by the government. *Id.* (citing *United States v. Clay*, 476 F.2d 1211,  
5 1215 (9<sup>th</sup> Cir. 1973); *United States v. Giese*, 597 F.2d 1170, 1180 (9<sup>th</sup> Cir.), *cert.*  
6 *denied*, 444 U.S. 979 (1979)). As *Giese* further explains, “To the extent that  
7 the indictment or information itself provides details of the alleged offense,  
8 a bill of particulars is, of course, unnecessary.” 597 F.2d 1170, 1180 (9<sup>th</sup>  
9 Cir.), *cert. denied*, 444 U.S. 979 (1979) (citing 8 Moore’s Federal Practice P  
10 7.06(1) at 7-31 n.1 (2d.ed. 1978)). In *Giese*, the defendant was provided with  
11 “a large volume of information, including physical evidence offered at trial,  
12 grand jury testimony, and memoranda, which revealed the government’s  
13 theory of the case.” *Id.*

14 Due to the difficulty of preparing a defense in a tax fraud  
15 prosecution, motions for bills of particulars in tax cases are treated with  
16 liberality. *United States v. O’Connor*, 237 F. 2d 466 (2<sup>nd</sup> Cir. 1956); *United*  
17 *States v. Geller*, 163 F.Supp. 502 (DC NY 1958); *United States v Anderson*, 254  
18 F Supp 177 (D.C. Ark 1966); *United States v. Rosenfeld*, 264 F.Supp. 760 (D.C.  
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1 Ill 1967); *United States v. Jaskiewicz*, 278 F Supp 525 (D.C. Pa 1968); *United*  
2 *States v. Eissner*, 206 F.Supp. 103 (DCNY, 1962).

3 This case can be distinguished from those discussed above, where  
4 disclosure obviated the need for a bill of particulars, for four reasons:  
5

- 6 • First, that the indictment fails to state with particularity the  
7 information requested;
- 8 • Second, the Indictment's allegations are vague, ambiguous, and  
9 uninformative and the information is within the particular  
10 knowledge of the United States Attorney.
- 11 • Third, all the information is essential and necessary to enable  
12 the Parkers to adequately prepare for and to avoid prejudicial  
13 surprise at trial; and
- 14 • Fourth, the information is also necessary to protect Defendant  
15 James and Jacqueline Parker against a second prosecution for  
16 the same offense.

16 *B. Because the Government is not Following an "Open File" Policy in this*  
17 *Case, and, Indeed, is Actively Resisting the Release of Discovery it Previously*  
18 *Agreed to Disclose, the a Bill of Particulars is Necessary.*

19 Generally, the need for a bill of particulars may be cured through  
20 disclosure. Here, however, the Government now actively resists the same  
21 discovery obligations to which it originally committed itself. The  
22 Government also resists the release of its lead agent's notes, which might  
23 also clarify the ambiguity regarding the alleged conduct in the Indictment  
24 regarding that the Government believes constitutes fraud.  
25  
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1 C. *The Bill of Particulars is Necessary in this Case to Distill the Government's*  
2 *Proof and the Government's Theory of Criminal Liability – Issues that are not*  
3 *Readily Apparent from the Indictment and the Discovery.*

4 Counts One through Four of the Indictment charge Mr. Parker with  
5 tax evasion in violation of 26 U.S.C. § 7201. The Supreme Court has stated  
6 that there are three elements to the offense described by § 7201:

- 7 1) willfulness;
- 8 2) the existence of a tax deficiency; and
- 9 3) an affirmative act constituting an evasion or attempted evasion of  
10 the tax.

11  
12 *Sansone v. United States*, 380 U.S. 343, 351 (1965); *see also United States v.*  
13 *Carlson*, 235 F.3d 466, 468 (9<sup>th</sup> Cir.2000).

14 As to the element of willfulness, the Supreme Court has defined  
15 “willfulness” as the “voluntary, intentional violation of a known legal  
16 duty.” *United States v. Bishop*, 412 U.S. 346, 360 (1973). The Court explained  
17 that the term “willfully,” as used in the Tax Code, creates a statutory  
18 exception to the traditional rule that all people are presumed to know the  
19 law. *Cheek v. United States*, 498 U.S. 192, 199-200 (1991). The Court  
20 explained that, although every person is generally presumed to know the  
21 law, the complexity and intricacy of the tax laws led Congress to create an  
22 exception to that rule. *Id.* at 200. Part of the government’s burden in a tax  
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1 evasion case is to prove beyond a reasonable doubt that defendant knew of  
2 his legal duty under the tax laws. *See id.* at 199-200.

3 This burden never shifts to the Defendant and can only be shown by  
4 direct evidence of his knowledge of the statute(s). *United States v. Alt*, 996  
5 F.2d 827 (6<sup>th</sup> Cir. 1993). The Supreme Court has held, “In certain cases  
6 involving willful violations of the tax laws, we have concluded that the  
7 jury must find that the Defendant was aware of the *specific provision of*  
8 *the tax code* that he is charged with violating.” *Bryan v. United States*, 524  
9 U.S. 184, 200 (1998), citing *Cheek*, 498 U.S. at 201.

10 The “affirmative act” element distinguishes felony tax evasion from  
11 the misdemeanor offenses proscribed by 26 U.S.C. § 7203. *United States v.*  
12 *Carlson*, 235 F.3d 466, 468 (9<sup>th</sup> Cir. 2000). Furthermore, the affirmative act  
13 must generally serve the purpose of evasion. *Spies v. United States*, 317 U.S.  
14 492, 499 (1943). The defendant is entitled to a charge that expands the  
15 government’s theory explaining the necessity of charging the defendant  
16 with a violation of § 7201, a felony, as opposed to a violation of § 7203, a  
17 misdemeanor. *Id.* Thus, the Government must also indicate its theory  
18 regarding the tax-evasive motive behind the affirmative act alleged.  
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1 Both Mr. and Ms. Parker are charged with making false statements in  
2 violation of 26 U.S.C. § 7206(1) in Counts Five through Eight of the  
3 Indictment. The elements of a violation of 26 U.S.C. § 7206(1) are:

- 4 (1) the defendant made and subscribed a return, statement, or other  
5 document that was incorrect as to a material matter;
- 6 (2) the return, statement, or other document subscribed by the  
7 defendant contained a written declaration that it was made under  
8 the penalties of perjury;
- 9 (3) the defendant did not believe the return, statement, or other  
10 document to be true and correct as to every material matter; and
- 11 (4) the defendant falsely subscribed to the return, statement, or other  
12 document willfully, with the specific intent to violate the law.

13 *United States v. Scholl*, 166 F.3d 964 (9<sup>th</sup> Cir. 1999).

14 In the present case, the Indictment's allegations are unclear about  
15 what, exactly constitutes fraudulent conduct. Additionally, the Indictment  
16 fails to explain how the Parker's conduct demonstrates their voluntary and  
17 willful of federal tax law. Rather, the indictment makes sweeping  
18 generalizations about "straw buyers" and "nominee entities," with no  
19 indication about how the use of such actors constitutes fraudulent conduct.  
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**Specific Demands for Particulars**

A. *Statements Material to Indictment Incorporated into Counts 1-8*  
(paragraphs 1-20)

B.

C. 1. What analysis was performed in regards to the IRS audit performed on the Defendants for tax years 1997 and 1998?

a. Who did the analysis?

b. What documentation was used?

2. What analysis was performed in regards to the IRS audit performed on the Defendants for tax years 1999 and 2000?

a. Who did the analysis?

b. What documentation was used?

3. Was an audit performed on the Defendants for the years of 2001 and 2002?

a. If so, what analysis was performed in regards to the IRS audit performed on the defendants in 1999 and 2000?

b. Who did the analysis?

c. What documentation was used?

- 1 4. What document(s) or witness(es) will demonstrate that Mr.  
2 Parker “hid” the Defendants’ assets and income sources in order  
3 to evade the payment of taxes to the IRS as early as 2002?  
4
- 5 5. Regarding “as early as 2002,” when, precisely, does the  
6 Government assert that the Mr. Parker “hid” their assets and  
7 income sources.  
8
- 9 6. Identify what statute or regulation prevented Mr. Parker from  
10 transferring the ownership of the Carefree residence from a trust  
11 to Sunlight Financial, LLP.  
12
- 13 7. What document(s) or witness(es) demonstrate that the Carefree  
14 residence was worth approximately \$1.5 million?  
15
- 16 8. What document(s) or witness(es) demonstrate that this Carefree  
17 residence was transferred “without consideration?”  
18
- 19 9. Define a “nominee entity,” as referenced in the Indictment.  
20
- 21 10. Identify what statute makes it illegal to use a nominee entity.
  - 22 a. What document(s) or witness(es) demonstrate that  
23 Sunlight Financial, LLP was a “nominee entity”?  
24
  - 25 b. What document(s) or witness(es) demonstrate that  
26 Cimarron, LLC was a “nominee entity”?

1 c. What document(s) or witness(es) demonstrate that  
2 RSJ Investments, LLC was a “nominee entity”?

3 d. Describe how use of a “nominee entity” is illegal in  
4 these specific instances.  
5

6 11. What document(s) or witness(es) demonstrate that Mr. and Ms.  
7 Parker maintained sole use and control over the Carefree  
8 residence before and after the transfer to Sunlight Financial, LLP?  
9

10 a. Describe how maintaining sole use or control over  
11 the Carefree residence before and after the transfer to  
12 Sunlight Financial, LLP is illegal or indicative of  
13 illegal activity.  
14

15 12. Define what constitutes a “luxury home,” as referenced in the  
16 indictment? (ECF Doc. 1 at 3)  
17

18 a. What document(s) or witness(es) demonstrate that the  
19 Carefree residence was a “luxury home”?  
20

21 b. Please describe how use of a “luxury home” is illegal  
22 or is indicative of illegal activity.  
23  
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1 13. What document(s) or witness(es) demonstrate that Mr. Parker  
2 invested more than \$1.2 million in a startup cattle operation  
3 between 2004 and 2007?

4 a. Specify the date(s) of the transaction(s) to which the  
5 Indictment refers.  
6

7 b. Specify the source(s) of the investment(s) to which the  
8 Indictment refers.  
9

10 c. Specify the manner of payment of the investment(s) to  
11 which the Indictment refers.  
12

13 14. Please describe how this investment into a startup cattle operation  
14 is illegal or indicative of illegal activity.

15 15. What document(s) or witness(es) demonstrate that Mr. Parker  
16 was the true owner of Cimarron, LLC?  
17

18 16. Define "straw buyer," as discussed in the indictment.

19 a. Describe how use of "straw buyer" is illegal or  
20 indicative of illegal activity.  
21

22 17. Describe how purchasing a Rolls Royce is illegal or indicative of  
23 illegal activity.  
24  
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26



- 1 18. What document(s) or witness(es) demonstrate that the Rolls  
2 Royce was purchased for personal use?
- 3 19. What document(s) or witness(es) demonstrate that Mr. Parker  
4 attempted to hide his true ownership of Cimarron, LLC.  
5
- 6 20. What document(s) or witness(es) demonstrate that Mr. Parker  
7 encumbered the Carefree residence with a \$1.5 million mortgage  
8 on or about August 2005.  
9
- 10 a. Specify the date(s) of the transaction(s).  
11 b. What document(s) or witness(es) demonstrate that  
12 this action was done in order to place his assets  
13 beyond the reach of the Government?  
14
- 15 21. Please describe how Mackinnon Belize Land and Development  
16 Limited's sale of 597 acres of land in Belize is illegal or indicative  
17 of illegal activity.  
18
- 19 a. Specify the buyer(s) of this land.  
20 b. Specify the date(s) of the transaction(s).  
21
- 22 22. Please describe how the deposit of sale proceeds from the sale of  
23 land from Belize in an account at Belize Bank is illegal or  
24 indicative of illegal activity.  
25  
26

1 23. What document(s) or witness(es) demonstrate that the sales  
2 proceeds were deposited into an account at Belize Bank at the  
3 direction of Mr. Parker?  
4

5 24. What document(s) or witness(es) demonstrate that the wire  
6 transfers specified on page 4, lines 5-16 of the indictment were for  
7 Mr. Parker's benefit.  
8

9 a. Please describe how each of these wire transfers is  
10 illegal or indicative of illegal activity.  
11

12 25. Please indicate how the establishment of Resorts Consulting  
13 Quorum, LLP bank account is illegal or indicative of illegal  
14 activity.  
15

16 a. Who established the bank account?  
17

18 b. What was the date that the bank account was  
19 established?  
20

21 c. What document(s) or witness(es) demonstrate that the  
22 only authorized signore on the account was an  
23 individual associated with a Phoenix, Arizona law  
24 firm  
25

26 d. What is the name of this individual?

1 e. Please indicate why the existence of only one  
2 authorized signor for the bank account was illegal or  
3 indicative of illegal activity.  
4

5 26. What document(s) or witness(es) demonstrate that payments  
6 were made from the Resorts Consulting Quorum, LLP account to  
7 Omega Construction Company.  
8

- 9 a. Specify the date(s) of the transaction(s).  
10 b. Specify the source(s) of the payment(s).  
11 c. Specify the manner of payment(s).  
12 d. Please indicate how the payments Resorts Consulting  
13 Quorum, LLP made to Omega Construction Company  
14 are illegal or indicative of illegal activity.  
15

16 27. What document(s) or witness(es) demonstrate that payments  
17 totaling \$152,000.00 were made from the Resorts Consulting  
18 Quorum, LLP account to the mortgage on the Carefree property?  
19

- 20 a. Specify the date(s) of the transaction(s).  
21 b. Specify the source(s) of the payment(s).  
22 c. Specify the manner of payment(s).  
23  
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1 d. Please indicate how these payments are illegal or  
2 indicative of illegal activity.

3 28. What document(s) or witness(es) demonstrate that Mr. Parker  
4 submitted and signed an Offer in Compromise and  
5 accompanying forms and documents *falsely* on or about July 30,  
6 2004?  
7

8 a. What document(s) and witness(es) demonstrate that  
9 these documents *falsely* claimed the defendants had  
10 neither the income nor the assets to the pay the IRS?  
11

12 b. What document(s) and witness(es) demonstrate that  
13 these documents *falsely* claimed that they were  
14 borrowing \$130,000 from friends and a bank?  
15

16 29. What document(s) or witness(es) demonstrate that Mr. Parker  
17 again submitted and signed an Offer in Compromise and  
18 accompanying forms and documents *falsely* on or about  
19 November 16, 2004?  
20

21 a. What document(s) and witness(es) demonstrate that  
22 these documents *falsely* claimed the defendants had  
23 neither the income nor the assets to the pay the IRS?  
24  
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1                   b. What document(s) and witness(es) demonstrate that  
2                   these documents *falsely* claimed that they were  
3                   borrowing \$130,000 from friends and a bank?  
4

5           30. What document(s) or witness(es) demonstrate that Mr. Parker  
6           again submitted and signed an Offer in Compromise and  
7           accompanying forms and documents *falsely* on or about April 13,  
8           2005?  
9

10                   a. What document(s) and witness(es) demonstrate that  
11                   these documents *falsely* claimed the defendants had  
12                   neither the income nor the assets to the pay the IRS?  
13

14                   b. What document(s) and witness(es) demonstrate that  
15                   these documents *falsely* claimed that they were  
16                   borrowing \$130,000 from friends and a bank?  
17

18           31. What document(s) or witness(es) demonstrate that Mr. Parker  
19           again submitted a set of financial statements *falsely* on or about  
20           August 5, 2005?  
21

22           32. What document(s) or witness(es) support the increase in tax  
23           liability from \$1.7 M to \$2.7M from April 13, 2005 to August 5,  
24           2005?  
25  
26

1 33. What document(s) or witness(es) demonstrate that the net worth  
2 which the Parkers claim from July 2004 through August 2005 are  
3 misrepresentations.  
4

5 **B. COUNTS 1-4**

- 6 1. As to Counts 1-4, what statements of the Defendants, whether written  
7 or oral, does the government intend to introduce?  
8
- 9 2. As to Counts 1-4, what tangible items are within the possession,  
10 custody, or control of the government that are material to the  
11 preparation of the defense or are intended to be used by the  
12 government as evidence at the trial?  
13
- 14 3. As to Counts 1-4, what are the results of any examinations or tests  
15 made in connection with the prosecution?  
16
- 17 4. Does the Government intend to rely upon the net worth increase-  
18 expenditure theory?  
19 a. If such theory will be applied, set forth the approximate  
20 opening and closing net worth for the years covered in the  
21 indictment.  
22
- 23 5. Does the Government intend to rely upon specific entries or  
24 identified omissions on income tax returns involved?  
25  
26

- 1 a. Set forth any claimed fraudulent basic entries on returns and,  
2 with respect to any omissions claims, which have been made,  
3 the general nature of source of income which government will  
4 claim has not been reported.  
5
- 6 b. What specific document(s) or witness(es) show that the  
7 Parker's had actual knowledge of their legal duties under the  
8 tax laws.  
9
- 10 c. What specific provision of the tax code does the Government  
11 believe the Parker's knew.  
12
- 13 d. Identify the document(s) or witness(es) that will demonstrate  
14 that the Parkers voluntarily and intentionally violated that  
15 duty?  
16
- 17 6. As to Counts 1-4, what document(s) or witness(es) will demonstrate  
18 that Mr. Parker had actual knowledge of 26 U.S.C. § 7201?  
19
- 20 7. As to Counts 1- 4, under the element of "willfulness," what evidence  
21 demonstrates Mr. Parker was aware of section 7201, as well as the  
22 judicially-created elements under section 7201?  
23
- 24 8. What evidence showed that Mr. Parker was aware of 26 U.S.C. § 7201  
25 before August 2002?  
26

1 9. It is well-settled that a tax evasion charge can be either evasion of the  
2 assessment or evasion of the payment. Which is the charge in this  
3 case?

4  
5 a. If the charge is evasion of the payment, when was an  
6 assessment done?

7 i. Who did the assessment?

8 ii. What documentation was used to make the assessment?

9  
10 b. If the charge is evasion of the assessment, what steps did the  
11 IRS take to make an assessment?

12  
13 **C. COUNTS 5- 8**

14 1. As to Counts 5-8, what are the specific amounts of omitted income?

15 a. What are the sources of this omitted income?

16 b. What are the dates of receipt of the omitted income?

17 c. What is the manner of payment of the omitted income?

18  
19 2. As to Counts 5-8, please provide a general itemization of the  
20 fraudulent entries or fraudulent omissions on all documents for the  
21 years in question for which the government intends to pursue  
22 prosecution.

23  
24 a. Specifically identify the fraudulent entries alleged.  
25  
26



1 b. Provide a general itemization of the omissions alleged.

2 c. What document(s) or witness(es) will demonstrate that the Mr.  
3 and Ms. Parker willfully and knowingly submitted or caused to  
4 be submitted these fraudulent entries or fraudulent omissions?  
5

6 3. What document(s) or witness(es) demonstrate that Mr. and Ms.  
7 Parker had actual knowledge of 26 U.S.C. § 7206 (1)?  
8

9 4. What document(s) or witness(es) demonstrate that Mr. and Ms.  
10 Parker falsely claimed that they were unable to fully pay their tax  
11 liability in the documents referred to in Counts 5-8?  
12

13 5. What document(s) or witness(es) demonstrate that Mr. and Ms.  
14 Parker understated assets and income in the documents referred to in  
15 Counts 5-8?  
16

17 a. Specify what assets and income were understated.

18 6. What document(s) or witness(es) demonstrate that Mr. and Ms.  
19 Parker misstated the source of funds to be used to make the  
20 compromise payments referred to in Counts 5-8?  
21

22 7. Define when, exactly, the Government alleges that Mr. and/or Ms.  
23 Parker submitted the documents set forth in Counts Five through  
24 Eight.  
25  
26

1 8. Declare whether or not Attorney Gregory Robinson was a co-  
2 conspirator with the Parkers.

3 **CONCLUSION**

4 For the foregoing reasons, the Defendants ask this Court to grant the  
5  
6 above Motion for Bill of Particulars.

7 RESPECTFULLY SUBMITTED this 23<sup>nd</sup> day of December, 2010.

8  
9 By: s/Joy Bertrand  
10 Joy Bertrand  
11 Attorney for Defendant Jacqueline Parker

12 s/Rain Minns  
13 Attorney for Defendant James Parker

14 s/John McBee  
15 Attorney for Defendant James Parker  
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CERTIFICATE OF SERVICE

On December 23, 2010, I, Joy Bertrand, attorney for the Defendant, Jacqueline Parker, filed the Defendants' Joint Motion for Bill of Particulars with the Arizona District Court's electronic filing system. Based on my training and experience with electronic filing in the federal courts, it is my understanding that a copy of this request will be electronically served upon opposing counsel, Peter Sexton, upon its submission to the Court.

Respectfully submitted this 22<sup>nd</sup> day of December, 2010.

s/Joy Bertrand  
Joy Bertrand  
Attorney for Defendant