**MOTION FOR BILL OF PARTICULARS**

The indictment charges Mr. CLIENT with two counts of [possessing a firearm as a prohibited person (i.e., as a felon and as an alien) and with importing a firearm.] Because the indictment does not sufficiently inform Mr. CLIENT of the charges against him, he respectfully requests that this Court order the Government to file a bill of particulars.

A bill of particulars is warranted where it will enable adequate preparation of the defense and prevent surprise at trial. United States v. Giese, 597 F.2d 1170, 1180-81 (9th Cir. 1979). It provides a defendant with the details of the charges necessary to present a defense, to avoid prejudicial surprise at trial, and to protect against a second prosecution based on the same facts. See United States v. Long, 706 F.2d 1044, 1054 (9th Cir. 1983) (a bill of particulars “is designed to apprise the defendant of the specific charges being presented to minimize danger of surprise at trial, to aid in preparation and to protect against double jeopardy.”); United States v. Cecil, 608 F.2d 1294, 1296 (9th Cir. 1979) (noting also that a bill of particulars ensures that the defendant is tried on the basis of facts presented to a grand jury).

Mr. CLIENT has rights under the Fifth and Sixth Amendments and Fed. R. Crim. P. 7(f) to notice of the charges against him and to a fair trial with an opportunity to defend himself against the charges. In addition, a bill of particulars guarantees a defendant's Fifth Amendment right to be tried on a charge found by a Grand Jury, as a defendant is entitled to know the Government’s theory as to a particular count. See Yeargain v. United States, 314 F.2d 881, 882 (9th Cir. 1963).

Here, the indictment does not specify how the alleged [possession of a firearm “affected” interstate commerce (counts two and four)]. Moreover, it is not clear how or why the Government believes that Mr. CLIENT [imported the firearm, particularly on the date alleged in the indictment.][[1]](#footnote-1)1 Accordingly, Mr. CLIENT requests disclosure of the following particulars:

[fill in]

**A. Counts Two and Four: 18 U.S.C. § 922(g)**

[(1) State with as much particularity as possible in what ways the alleged gun possession affected interstate commerce either directly or indirectly.

(2) State with as much particularity as possible the date(s) on which the alleged gun possession was in interstate commerce.]

**B. Count Three: 18 U.S.C. § 922(l)**

[(1) State with as much particularity as possible how the firearm was unauthorized by 18 U.S.C. § 925(d).]

1. 1 The discovery does not make the basis for the charge clear. In fact, according to the discovery, there is no basis for this charge. [↑](#footnote-ref-1)