

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD) AFFIDAVIT

PERSONALLY appeared before me Hillary Rexrode, who after being duly sworn, deposes and says that:

1. At the time of my arrest, I have been employed by Piedmont Cardiology for almost ten (10) years. I started to work for the group of doctors shortly before my eighteenth birthday.

2. Shortly after my arrest, I contacted Richard Breibart to be my attorney as we believed that it would be best to have an attorney from out of Greenwood.

3. I contacted Richard Breibart and discussed this matter with him. Mr. Breibart requested a total fee of Twenty-Five Thousand (\$25,000.00) Dollars. My family paid Fifteen Thousand (\$15,000.00) Dollars of that fee to have Mr. Breibart represent me.

4. In my discussions with Mr. Breibart, I was told that the big concern was that the federal government would pick up the case if I did not enter a plea to a felony in state court. For this reason, he told me that I could not enter the pretrial intervention program. He told me that he had been informed that the federal government would pick up the case, but if I took the plea to a felony, the federal government leave me alone.

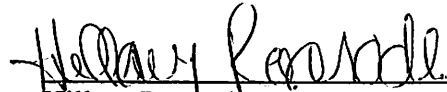
5. I had not been interviewed by any federal agent but assumed that my lawyer had discussed this matter with federal agents, and they had advised him, in accordance with what he told me. I was further instructed by Mr. Breibart not to discuss this matter with my co-defendants.

6. Based upon the representations of my lawyer that I was facing federal charges if I did not enter a plea to the state charges, I followed his advise and entered the plea on January 27,

2011.

7. In September of 2012, I read a newspaper article concerning the indictment of Richard Breibart for extorting money from his clients. A copy of the indictment in his case is attached to this Affidavit. Upon reading the newspaper article, which recited the allegations in the Indictment, I realized that I had been seriously misled by my attorney in this case.

8. Had I known that there was no federal prosecution awaiting me, I would have insisted that I participate in the pretrial intervention program for Greenwood County as did all of my other co-defendants. I also would have seriously considered going to trial. As a result of being misled by my counsel, my guilty plea was not a fully informed guilty plea nor was it freely and voluntarily given.


Hillary Rexrode

SWORN to and Subscribed
before me this 18th day
of March, 2013


(Notary Public for South Carolina)

My Commission expires: 10-22-2015

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES OF AMERICA)	CRIM. NO. <u>3:12-CR-723</u>
)	
)	18 U.S.C. § 1341
v.)	18 U.S.C. § 1343
)	18 U.S.C. § 1951
RICHARD J. BREIBART)	18 U.S.C. § 981(a)(1)(C)
)	28 U.S.C. § 2461(c)
)	

INDICTMENT

THE GRAND JURY CHARGES:

At all times relevant to this Indictment, unless otherwise indicated:

1. From November 1979, through on or about June 1, 2012, RICHARD J. BREIBART was an attorney licensed to practice law in the state of South Carolina;
2. On December 2, 2003, RICHARD J. BREIBART registered “Law Office - Richard J. Breibart, LLC” with the office of the South Carolina Secretary of State, with its principal office located at 201 West Main Street in Lexington, South Carolina.
3. RICHARD J. BREIBART was the owner operator of “Law Office – Richard J. Breibart.” RICHARD J. BREIBART hired a number of associates to work for him; the practice consisted of criminal, civil, probate and family law throughout South Carolina.
4. RICHARD J. BREIBART, doing business as “Law Office - Richard J. Breibart, LLC,” maintained both a business checking account and an Interest on Lawyer Trust Account (IOLTA) (hereinafter referred to as the “Trust” account) at First Citizens Bank and South Carolina Bank & Trust.

5. A Trust account is a bank account in which clients' monies are deposited to ensure funds are available for specific purposes for which the attorney client relationship was established. Pursuant to the rules of the South Carolina Bar Association and the South Carolina Supreme Court, and the agreements with and representations made to his clients, RICHARD J. BREIBART was obligated to safeguard and account for clients' funds deposited into bank accounts under his control or the control of his law firm. Any interest earned from the account is remitted to the South Carolina Bar Association's IOLTA program for charitable purposes.

THE SCHEME AND ARTIFICE TO DEFRAUD

6. Between in or around November 2010, and on or about June 1, 2012, in the District of South Carolina and elsewhere, the Defendant RICHARD J. BREIBART knowingly did devise and intend to devise a scheme and artifice to defraud clients of his law office and to obtain money and property from them by means of false and fraudulent pretenses, representations and promises. The scheme operated substantially as follows:

- a. RICHARD J. BREIBART would contact certain clients, former clients or family members of former clients (hereinafter clients) who had readily accessible money.
- b. RICHARD J. BREIBART would inform the clients that they were or soon would be subjects of a criminal investigation or civil action.
- c. RICHARD J. BREIBART would inform the clients that the clients were in imminent danger of being arrested and or of losing their money.
- d. RICHARD J. BREIBART would instruct the clients to transfer large sums of money to him to be deposited in RICHARD J. BREIBART's law firm's Trust account for safekeeping or to ensure that the investigation would be closed.

- e. RICHARD J. BREIBART encouraged the clients to locate as much money as possible, including liquidating retirement accounts and asking family members for money, to be held in the Trust account.
- f. RICHARD J. BREIBART would accept the funds from the clients and convert those funds to pay for expenses and obligations relating to his law firm, to him personally, and to other clients.
- g. There were never any civil actions or criminal investigations regarding the claims that RICHARD J. BREIBART made to the clients.

COUNT 1

MAIL FRAUD

THE GRAND JURY CHARGES:

1. Paragraphs 1 through 6 of this Indictment, including subparts, are incorporated herein by reference as setting forth a scheme and artifice to defraud;
2. RICHARD J. BREIBART contacted R.M. to inform R.M. that he was a target of a criminal investigation by the Internal Revenue Service (IRS) and that arrest was imminent. RICHARD J. BREIBART informed R.M. that approximately \$368,000 was owed to the IRS. RICHARD J. BREIBART instructed R.M. to obtain and transfer approximately \$368,000 and an additional attorney's fee of approximately \$50,000, to RICHARD J. BREIBART. RICHARD J. BREIBART instructed that if R.M. could obtain the required funds that there would be no criminal charges and the obligations to the IRS would be handled in a private sealed proceeding. RICHARD J. BREIBART emphasized to R.M. that time was of the essence;

3. RICHARD J. BREIBART accepted funds from R.M. and converted those funds to pay for expenses and obligations relating to his law firm, to him personally, and to other clients.

There was no investigation by the IRS into R.M.;

4. On or about December 29, 2011, in the District of South Carolina and elsewhere, the Defendant, RICHARD J. BREIBART, for the purpose of executing the above-described scheme and artifice to defraud, did knowingly cause to be delivered by mail a check in the amount of approximately \$108,000 from Southern Farm Bureau Life Insurance Company in Jackson, Mississippi, via United States Postal Service to R.M. in Saluda, South Carolina;

In violation of Title 18, United States Code, Section 1341.

COUNT 2

HOBBS ACT EXTORTION

THE GRAND JURY FURTHER CHARGES:

1. Paragraphs 1 through 4 of Count 1 are incorporated herein by reference;
2. On or about December 29, 2011, in the District of South Carolina, the Defendant RICHARD J. BREIBART, did obstruct, delay, and affect commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, section 1951, that is, RICHARD J. BREIBART obtained the property of R.M., with R.M.'s consent induced by the wrongful use of force, violence, and fear;

In violation of Title 18, United States Code, Section 1951.

COUNT 3

WIRE TRANSMISSION IN FURTHERANCE OF SCHEME

THE GRAND JURY FURTHER CHARGES:

1. Paragraphs 1 through 4 of Count 1 are incorporated herein by reference as setting forth a scheme and artifice to defraud;
2. RICHARD J. BREIBART instructed R.M. that time was of the essence to avoid the imminent criminal charges from the IRS. RICHARD J. BREIBART instructed R.M. to contact family members for assistance. R.M. contacted his sister M.S. M.S. liquidated her retirement account to assist her brother;
3. RICHARD J. BREIBART accepted funds from M.S. and converted those funds to pay for expenses and obligations relating to his law firm, to him personally, and to other clients. There was no investigation by the IRS into R.M.;
4. On or about December 8, 2011, in the District of South Carolina and elsewhere, the Defendant, RICHARD J. BREIBART, for the purpose of executing the above-described scheme and artifice to defraud, and to obtain money and property by means of false and fraudulent pretenses, representations and promises, did cause to be transmitted in interstate commerce, by means of a wire communication from Lincoln Benefit Life in Dallas, Texas, to the SCB&T Account of RICHARD J. BREIBART in Lexington, South Carolina, funds in the amount of approximately \$201,100.35;

In violation of Title 18, United States Code, Section 1343.

COUNT 4

HOBBS ACT EXTORTION

THE GRAND JURY FURTHER CHARGES:

1. Paragraphs 1 through 4 of Count 3 are incorporated herein by reference;
2. On or about December 8, 2011, in the District of South Carolina, the Defendant, RICHARD J. BREIBART, did obstruct, delay, and affect commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, section 1951, that is, RICHARD J. BREIBART obtained the property of M.S., with M.S.'s consent induced by the wrongful use of force, violence, and fear;

In violation of Title 18, United States Code, Section 1951.

COUNT 5

MAIL FRAUD

THE GRAND JURY CHARGES:

1. Paragraphs 1 through 6 of this Indictment, including subparts, are incorporated herein by reference as setting forth a scheme and artifice to defraud;
2. RICHARD J. BREIBART's firm represented H.C. in a divorce proceeding. RICHARD J. BREIBART informed H.C. that her estranged husband was being investigated by the IRS and that her assets were vulnerable due to the investigation. RICHARD J. BREIBART instructed H.C. to liquidate and transfer all available funds to him to be held in his Trust account;
3. RICHARD J. BREIBART accepted funds from H.C. and converted those funds to pay for expenses and obligations relating to his law firm, to him personally, and to other clients. There was no investigation into H.C.'s estranged/ex-husband by the IRS;
4. On or about May 31, 2011, in the District of South Carolina and elsewhere, the Defendant, RICHARD J. BREIBART, for the purpose of executing the above-described scheme and artifice to defraud, did knowingly cause to be delivered by mail and private and commercial interstate carrier according to the direction thereon, a check in the amount of approximately \$500,000, from Edward Jones in Maryland Heights, Missouri, via Federal Express to H.C. in Irmo, South Carolina;

In violation of Title 18, United States Code, Section 1341.

COUNT 6

HOBBS ACT EXTORTION

THE GRAND JURY FURTHER CHARGES:

1. Paragraphs 1 through 4 of Count 5 are incorporated herein by reference;
2. On or about May 31, 2011, in the District of South Carolina, the Defendant, RICHARD J. BREIBART, did obstruct, delay, and affect commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, section 1951, that is, RICHARD J. BREIBART obtained the property of H.C., with H.C.'s consent induced by the wrongful use of force, violence, and fear;

In violation of Title 18, United States Code, Section 1951.

COUNT 7

MAIL FRAUD

THE GRAND JURY CHARGES:

1. Paragraphs 1 through 6, of this Indictment are incorporated herein by reference as setting forth a scheme and artifice to defraud;
2. RICHARD J. BREIBART's firm represented F.D.V. and D.D.V.'s son on state charges. RICHARD J. BREIBART informed F.D.V. and D.D.V. that D.D.V. might be a target of the Federal Bureau of Investigation (FBI) in relation to F.D.V. and D.D.V.'s son's charges. RICHARD J. BREIBART told F.D.V. and D.D.V. that there was not only potential criminal liability for D.D.V. due to the investigation, but potential civil liability. RICHARD J. BREIBART instructed F.D.V. and D.D.V. to liquidate and transfer all available funds to him to be held in his Trust Account for safekeeping;
3. RICHARD J. BREIBART accepted funds from the F.D.V. and D.D.V. and converted those funds to pay for expenses and obligations relating to his law firm, to him personally, and to other clients. There was no investigation into D.D.V. by the FBI;
4. On or about April 9, 2010, in the District of South Carolina and elsewhere, the Defendant, RICHARD J. BREIBART, for the purpose of executing the above-described scheme and artifice to defraud, did knowingly cause them to be delivered by mail and such private and commercial interstate carrier according to the direction thereon, a check in the amount of approximately \$218,899.60 from Sears Holding in Boston, Massachusetts, via Federal Express to F.D.V. and D.D.V. in South Carolina;

In violation of Title 18, United States Code, Section 1341.

COUNT 8

HOBBS ACT EXTORTION

THE GRAND JURY FURTHER CHARGES:

1. Paragraphs 1 through 4 of Count 7 are incorporated herein by reference;
2. On or about April 9, 2010, in the District of South Carolina, the Defendant, RICHARD J. BREIBART, did obstruct, delay, and affect commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, section 1951, that is, RICHARD J. BREIBART obtained the property of F.D.V. and D.D.V., with F.D.V. and D.D.V.'s consent induced by the wrongful use of force, violence, and fear;

In violation of Title 18, United States Code, Section 1951.

COUNT 9

MAIL FRAUD

THE GRAND JURY CHARGES:

1. Paragraphs 1 through 4 of Count 7 are incorporated herein by reference as setting forth a scheme and artifice to defraud;
2. On or about April 28, 2010, in the District of South Carolina and elsewhere, the Defendant, RICHARD J. BREIBART, for the purpose of executing the above-described scheme and artifice to defraud, did knowingly cause to be delivered by mail and private and commercial interstate carriers according to the direction thereon, a check in the amount of approximately \$50,766.69 from Bank of New York-Mellon, New York, New York, via United States Postal Service to F.D.V. and D.D.V. in South Carolina;

In violation of Title 18, United States Code, Section 1341.

COUNT 10

HOBBS ACT EXTORTION

THE GRAND JURY FURTHER CHARGES:

1. Paragraphs 1 through 4 of Count 7 are incorporated herein by reference;
2. On or about April 28, 2010, in the District of South Carolina, the Defendant, RICHARD J. BREIBART, did obstruct, delay, and affect commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, section 1951, that is, RICHARD J. BREIBART obtained the property of F.D.V. and D.D.V., with F.D.V. and D.D.V.'s consent induced by the wrongful use of force, violence, and fear;

In violation of Title 18, United States Code, Section 1951.

FORFEITURE

1. SPECIFIED UNLAWFUL ACTIVITIES:

Upon conviction for one or more violations of Title 18, United States Code, Sections 1341 (mail fraud), 1343 (wire fraud) and 1951 (Hobbs Act), as charged in this Indictment, the Defendant, RICHARD J. BREIBART, shall forfeit to the United States, pursuant to Title 18 United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from any proceeds the Defendants obtained, directly or indirectly, as the result of such violations, and any property traceable to such property;

2. PROPERTY:

A. Pursuant to 18 U.S.C. § 981(a)(1)(C), and 28 U.S.C. § 2461(c), the property which is subject to forfeiture upon conviction of the Defendant for the offenses charged in this Indictment includes, but is not limited to, the following:

1. Proceeds/ Money Judgment:

- (a) A minimum of approximately \$1,100,000 in United States currency, and all interest and proceeds traceable thereto, in that such sum equals the value of proceeds the Defendant obtained, directly or indirectly, as the result of his violations of 18 U.S.C. §§ 1341, 1343 and/or 1951, as charged in this Indictment.


3. SUBSTITUTION OF ASSETS:

If any of the property described above as being subject to forfeiture, as a result of any act or omission of the Defendant(s) –

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b)(1), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the said Defendant up to an amount equivalent to the value of the above-described forfeitable property;

Pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

A TRUE BILL

FOREPERSON

Bill Nettles for
WILLIAM N. NETTLES (JHM)
UNITED STATES ATTORNEY