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**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,)	CR. No. S-04-435 WBS
)	
Plaintiff,)	
)	
vs.)	
)	
JOSEPH BANISTER, et al.,)	
)	
Defendants.)	
_____)

**DEFENDANT BANISTER’S MOTION TO DISMISS THE
INDICTMENT FOR LACK OF SUFFICIENCY**

COMES NOW Defendant Joseph Banister (hereinafter “Banister”), by and through his undersigned attorney of record, and moves this Court pursuant to Rule 12(b)(2) of the Federal Rules of Criminal Procedure, for an Order dismissing Counts One, Five, Six and Seven for failing to state an offense, and further because Count One fails to inform Banister of the crime charged with sufficient clarity to allow him to adequately defend against the charges, and is duplicitous. The motion will be based upon the indictment and the memorandum of points and

authorities in support of the motion filed concurrently herewith.

Dated: May 19, 2005.

The Law Office of Robert G. Bernhoft, S.C.

By: /s/ Jeffrey A. Dickstein
Jeffrey A. Dickstein
Attorney for Defendant Joseph Banister