

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

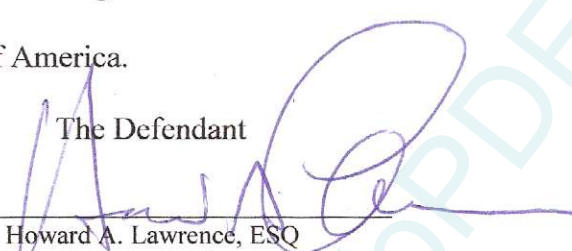
UNITED STATES OF AMERICA : UNITED STATES DISTRICT COURT
V. :
 : Case No. 10CR93 (AWT)
DAVID AVIGDOR, ET ALS : November 15, 2010

Motion For Bill of Particulars

David Avigdor, by his attorney, Howard A. Lawrence, respectfully moves this court, pursuant to Federal Rule of Criminal Procedure 7 (f), to direct the government to supply the following particulars in reference to the superseding indictment filed in the above captioned case:

- 1.) With respect to count one, the date of the earliest statement or event upon which the government will rely to prove that a conspiracy existed.
- 2.) With respect to count one the nature of any and all statements and / or events other than those already contained in the indictment upon which the government intends to rely to prove a conspiracy existed.
- 3.) With respect to count one the date and nature of the earliest statement and / or event upon which the government will rely to establish when each defendant joined the alleged conspiracy.
- 4.) With respect to count one the date and nature of the earliest statement and / or event upon which the government will rely to establish when David Avigdor joined the alleged conspiracy.

5.) With respect to count one identify with specificity which acts or omissions were committed by David Avigdor which constitute materially false statements on a HUD-1 or specific acts by Mr. Avigdor that constitute a violation of the criminal laws of the United States of America.

The Defendant
By: 
Howard A. Lawrence, ESQ
181 Edwards Street
New Haven, CT 06511
Phone: 203-772-1470
Fax: 203-789-1986

ORDER

The foregoing Motion For Bill of Particulars having been heard and it appearing that same should be granted, it is hereby

ORDERED:
GRANTED /DENIED

THE COURT (J.)

BY _____

Produced with ScanTopDF

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA : UNITED STATES DISTRICT COURT
: :
V. : Case No. 10CR93 (AWT)
DAVID AVIGDOR, ET ALS : November 15, 2010

Memorandum in Support of Motion for Bill of Particulars

Federal Rule of Criminal Procedure 7 (f) provides that the Court may direct the filing of a bill of particulars upon motion of a defendant. The purpose of a bill of particulars is to apprise the defendant of the nature of the charges in such a way so as to insure that the Defendant 1.) understands the charges, 2.) can prepare a defense, 3.) can avoid prejudicial surprise at trial and 4.) can be protected against retrial for the same offense. United States v. Butler 822 F.2d 1191 D.C. Cir 1987. See for example United States v. Ramirez 602 F. Supp 783 S.D.N.Y 1985. The determination as to whether a bill of particulars should be provided is within the discretion of the trial court. United States v. Butler 822 F.2d 1194.

In the instant case David Avigdor is charged in a superseding indictment with conspiracy to defraud a federally insured lending institution, and false statement in the preparation of a HUD-1 in the closing of a number of real estate transactions. Count one fails to state any of the overt acts to support the governments charge that a conspiracy existed at all, or that David Avigdor was a participant in the conspiracy at all.

More importantly, the government alleges false statement in the preparation of HUD-1 forms. The government does not adequately inform the Defendant which material acts or omissions constitute the crime of false statement. The information sought by this Motion for Bill of Particulars is absolutely necessary to permit Mr. Avigdor to adequately prepare a defense to the charges contained in the indictment.

The Defendant

By:

Howard A. Lawrence, ESQ

Produced with ScanTOPDF