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3:03-CR-01744 USA V. BRUNNING

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

January 2003 Grand Jury **03 CR 1744 J1**

UNITED STATES OF AMERICA,	)	Criminal Case No. _____
	)	
Plaintiff,	)	<u>INDICTMENT</u>
	)	
v.	)	Title 18, U.S.C., Sec. 371 - Conspiracy;
	)	Title 18, U.S.C., Sec. 152 - Bankruptcy
TERRY LINN BRUNNING (1),	)	Fraud; Title 18, U.S.C., Sec. 1957 - Money
SUSAN JENNIFER BRUNNING (2),	)	Laundrying, Title 18, U.S.C., Secs. 981(a)(1)(C)
	)	and 28 U.S.C., Sec. 2461(c) and 18 U.S.C.,
Defendants.	)	Sec. 982(a)(1) - Criminal Forfeiture

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all relevant times herein:

1. A bankruptcy case is commenced by the filing of a petition for bankruptcy under Title 11 of the United States Code. An individual who files a petition for bankruptcy is known under federal bankruptcy law as a "debtor".
2. Upon the filing of a bankruptcy petition, a debtor is required by law to disclose his interests in all assets, whether in the form of real or personal property, tangible or intangible property, and whether or not the asset is held in the debtor's own name or in the name of another person or entity. The debtor is also required to disclose all liabilities and debts owed to creditors. The assets and the liabilities of the debtor comprise what is called the debtor's bankruptcy estate. The estate is administered by a court appointed-trustee referred to as the "Bankruptcy Court Trustee".

1           3.     A debtor may file a petition for one of several different types of bankruptcy commonly  
2 referred to as chapters. One of these types of bankruptcy is known as "Chapter 7". A Chapter 7  
3 bankruptcy is a liquidation bankruptcy. A petition filed under Chapter 7 does not allow the debtor to  
4 remain in possession of all of the property comprising the bankruptcy estate. Some of the debtor's  
5 assets, such as his home and clothing up to a certain limit, are exempt from the liquidation. The ultimate  
6 goal of a Chapter 7 bankruptcy is to liquidate the debtor's non-exempt assets and pay the proceeds from  
7 the liquidation to the debtor's creditors. The debtor may then be eligible for a discharge of his remaining  
8 debts to creditors whose debts were not satisfied by payment of the proceeds from the liquidation. The  
9 disclosure of all assets and liabilities of the debtor is necessary in order to allow the Bankruptcy Court  
10 Trustee to liquidate the available assets and pay the outstanding creditors.

11           4.     A debtor has certain duties after filing for bankruptcy. The debtor is required to file  
12 promptly a list of creditors, a schedule of assets and liabilities, a schedule of current income and  
13 expenses, and a statement of the debtor's financial affairs. All the property owned or controlled by the  
14 debtor must be disclosed in these schedules and in the statement of financial affairs, even if the debtor  
15 is uncertain as to whether it is property of the "estate". These schedules and statement of financial  
16 affairs must be signed under penalty of perjury.

17           5.     In addition to the filing of a Schedule of Assets and Liabilities and a Statement of  
18 Financial Affairs, a debtor is required to attend what is called a 341(a) Meeting of Creditors. A 341(a)  
19 Meeting of Creditors allows the debtor's creditors to examine the debtor under oath as to his financial  
20 affairs. In connection with a 341(a) Meeting of Creditors, a debtor is asked to complete a Questionnaire  
21 in which he is required to answer certain questions regarding his understanding of the bankruptcy  
22 process as well as his financial affairs. This Questionnaire must be signed under penalty of perjury.

23           6.     On or about August 20, 2002, defendants TERRY LINN BRUNNING and SUSAN  
24 JENNIFER BRUNNING (also identified as "the BRUNNINGS"), who are husband and wife, filed a  
25 petition for Chapter 7 bankruptcy, Case No. 02-08176-B7, in the United States Bankruptcy Court for  
26 the Southern District of California. Prior to August 20, 2002, the BRUNNINGS operated two Postal  
27 Annex stores located in San Diego, California. In addition, TERRY BRUNNING operated a notary  
28 public service.



1 Financial Bank to accounts located at Abbey National Treasury Limited dba Abbey National Offshore,  
2 an offshore financial institution located in the Isle of Man, Great Britain. In addition, between March  
3 2002 and August 2002, SUSAN BRUNNING transferred \$58,000 from her personal checking account  
4 located at Union Bank to an account in her name at Lloyds Bank, PLC in London.

5 b. In or around February 2002, the BRUNNINGS sold their Postal Annex stores  
6 in return for approximately \$75,000 cash and a promissory note in the amount of \$155,000.

7 c. On or about August 20, 2002, the BRUNNINGS caused a petition for bankruptcy  
8 to be filed in the United States Bankruptcy Court for the Southern District of California, Case  
9 No. 02-08176-B7, which contained material misrepresentations and failed to disclose the existence of  
10 several assets belonging to the bankruptcy estate including offshore financial accounts located at Abbey  
11 National Offshore and Lloyds Bank, PLC, a promissory note in the amount of \$155,000, a 57-foot  
12 sailing yacht named Windsong, a 1990 Jaguar, a 1981 Rolls Royce, and a financial account located at  
13 San Diego National Bank .

14 d. After the filing of the bankruptcy petition, the Bankruptcy Court Trustee  
15 discovered the existence of the promissory note which was not listed in the bankruptcy petition. The  
16 Bankruptcy Court Trustee then took possession and control of the promissory note and instructed the  
17 borrower under the note to make all payments to the Bankruptcy Court Trustee and not the  
18 BRUNNINGS.

19 e. After learning that the Bankruptcy Court Trustee had taken possession and control  
20 of the promissory note, the BRUNNINGS created a fictitious claim against the bankrupt estate in the  
21 fictitious name of Donna Kerns in an effort to obtain all or part of the proceeds from the sale of the  
22 promissory note by the Bankruptcy trustee.

23 f. On or around October 28, 2002, the BRUNNINGS left the United States on an  
24 extended sailing trip to Mexico in their sailing yacht Windsong.

25 g. In an effort to further conceal assets from the Bankruptcy Court Trustee, in  
26 January 2003, the BRUNNINGS attempted to transfer all of the funds located in the offshore financial  
27 accounts at Abbey National Offshore in the Isle of Man, Great Britain, to a financial account in their  
28 joint names located at Bancomer , S.A., a foreign financial institution located in Mexico.



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claimed that Donna Kerns held a claim against the BRUNNINGS' bankruptcy estate.

g. On or around October 30, 2002, SUSAN BRUNNING sent a letter to the Bankruptcy Court Trustee in the fictitious name of Donna Kerns in which she claimed that Donna Kerns held a claim against the BRUNNINGS' bankruptcy estate.

h. On or before October 30, 2002, TERRY BRUNNING caused a Proof of Claim to be filed in the U.S. Bankruptcy Court for the Southern District of California in the fictitious name of Donna Kerns.

i. On a date unknown to the Grand Jury but before January 20, 2003, the BRUNNINGS opened a financial account in their joint names at Bancomer, S.A. located in Jalisco, Mexico.

j. On or about January 20, 2003, the BRUNNINGS signed wire transfer instructions instructing Abbey National Offshore to transfer the funds in their account # 600108277 at Abbey National Offshore to their bank account #188664-4 at Bancomer, S.A., Jalisco, Mexico.

k. On or about April 1, 2003, after learning that law enforcement authorities in the Isle of Man obtained a restraint order against the funds located in their accounts at Abbey National Offshore before the funds could be transferred to Mexico, SUSAN BRUNNING submitted an affidavit to the High Court of Justice of the Isle of Man to support a request to release the funds to the account #188664-4 at Bancomer, S.A. rather than turning over the funds to the Bankruptcy Court Trustee. The affidavit made several misrepresentations in furtherance of the BRUNNINGS' efforts to maintain possession and control over their assets including that SUSAN BRUNNING was separated from TERRY BRUNNING, that they lived separate and apart, and that SUSAN BRUNNING had only seen TERRY BRUNNING on a handful of occasions.

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1 COUNT

CONCEALED ASSET

2 9

Account # 1820087230 at San Diego National Bank

3 All in violation of Title 18, United States Code, Section 152(1).

4 COUNT 10

5 Bankruptcy Fraud-False Declaration

6 [TERRY LINN BRUNNING]

7 [18 U.S.C. § 152 (3)]

8 13. The grand jury hereby repeats and realleges paragraphs 1 through 6 and paragraphs 9  
9 through 10, as fully set forth herein.

10 14. On or about August 20, 2002, in the Southern District of California, defendant TERRY  
11 LINN BRUNNING, knowingly and fraudulently made a false declaration and statement as to a material  
12 matter, under penalty of perjury, as defined under Section 1746 of Title 28, United States Code, in and  
13 in relation to a case under Title 11 "In re Terry Linn Brunning and Susan Jennifer Brunning", Case  
14 No. 02-08176-B7 by submitting a Voluntary Petition in which TERRY LINN BRUNNING falsely stated  
15 that the BRUNNINGS' estimated assets were \$0-50,000.

16 All in violation of Title 18, United States Code, Section 152(3).

17 COUNT 11

18 Bankruptcy Fraud-False Declaration

19 [TERRY LINN BRUNNING]

20 [18 U.S.C. § 152 (3)]

21 15. The grand jury hereby repeats and realleges paragraphs 1 through 6 and paragraphs 9  
22 through 10, as fully set forth herein.

23 16. On or about August 20, 2002, in the Southern District of California, defendant TERRY  
24 LINN BRUNNING, knowingly and fraudulently made a false declaration and statement as to a material  
25 matter, under penalty of perjury, as defined under Section 1746 of Title 28, United States Code, in and  
26 in relation to a case under Title 11 "In re Terry Linn Brunning and Susan Jennifer Brunning", Case  
27 No. 02-08176-B7 by submitting Schedules of Assets and Liabilities in which TERRY LINN  
28 BRUNNING made the following false statements:

1 a. fraudulently omitted to disclose the interests of the BRUNNINGS in offshore  
2 financial accounts located at Abbey National Offshore and Lloyds Bank PLC, an account at San Diego  
3 National Bank, a sailing yacht, a Jaguar, a Rolls Royce, and a promissory note;

4 b. falsely stated that the BRUNNINGS had cash on hand of \$840 when, in truth and  
5 fact, as TERRY LINN BRUNNING well knew, that BRUNNINGS had more than \$840 of cash on hand;

6 c. falsely stated that the BRUNNINGS had no checking, savings or other financial  
7 accounts when, in truth and fact, as TERRY LINN BRUNNING well knew, the BRUNNINGS had at  
8 least four financial accounts at financial institutions;

9 d. falsely stated that the BRUNNINGS had no accounts receivable when, in truth  
10 and fact, as TERRY LINN BRUNNING well knew, the BRUNNINGS held a promissory note in the  
11 amount of \$155,000;

12 e. falsely stated that the BRUNNINGS had no automobiles when, in truth and fact,  
13 as TERRY LINN BRUNNING well knew, the BRUNNINGS owned a Jaguar and a Rolls Royce; and

14 f. falsely stated that the BRUNNINGS had no boats when, in truth and fact, as  
15 TERRY LINN BRUNNING well knew, the BRUNNINGS owned a sailing yacht.

16 All in violation of Title 18, United States Code, Section 152(3).

17 COUNT 12

18 Bankruptcy Fraud-False Declaration

19 [TERRY LINN BRUNNING ]

20 [18 U.S.C. § 152 (3)]

21 17. The grand jury hereby repeats and realleges paragraphs 1 through 6 and paragraphs 9  
22 through 10, as fully set forth herein.

23 18. On or about October 16, 2002, in the Southern District of California, defendant TERRY  
24 LINN BRUNNING, knowingly and fraudulently made a false declaration and statement as to a material  
25 matter, under penalty of perjury, as defined under Section 1746 of Title 28, United States Code, in and  
26 in relation to a case under Title 11 "In re Terry Linn Brunning and Susan Jennifer Brunning", Case  
27 No. 02-08176-B7 by submitting a 341(a) Meeting of Creditors Questionnaire in which TERRY LINN  
28 BRUNNING falsely stated that he did not have, or did not have in the past, any interests in offshore

1 accounts, i.e., accounts outside the borders of the United States when, in truth and fact, as TERRY LINN  
2 BRUNNING well knew, two offshore accounts existed in which TERRY LINN BRUNNING had an  
3 interest.

4 All in violation of Title 18, United States Code, Section 152(3).

5 COUNT 13

6 Bankruptcy Fraud-False Claim

7 [TERRY LINN BRUNNING]

8 [18 U.S.C. § 152(4)]

9 19. The grand jury hereby repeats and realleges paragraphs 1 through 6 and paragraphs 9  
10 through 10, as fully set forth herein.

11 20. On or before October 30, 2002, in the Southern District of California, defendant TERRY  
12 LINN BRUNNING, knowingly and fraudulently presented a false claim for proof against the  
13 BRUNNINGS' estate, in and in relation to a case under Title 11 "In re Terry Linn Brunning and Susan  
14 Jennifer Brunning", Case No. 02-08176-B7 by preparing, signing, and filing a proof of claim against the  
15 BRUNNINGS' estate in the name of Donna Kerns when, in truth and fact, as TERRY LINN  
16 BRUNNING well knew, Donna Kerns was a fictitious person and did not have a claim against the  
17 BRUNNINGS' estate.

18 All in violation of Title 18, United States Code, Section 152(4).

19 COUNT 14

20 Bankruptcy Fraud-False Account

21 [SUSAN JENNIFER BRUNNING]

22 [18 U.S.C. § 152(2)]

23 21. The grand jury hereby repeats and realleges paragraphs 1 through 6 and paragraphs 9  
24 through 10, as fully set forth herein.

25 22. On or around October 30, 2002, in the Southern District of California, defendant SUSAN  
26 JENNIFER BRUNNING, knowingly and fraudulently made a false account, in and in relation to a case  
27 under Title 11 "In re Terry Linn Brunning and Susan Jennifer Brunning", Case No. 02-08176-B7 by  
28 preparing, signing, and sending a letter to the Bankruptcy Court Trustee from Donna Kerns in which she

1 stated that Donna Kerns held a secured claim against the BRUNNINGS' estate when, in truth and fact,  
2 as SUSAN JENNIFER BRUNNING well knew, Donna Kerns was a fictitious person and did not have  
3 a claim against the BRUNNINGS' estate.

4 All in violation of Title 18, United States Code, Section 152(2).

5 COUNT 15

6 Money Laundering

7 [TERRY LINN AND SUSAN JENNIFER BRUNNING]

8 [18 U.S.C. § 1957-Engaging In Monetary Transactions  
9 in Property Derived from Criminal Activity]

10 23. The grand jury hereby repeats and realleges paragraphs 1 through 6 and paragraphs 9  
11 through 21, as fully set forth herein.

12 24. On or about January 20, 2003, in the Isle of Man, Great Britain, a place outside the United  
13 States, defendants TERRY LINN BRUNNING and SUSAN JENNIFER BRUNNING, who are United  
14 States persons (as defined in section 3077 of Title 18 United States Code) did knowingly attempt to  
15 engage in a monetary transaction in criminally derived property of a value greater than \$10,000 which  
16 property was in fact derived from specified unlawful activity, to wit, bankruptcy fraud as charged in  
17 Counts 2-14, by preparing, causing the preparation of, and signing wire transfer instructions to Abbey  
18 National Offshore requesting that the funds in account # 600108277 DEFI in the amount of  
19 \$1,000,070.27 be transferred to account # 188664-4 in the names of TERRY and SUSAN BRUNNING  
20 at Bancomer, S.A., Jalisco, Mexico.

21 All in violation of Title 18, United States Code, Section 1957.

22 CRIMINAL FORFEITURE ALLEGATIONS 1 and 2

23 [TERRY LINN AND SUSAN JENNIFER BRUNNING]

24 [18 U.S.C. § 981 (a)(1)(C) and 28 U.S.C. § 2461(c)]

25 25. Upon conviction of one or more of the offenses listed in Counts 2-14 of this Indictment,  
26 defendants TERRY LINN BRUNNING and SUSAN JENNIFER BRUNNING shall forfeit to the United  
27 States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) any property constituting or derived

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1 from proceeds obtained directly or indirectly as a result of said violations, including but not limited to  
2 the following:

3 a. All funds in Account # 600108277-HICA located at the Abbey National Offshore  
4 Bank in Isle of Man, Great Britain;

5 b. All funds in Account # 600108277-DEFI located at the Abbey National Offshore  
6 Bank in the Isle of Man, Great Britain;

7 c. All funds in Account # 020604-051737 located at Lloyds Bank, PLC, London,  
8 England; and

9 c. One Vessel named Windsong, Registration # 998688;

10 All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code,  
11 Section 2461(c).

12 [TERRY LINN AND SUSAN JENNIFER BRUNNING]

13 [18 U.S.C. § 982 (a)(1)]

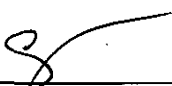
14 26. Upon conviction of the money laundering offense alleged in Count 15 of this Indictment,  
15 defendants TERRY LINN BRUNNING and SUSAN JENNIFER BRUNNING shall forfeit to the United  
16 States pursuant to 18 U.S.C. § 982(a)(1), all property, real and personal, involved in such offense, or any  
17 property traceable to such property, including but not limited to the following:

18 a. All funds in Account # 600108277- DEFI located at Abbey National Offshore,  
19 Isle of Man, Great Britain.

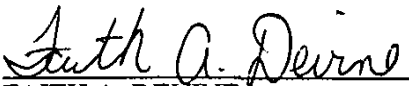
20 All in violation of Title 18, United States Code, Section 982(a)(1).

21 DATED: June 27, 2003.

22 A TRUE BILL:

23   
24 \_\_\_\_\_  
Foreperson

25 CAROL C. LAM  
United States Attorney

26   
27 \_\_\_\_\_  
28 FAITH A. DEVINE  
Assistant United States Attorney