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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 STRIKE
PORTIONS OF COUNT I OF THE INDICTMENT**

COMES NOW Defendant Joseph Banister (hereinafter “Banister”), by and through his undersigned attorney of record, and moves this Court pursuant to Rule 7(d) of the Federal Rules of Criminal Procedure, for an Order striking paragraphs 4, 5, 7, 8, 10-16, 19-27, 30, the last sentence of paragraph 6, the words “to wit: income, social security and Medicare taxes” from paragraph 9, the words “the income, social security and Medicare” from paragraphs 9a and 9b, and the word “huge” in paragraph 20 as surplusage and duplicitous of other charges. 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