

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-CR-13

ROBERT G. BROWNELL,

Defendant.

GOVERNMENT'S MOTION FOR REVIEW OF BOND

The United States of America, by its attorneys, Steven M. Biskupic, United States Attorney for the Eastern District of Wisconsin, and Matthew L. Jacobs, Assistant United States Attorney for said district, respectfully moves the Court to review the bond previously imposed on the defendant in the above-captioned case. Brownell, who previously pleaded guilty to conspiring to commit mail and wire fraud, is currently scheduled to be sentenced on January 20, 2006. As outlined below, the United States has received information indicating that the defendant has violated the conditions of his bond.

Background

On October 12, 2004, the defendant, Robert G. Brownell, was charged in a criminal complaint issued in Case No. 04-M-528 by the Honorable William E. Callahan, Jr., United

States Magistrate Judge. R.1.¹ The complaint charged Brownell with conspiring to commit mail fraud and money laundering, in violation of 18 U.S.C. §§ 1349 and 1956(h). *Id.* According to the complaint, Brownell's fraud caused losses in excess of \$3 million. *Id.*

On October 14, 2004, Brownell appeared before Magistrate Judge Callahan and was arraigned on these charges. R.3. Brownell pleaded not guilty and, at the conclusion of the hearing, was released after executing an unsecured bond in the amount of \$3 million subject to various conditions. Among these conditions, Brownell's travel was restricted to the State of Wisconsin, Maine, Washington, D.C., and the Northern District of Illinois. The Court further ordered that Brownell "shall not transfer, sell, dispose of, or otherwise encumber any asset, the value of which exceeds \$750 and which is under his care, custody and/or control, without notice to the United States Attorney and U.S. Probation Office." The Court provided an exception to this notification requirement for a rent payment and payments on two vehicles. The defendant was, however, required to submit documentation to pretrial regarding these three payments. R. 3 and 4.

On January 5, 2005, a criminal information was filed in Case No. 05-CR-013 charging Brownell with conspiring to commit mail fraud, in violation of 18 U.S.C. § 1349. R. 10. This charge alleged that Brownell's fraud caused losses in excess of \$4 million. *Id.*

¹In this pleading, "R." followed by a number refers to an entry in the district court docket sheet in this case.

On January 19, 2005, before Brownell could be arraigned on the initial information, a superseding criminal information was filed in Case No. 05-CR-013. R. 13. The superseding information charged Brownell, as well as three other individuals, with conspiring to commit mail and wire fraud, in violation of 18 U.S.C. §1349. *Id.* The superseding information again alleged that the fraud had caused losses exceeding \$4 million. *Id.*

On February 3, 2005, Brownell appeared before the Honorable Aaron E. Goodstein, United States Magistrate Judge, and was arraigned on this charge. R. 26. At that time, the defendant entered a plea of not guilty. Magistrate Judge Goodstein released the defendant and continued the conditions of bonds that had been previously set by Magistrate Judge Callahan on October 14, 2004. *Id.*

On October 19, 2005, Brownell appeared before this Court and, pursuant to a plea agreement, pleaded guilty to the charge contained in the superseding information. R.48 and 58. The Court adjudged Brownell guilty and scheduled his sentencing for January 20, 2006. The Court then continued the bond that had been previously set by Magistrate Judge Callahan. *Id.*

As reflected in Brownell's plea agreement and the government's offer of proof, which is attached to the plea agreement, the government estimates that the loss associated with Brownell's fraud is more than \$7 million but less than \$20 million. R. 48 at ¶¶ 17 and 19.

Brownell has agreed, as part of his plea agreement, to make full restitution to the Bielinski Brothers Builders, which was the victim of his fraud. *Id.* at ¶ 31.

The government has now received information indicating that, during the pendency of this prosecution, the defendant violated the conditions of his bond. Specifically, the government has received information that in September, 2005, the defendant traveled to Florida. I have spoken to a representative of the Probation Department and been informed that they are not aware of any such travel and that they have no record that Brownell sought or obtained the approval of Magistrate Judge Callahan (or any other judicial officer) to travel to Florida.

The government has also received information indicating that, despite the conditions of his bond, Brownell was instrumental in obtaining at least three loans from a bank in Ellsworth, Maine known as The First, N.A. These loans include a \$230,000 loan obtained by Alliant Builders, LLC on September 19, 2005; a \$830,000 loan obtained by Esterra, LLC on April 27, 2005; and a \$400,000 loan obtained by Esterra, LLC on July 27, 2005. On the loan documents, Brownell is identified as a member of Esterra, LLC and the treasurer of Alliant Builders.

In connection with two of these loans, and contrary to the conditions of his bond, Brownell executed mortgages on behalf Esterra LLC pledging real property to The First to secure the loans. Brownell also executed guaranties with respect to all three loans. Under

the terms of these guaranties, Brownell personally guaranteed and promised to pay the loans made to Esterra and Alliant Builders.

At no time was the government notified by Brownell of his involvement in these transactions; the fact that he had pledged assets under his apparent control to secure such loans; or that he had provided personal guaranties for the loans. This is particularly troubling given the substantial losses caused by the fraud to which Brownell has pleaded guilty and Brownell's associated obligation to make restitution in this matter.

Based on the foregoing, the government believes that the defendant has violated the conditions of his bond. The government, therefore, requests that the Court hold a hearing to review the defendant's compliance with his bond and evaluate whether the defendant should continue to be released pending sentencing in this case.

Respectively submitted this 16th day of December, 2005.

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