

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**UNITED STATES OF AMERICA**

**Plaintiff**

**V.**

**Richard M. Simkanin**

**Accused**

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**CASE No. 4:03-CR-188**

**MOTION FOR A BILL OF PARTICULARS**

NOW COMES Richard M. Simkanin, hereafter referred to as “Accused”, by and thru his attorney of record, demands a written "Bill of Particulars" pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure (see Exhibit P) setting out in specific detail the information which is absolutely required to insure that the due process rights of the Accused were not violated prior to his indictment or arraignment and to prepare for trial.

Specifically, Accused requests that Plaintiff be ordered to provide him with the following information in said Bill of Particulars:

**COUNTS ONE THROUGH TWELVE**

1. Please describe precisely where, within the Northern District of Texas and the internal revenue district, the Accused was located, who was the “person required” to collect, account for, and pay over any tax imposed by Title 26, United States Code (“U.S.C.”), section 7202.
2. The exact section from the Statutes at Large with which the Accused is charged with having violated, relating to 26 U.S.C. § 7202.
3. Please describe with particularity the Administrative Procedures relied upon to support a 26 U.S.C. § 7202 charge.

4. Please provide the required original or a true copy of the Administrative Procedures documentation used to support a 26 U.S.C. § 7202 charge including:
  - a. Form(s) 813 and/or 813B, Document Register – a sample is attached as Exhibit A
  - b. Form 3449, Referral Report – a sample is attached as Exhibit B
  - c. Form 4318, Examination Work papers – a sample is attached as Exhibit C
  - d. Form 5345, Examination Request Master File – as referenced in Exhibit D
  - e. Form 9984, Examining Officer’s Activity Record – a sample is attached as Exhibit E
  - f. Form 3198, Special Handling Notice – a sample is attached as Exhibit F
  - g. Form 5344, Examination Closing Record – as referenced in Exhibit G
  - h. Form 2797, Fraud Investigation – a sample is attached as Exhibit H
  - i. Form 4930, Special Agent Write Up – a sample is attached as Exhibit I
  - j. Form 4135, Criminal Investigation Report – a sample is attached as Exhibit J
  
5. Please provide the required original or a true copy of the mandatory documentation used to support an indictment for a 26 U.S.C. § 7202 charge including:
  - a. Form 9131, Grand Jury Authorization – a sample is attached as Exhibit K
  - b. The final responses to outstanding Freedom of Information Act (FOIA) requests sought administratively in June 2001 (see Exhibit L).
  - c. Section 6-4.120 Grand Jury Investigations, of the Criminal Tax Manual – a copy of the section is attached as Exhibit M.

6. Please describe with particularity the overt acts committed by the Accused to support a 26 U.S.C. § 7202 charge, which the plaintiff will rely at trial, including:
  - a. Business Master File (BMF)
7. Please describe, with particularity, the essential elements involved for Plaintiff to support a 26 U.S.C. § 7202 conviction.
8. Please state, with particularity, what “internal revenue laws” were violated by Accused to cause the violation of 26 U.S.C. § 7202.
9. Please describe, with particularity, the exclusive federal legislative jurisdiction providing Plaintiff with the delegated authority to prosecute Accused with violation of 26 U.S.C. § 7202.
10. Please describe, with particularity, the nature of 26 U.S.C. § 7202.

#### COUNTS THIRTEEN THROUGH TWENTY

11. Please describe with particularity within the Northern District of Texas and the internal revenue district, wherein the Accused knowingly made false, fictitious, or fraudulent claim upon or against the United States, or any department or agency thereof under Title 18 U.S.C. § 287.
12. Please provide documentation that shows the Internal Revenue Service is not a department or agency of the United States, to include the following:
  - a. Title 31 U.S.C. Chapter 3, Subchapter I – attached as Exhibit N
  - b. Diversified Metal Products, Inc. v. T-BOW Company Trust, Internal Revenue Service, and Steve Morgan (Civil No. 93-405-E-EJL, United States District Court for the District of Idaho) – Copy attached hereto as Exhibit O

## CONCLUSION

The Indictment contains the very form of generalized charges against which a Bill of Particulars is designed to protect. Without further particularization, the Accused will not be able to fully exercise his Sixth Amendment Right.

The Indictment lacks a Jurisdictional Statement and the particular taxing statute and implementing regulations that were violated for each count of the Indictment.

For the reasons stated above, this court is respectfully requested to grant this motion for a Bill of Particulars in order to avoid a violation of the Accused's Substantive and Due Process Rights.

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