

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS <i>Exhibit</i>	Schedule No. or
Name of Taxpayer <i>Alexandru Bittner</i>		Year/Period Ended <i>2007 through 2011</i>

Mr. Bittner filed Forms 1040 for taxable years above at or around the time that the returns were due. For all of these years, Mr. Bittner would have been required to answer the question regarding whether he had foreign financial accounts and whether he had a requirement to file an FBAR or T DF 90-22.1.

On or around May 21, 2012, Mr. Bittner filed delinquent FBARs for calendar years 1993 through 2011. On or around September 27, 2013, Mr. Bittner filed amended FBARs.

Previous FBAR Penalties

Mr. Bittner had not been previously examined for FBAR filing requirements or been assessed the FBAR penalty.

Taxpayers Concealed Income and Assets to Minimize Reported Income of the original and amended returns filed for the taxable years 2002 through 2004 and 2006 through 2011

The examination of the Bittners' returns of the referenced taxable years indicates that they failed to report income from all of their foreign sales and failed to report the existence of all of his foreign financial accounts to Beckley, their original return preparer. They disclosed more assets and income to the preparer of their amended returns.

The amended returns reported gains and losses from sale or other disposition of assets. Some of these assets were not held in the Bittners' names. Mr. Bittner made concerted efforts to conceal true ownership of assets in Romania. Mr. Bittner's representative made the following statement in his May 29, 2014 letter to the IRS:

"Note that, to protect privacy in Romania, Mr. Bittner had assets held in the name of a number of nominees, including:

*Negrea Gheorge [Negrea Gheorghe]
Ruiana Mircea
Popescu Ileana
Nicolae Dumitru Emilian
Barbulescu Serghei
Matache Marian
Cofigen
Comatrans*

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*Master Trade Group
Mellwood & Partners
Burgstate
Heavy Industries
Global RE"*

Mr. Bittner provided one nominee contract with Negrea Gheorghe and did not provide nominee contracts with the remaining nominees. Mr. Bittner did not provide copies of his Romanian tax returns to show that income and assets reported as being owned by him to the U.S. government were also reported to the Romanian government.

- The Bittners made concerted efforts to conceal true ownership of assets in the U.S. after the processing of the original delinquent returns resulted in large deficiencies. They transferred their U.S. home and 80% of the interests in their U.S. companies that held interests in U.S. real properties to an individual named Ion Petre (or Petre Ion). When asked whether Petre Ion was a nominee for Mr. Bittner, the representative made the following statement in his 05/29/14 letter:

"Mr. Bittner holds a power of attorney to act on behalf of Mr. Ion in the US. Mr. Ion has not acted as a nominee for Mr. Bitter. While in Romania, Mr. Bittner and Mr. Ion were business partners. Mr. Ion also managed properties for Mr. Bittner and operated his Romanian businesses and assets when Mr. Bittner was not available. Mr. Ion has held and currently holds Powers of Attorney for Mr. Bittner or his nominees to act on his behalf in Romania."

Records and documents, however, indicate that Petre Ion (or Ion Petre) is a nominee for Mr. Bittner and acted on Mr. Bittner's behalf in Romania during the examination periods.

In 2012, Mr. Bittner claimed that he transferred assets to Ion Petre to repay a \$4,000,000 debt that arose in 2000. This appears to be a conveyance of assets to avoid collection. The expenses related to these assets such as property taxes are paid from an account named/styled "Ion Petre, Alexandru Bittner POA" to give the appearance that Mr. Bittner is now representing Ion Petre and paying expenses on behalf of Mr. Petre. It is likely that Mr. Bittner is using this account to pay his own personal and business expenses.

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Adjustments to Income after examination

Mr. Bittner's failure to report all of his foreign financial accounts resulted in tax adjustments to their reported income, after analysis of his foreign bank accounts. The result of this analysis is that there are unexplained deposits for which the Bittners have offered no explanation as to whether these deposits result from nontaxable sources of income. In fact, the examination has uncovered that Mr. Bittner has reportable income from his numerous businesses and his connections to those in power in the Government of Romania.

Law**§ 5321. Civil penalties (a)****(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.--**

- a. **PENALTY AUTHORIZED.--**The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.
- b. **AMOUNT OF PENALTY.--**
 - (i) **IN GENERAL.--**Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed \$10,000.
 - (ii) **REASONABLE CAUSE EXCEPTION.--**No penalty shall be imposed under subparagraph (A) with respect to any violation if--
 1. such violation was due to reasonable cause, and
 2. the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

IRM 4.26.16.3 (11/06/2015)**FBAR Filing Criteria**

- a. An FBAR is required if all of the following apply:
 - a. The filer is a U.S. person.
 - b. The U.S. person has a financial interest in a financial account or signature or other authority over a financial account.

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- c. The financial account is in a foreign country.
- d. The aggregate amount(s) in the account(s) valued in dollars exceed \$10,000 at any time during the calendar year.

IRM 4.26.16.3.2 (11/06/2015)**Financial Account**

- 1. A reportable financial account includes a:
 - a. Bank account, such as a savings deposit, demand deposit, checking, time deposit (CD), or any other account maintained with a financial institution or other person engaged in the business of banking.
 - b. Securities account, securities derivatives account, or other financial instruments account held with a person engaged in the business of buying, selling, holding or trading stock or other securities.

IRM 4.26.16.3.3 (11/06/2015)**Financial Interest**

- 1. Direct Financial Interest:
 - a. A U.S. person has a financial interest in each account for which such person is the owner of record or has legal title, whether the account is maintained for his own benefit or for the benefit of others including non-U.S. persons.
 - b. If an account is maintained in the name of two persons jointly, or if several persons each own a partial interest in an account, each of those U.S. persons has a financial interest in that account and, generally, each person must file the FBAR.
- 2. Indirect financial interest: A U.S. person has an "other financial interest" in each bank, securities, or other financial account in a foreign country for which the owner of record or holder of legal title is:
 - a. A person acting as an agent, nominee, attorney, or in some other capacity on behalf of the U.S. person.
 - d. Any other entity in which the U.S. person owns directly or indirectly more than 50 percent of the voting power, total value of the equity interest or assets, or interest in profits.

IRM 4.26.16.3.4 (11/06/2015)**Signature or Other Authority Over an Account**

- 1. An individual has signature or other authority over an account if that individual (alone or in conjunction with another) can control the disposition of money, funds or other

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assets held in a financial account by direct communication (whether in writing or otherwise) to the person with whom the financial account is maintained.

IRM 4.26.16.4.1 (11/06/2015)

General FBAR Filing

1. The FBAR must be filed on or before June 30 each year for the previous calendar year.
2. All FBARS filed after June 30, 2013, must be filed electronically through the FinCEN BSA E-Filing website at www.bsaeiling.fincen.gov/main.html unless the filer requested, and was granted, an exception to e-filing by FinCEN.

IRM 4.26.16.4.6 (11/06/2015)

FBAR Filing for Financial Interest in 25 or More Accounts

1. 31 CFR 1010.350(g) provides that a United States person that has a financial interest in 25 or more foreign financial accounts only needs to provide the number of financial accounts and certain other basic information on the report, but will be required to provide detailed information concerning each account if the IRS or FinCEN requests it.
2. Filers must comply with FBAR record-keeping requirements. See IRM 4.26.16.5.1.

IRM 4.26.16.6.1 (11/06/2015)

FBAR Penalty Authority

1. IRS was delegated the authority to assess and collect civil FBAR penalties. 31 CFR 1010.810(g). The delegation includes the authority to investigate possible civil FBAR violations, provided in Treasury Directive No. 15-41 (December 1, 1992), and the authority to assess and collect the Penalties for violations of the report and recordkeeping requirements.

IRM 4.26.16.6.2 (11/06/2015)

FBAR Penalty Structure

1. There are four civil penalties available for FBAR violations:
 - a. Negligence. 31 USC 5321 (a)(6)(A).
 - b. Pattern of negligent activity. 31 USC 5321 (a)(6)(B).
 - c. Penalty for non-willful violation. 31 USC 5321 (a)(5)(A) and (B).
NOTE: Although the term "non-willful" is not used in the statute, we use it to distinguish this penalty from the penalty for willful violations.
 - d. Penalty for willful violations. 31 USC 5321 (a)(5)(C).

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2. A filing violation occurs at the end of the day on June 30th of the year following the calendar year to be reported (the due date for filing the FBAR).
3. A recordkeeping violation occurs on the date when the records are requested by the IRS examiner if the records are not provided.

IRM 4.26.16.6.4 (11/06/2015)**Penalty for Nonwillful FBAR Violations**

1. For violations occurring after October 22, 2004, a penalty, not to exceed \$10,000 per violation, may be imposed on any person who violates or causes any violation of the FBAR filing and recordkeeping requirements. 31 USC 5321(a)(5)(B).
2. The penalty should not be imposed if:
 - a. The violation was due to reasonable cause, and
 - b. The person files any delinquent FBARs and properly reports the previously unreported account.
3. Examiners have discretion in determining the penalty amount and should use the mitigation guidelines in making their determinations. See the discussion of the mitigation guidelines below. See Exhibit 4.26.16-1. Examiners should take the facts and circumstances of each case into account when determining if a warning letter or penalties that are less than the mitigation guidelines are appropriate. The purpose of FBAR penalties is to promote compliance with the FBAR reporting and recordkeeping requirements.

IRM 4.26.16.6.4.1 (11/06/2015)**Penalty for Nonwillful FBAR Violations – Calculation**

1. After May 12, 2015, in most cases, examiners will recommend one penalty per open year, regardless of the number of unreported foreign accounts. The penalty for each year is limited to \$10,000. Examiners should still use the mitigation guidelines and their discretion in each case to determine whether a lesser penalty amount is appropriate.
2. For multiple years with nonwillful violations, examiners may determine that asserting nonwillful penalties for each year is not warranted. In those cases, examiners, with the group manager's approval after consultation with an Operating Division FBAR Coordinator, may assert a single penalty, not to exceed \$10,000, for one year only.

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3. For other cases, the facts and circumstances (considering the conduct of the person required to file and the aggregate balance of the unreported foreign financial accounts) may indicate that asserting a separate nonwillful penalty for each unreported foreign financial account, and for each year, is warranted.
4. In no event will the total amount of the penalties for nonwillful violations exceed 50 percent of the highest aggregate balance of all unreported foreign financial accounts for the years under examination.

IRM 4.26.16-1 (11/06/2015)

FBAR Penalty Mitigation Guidelines for Violations Occurring After October 22, 2004

To qualify for mitigation, the person must meet four criteria:

1. The person has no history of criminal tax or BSA convictions for the preceding 10 years and has no history of prior FBAR penalty assessments.
2. No money passing through any of the foreign accounts associated with the person was from an illegal source or used to further a criminal purpose.
3. The person cooperated during the examination.
4. IRS did not determine a fraud penalty against the person for an underpayment of income tax for the year in question due to the failure to report income related to any amount in a foreign account.

31 CFR 1010.350(e)(2)

1010.350(e)(2)--

(e) *Financial interest.* A financial interest in a bank, securities or other financial account in a foreign country means an interest described in this paragraph (e):

(1) *Owner of record or holder of legal title.* A United States person has a financial interest in each bank, securities or other financial account in a foreign country for which he is the owner of record or has legal title whether the account is maintained for his own benefit or for the benefit of others. If an account is maintained in the name of more than one person, each United States person in whose name the account is maintained has a financial interest in that account.

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(2) *Other financial interest.* A United States person has a financial interest in each bank, securities or other financial account in a foreign country for which the owner of record or holder of legal title is -

(i) A person acting as an agent, nominee, attorney or in some other capacity on behalf of the United States person with respect to the account;

(ii) A corporation in which the United States person owns directly or indirectly more than 50 percent of the voting power or the total value of the shares, a partnership in which the United States person owns directly or indirectly more than 50 percent of the interest in profits or capital, or any other entity (other than an entity in paragraphs (e)(2)(iii) through (iv) of this section) in which the United States person owns directly or indirectly more than 50 percent of the voting power, total value of the equity interest or assets, or interest in profits;

(iii) A trust, if the United States person is the trust grantor and has an ownership interest in the trust for United States Federal tax purposes. *See* 26 U.S.C. 671- 679 and the regulations thereunder to determine if a grantor has an ownership interest in the trust for the year; or

(iv) A trust in which the United States person either has a present beneficial interest in more than 50 percent of the assets or from which such person receives more than 50 percent of the current income.

(3) *Anti-avoidance rule.* A United States person that causes an entity, including but not limited to a corporation, partnership, or trust, to be created for a purpose of evading this section shall have a financial interest in any bank, securities, or other financial account in a foreign country for which the entity is the owner of record or holder of legal title.

Indirect financial interest: A U.S. person has an "other financial interest" in each bank, securities, or other financial account in a foreign country for which the owner of record or holder of legal title is a person acting as an agent, nominee, attorney, or in some other capacity on behalf of the U.S. person.

Taxpayer's Position:

Mr. Bittner has not been interviewed. However, his positions were stated through letters written by or signed by him or by letters from his representatives. These are made as exhibits as follows:

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Exhibit 1: Mr. Bittner's cover letter for the filing of original delinquent Forms 1040 for taxable years 1990 through 2011.

Exhibit 2: Mr. Bittner's cover letter for the filing of original delinquent FBARs for calendar years 1993 through 2011.

Exhibit 3: Unsigned, third-person Statement of Reasonable Cause Per FS-2011-13.

Exhibit 4: Statement of Reasonable Cause per Treas. Regs. § 1.6038-2(k)(3) signed by Mr. Bittner and dated 02/15/2014.

Mr. Bittner, through these Exhibits, claimed that the following facts and circumstances support his assertions of reasonable cause against the imposition of any FBAR penalties:

1. Ignorance of filing obligation

Mr. Bittner moved back to Romania in 1990 and initially claimed that he "...was unaware that as a U.S. citizen I was required to file tax returns with the Internal Revenue Service." "Since returning to United States in 2011, I have learned that my understanding of the tax rules was incorrect." See Exhibit 1.

"I was not aware during that time that I had to file United States tax returns simply because I had become a naturalized US citizen.... I reasonably believed that I had no US tax obligations for income from Romania when I was living in Romania...." See Exhibit 4.

Because Mr. Bittner is a sophisticated businessman, his claim of reasonable cause due to ignorance of the law lacks credibility. Lammerts Est. v. Commissioner, 456 F.2d 681 (2d Cir. 1972); IRM 20.1.1.3.2.2.6 (2-22-06). This includes a taxpayer's erroneous belief (not based on advice of counsel) that no return is required to be filed. Southeastern Finance Co. v. Commissioner, 4 T.C. 1069 (1945), aff'd. 5th Cir (1946); Baclit v. Commissioner, T.C. Memo. 1989-576. Ordinary business care and prudence requires taxpayers to be aware of their tax obligations.

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2. Language barrier

"I moved to Romania in 1991. At that time my English was not good...." See Exhibit 2.

Language barrier is not a reasonable basis for failing to comply with tax obligations.

3. Taxpayers could not afford to hire accountant

"....I was poor and couldn't hire an accountant." See Exhibit 2.

FBARs and delinquent returns indicated that Mr. Bittner had achieved wealth and success in business and had the means to hire competent advisors knowledgeable in U.S. taxation but chose not to do so. Wealth or lack of wealth is not a reasonable basis for failing to comply with tax obligations.

4. Taxpayers severed ties to U.S.

"Mr. Bittner severed his connections with the United States and reasonably believed he [had] and [sic] no further United States tax obligations." See Exhibit 3.

Mr. Bittner maintained his U.S. citizenship and registered with the U.S. Embassy in Romania; therefore, he did not sever all connections.

5. Mr. Bittner was not informed of his tax obligations

"I was not aware during that time that I had to file United States tax returnsNor did my accountants inform me of that fact...." See Exhibit 4.

Mr. Bittner did not state whether he informed his accountants of his U.S. citizenship status. He did not assert that he asked his accountant about his U.S. tax obligations. He did not claim that his Romanian accountants and advisors were knowledgeable about U.S. tax laws. Mr. Bittner cannot reasonably rely on lack of advice if they cannot show that they provided sufficient information and sought advice regarding his tax obligations.

"During all that time, the US embassy never contacted me about any tax returns due." See Exhibit 4. Again, Mr. Bittner did not state whether they asked anyone at the

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Embassy about his U.S. tax obligations. It is not the mission or responsibility of the U.S. Embassy to notify Mr. Bittner of his U.S. tax obligations. This assertion does not constitute reasonable cause.

6. Taxpayers are in compliance with Romanian tax laws

"While living in Romania, I complied with all Romanian tax laws...." See Exhibit 4.

This assertion cannot be verified since Mr. Bittner has failed to provide copies of his Romanian tax returns as requested in Information Document Requests.

Analysis and Argument:

For tax years 2007 through 2011, Alexandru Bittner was required to file FBARs for all foreign financial accounts. He met all criteria necessary to require FBAR filings:

- He is a U.S. naturalized citizen; therefore, he is a U.S. person.
- He has foreign financial accounts in the following foreign countries: Romania, Switzerland, and Liechtenstein.
- He has a financial interest in these accounts, signature, or other authority over these foreign financial accounts.
- The aggregate amounts in the accounts valued in dollars exceed \$10,000 at any time during each calendar year.

Mr. Bittner does not qualify for mitigation of penalties for the following reasons:

- There are indications that Mr. Bittner is hiding receipt of cash of unknown sources from Romanian authorities and/or U.S. authorities. Mr. Bittner's nominee, Negrea Gheorghe, received cash from Mr. Bittner to deposit into the account in the name of the nominee. Mr. Bittner has not explained the source of large amounts of cash and why he would need to use a nominee to receive these funds if they were legal sources of funds/income. It appears to be an attempt to hide the true source and nature of the funds.
- Mr. Bittner did not cooperate during the examination. He did not produce records as requested.

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Additionally, the following factors were analyzed in making a determination of reasonable cause:

Factors to consider for reasonable cause:

1. Reliance upon the advice of a professional tax advisor who was informed of the existence of the foreign financial account:

Mr. Bittner did not consult with a professional tax advisor and did not disclose the existence of his foreign financial accounts until after the due dates for filing FBARs; therefore, he cannot reasonably rely on any advice given by the advisor. In addition, he did not provide his return preparer enough information to prepare accurate FBARs in the original or amended filings.

Mr. Bittner has not shown that he provided his return preparer with information regarding his FBAR filing requirement prior to the due date for filing FBARs for each of the 2007 through 2011 FBARs. In addition, he only brought to the return preparer a summary sheet detailing the highest aggregate balance. The return preparer relied on the accuracy of this information to prepare the original delinquent FBARs.

Mr. Bittner was asked in an Information Document Request whether he received any tax or legal opinions in Romania or in the U.S. His representative refused to answer the question regarding whether Mr. Bittner received any opinions in Romania. He stated that Mr. Bittner did not receive any opinions in the U.S.

Disclosure to Tax Return Preparer

Based on Beckley's notes, Mr. Bittner learned of his FBAR filing requirement before hiring Beckley. He hired Beckley to prepare delinquent FBARs but only disclosed the existence of one account. The disclosure was made after the due dates for filing FBARs had passed. Mr. Bittner did not provide Beckley with all the information necessary to file accurate and complete FBARs. Based on documents provided by the return preparer, Mr. Bittner only provided a spreadsheet that listed the highest account balance for one account.

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2. Unreported account was established for a legitimate purpose:

While it is true that Mr. Bittner lived and operated his businesses in Romania and that most of these foreign accounts may have been established for a legitimate purpose, some do appear to be established for an illegitimate purpose including hiding assets, funds, etc. from the Government of Romania, creditors, and possibly, from the U.S.

3. There were no indications of efforts taken to intentionally conceal the reporting of income or assets:

Mr. Bittner, through his representative, admitted that he owned assets or held notes in the names of others named as nominees. His representative stated in his written response to IDRs that Mr. Bittner wanted to protect his privacy in Romania. When these assets were sold or the notes became worthless, Mr. Bittner reported the gain/loss from the sale or other disposition of these assets and claimed a bad debt deduction for the worthlessness of the debts. However, Mr. Bittner failed to report the accounts held by Negrea Gheorghe in his FBAR filings.

It is the IRS' contention that Mr. Bittner directed the nominee to receive funds into this account and to disburse funds as he directed. See copies of accounts held under the name Negrea Gheorghe. It is clear from inspection of this account that Negrea Gheorghe did not use this account as his personal account. All disbursements were to entities and/or individuals connected to or related to Mr. Bittner.

4. There was no tax deficiency related to the unreported foreign account:

This factor does not apply since it is the IRS' contention that there are tax deficiencies related to the foreign financial accounts.

Factors against having reasonable cause:

1. Taxpayer's background and education indicate that he should have known of the FBAR reporting requirements:

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Mr. Bittner claimed that he was ignorant of his FBAR filing requirements. However, his education, vast background in various types of businesses, and his connections to Romanian government officials indicate that he should have known of the FBAR reporting requirements. See facts regarding Mr. Bittner's background and education above.

Compliance History

There is no record of an FBAR filing from Mr. Bittner prior to the 2012 filings for calendar years 1993 through 2011.

Length of time between failure to meet tax obligations and time of compliance

Mr. Bittner returned to the U.S. on or around September 2011 and hired a CPA to prepare his delinquent FBARs in January 2012. He filed his delinquent returns and delinquent FBARs on or around May 21, 2012. These original delinquent FBARs were not substantially complete. He filed amended FBARs on September 27, 2013 but failed to report all financial accounts held by nominees. Therefore, a significant amount of time had passed between the time the 2007 through 2010 FBARs were due and the 09/27/13 amended filings.

Circumstances beyond a taxpayer's control

Mr. Bittner did not describe any circumstances beyond his control other than the fact that no one from the U.S. Embassy informed him of his tax filing obligations. His attorney claimed that he was registered with the U.S. Embassy in Romania, yet he did not inquire with them about his U.S. filing requirements.

2. Tax deficiency related to the unreported foreign account:

Since Mr. Bittner failed to file timely, all the income reported on the delinquent returns as well as any examination adjustments were due to the foreign financial accounts. An analysis of Mr. Bittner's personal foreign financial accounts indicated that Mr. Bittner failed to report all income deposited into these accounts. Mr. Bittner's failure to file federal income tax returns and his failure to report all of his foreign financial accounts resulted in tax deficiencies. Mr. Bittner has unexplained deposits for which there is no obvious explanation of their source and character. Mr. Bittner's representative stated that he had no sources of nontaxable income. These unexplained deposits are likely from his numerous Romanian businesses and his connections to Romanian government officials.

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3. Whether Taxpayer failed to disclose the existence of the account to the person preparing his tax return:

After the due dates for the 2007 – 2011 FBARs, Mr. Bittner disclosed the existence of one or two accounts to the return preparer. The balance of this (these) account(s) was provided in a summary sheet. Mr. Bittner did not appear to be concerned with the accuracy of the original delinquent FBARs. This was apparent when comparing the original delinquent FBARs with the amended FBARs filed during the examination.

4. Efforts taken to Conceal Reporting

There are indications of efforts taken by Mr. Bittner to intentionally conceal the reporting of income, assets, or foreign activities. While Mr. Bittner and his representatives vehemently claim that he expended time and money to ensure that the amounts reported on Form 1040, Forms 5471, and FBARs were as accurate as possible, there appears to be efforts by Mr. Bittner to conceal true ownership of assets in Romania and in the U.S.

Mr. Bittner's representative made the following statement in his May 29, 2014 letter to IRS:

"Note that, to protect privacy in Romania, Mr. Bittner had assets held in the name of a number of nominees, including:

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 Ruiana Mircea
 Popescu Ileana
 Nicolae Dumitru Emilian
 Barbulescu Serghei
 Matache Marian
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 Mellwood & Partners
 Burgstate
 Heavy Industries*

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Global RE"

Mr. Bittner did not provide any documents to indicate that these individuals and entities did have agreements with him to act as a nominee for them. Mr. Bittner did not provide copies of Romanian tax returns to show that income and assets reported as being owned by him to the U.S. government were also reported to the Romanian government.

When asked whether Petre Ion was a nominee for Mr. Bittner, the representative made the following statement in his 05/29/14 letter:

"Mr. Bittner holds a power of attorney to act on behalf of Mr. Ion in the US. Mr. Ion has not acted as a nominee for Mr. Bittner. While in Romania, Mr. Bittner and Mr. Ion were business partners. Mr. Ion also managed properties for Mr. Bittner and operated his Romanian businesses and assets when Mr. Bittner was not available. Mr. Ion has held and currently holds Powers of Attorney for Mr. Bittner or his nominees to act on his behalf in Romania."

Records and documents, however, indicate that Petre Ion (or Ion Petre) is a nominee for Mr. Bittner and currently holds U.S. assets under his name on behalf of Mr. Bittner.

Records also indicated that Mr. Bittner failed to inform his return preparer of his foreign businesses and the number of foreign bank accounts that he held. He did not provide source documents to the return preparer. He provided a spreadsheet summarizing the information to report to his return preparer.

In addition to the use of nominees, it is the Government's position that Mr. Bittner is attempting to conceal the facts regarding his Romanian tax compliance. Although he has claimed that he paid taxes to Romania, he has refused to provide any records to substantiate this claim.

In addition to having Romanian bank accounts, Mr. Bittner also had accounts in Liechtenstein and Switzerland.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS <i>Exhibit</i>	Schedule No. or
Name of Taxpayer <i>Alexandru Bittner</i>		Year/Period Ended <i>2007 through 2011</i>

5. Taxpayer's Conduct during the Examination

Mr. Bittner has been uncooperative during the examination and has tried to obstruct and delay the examination by various tactics including the following:

- Controlling the Examination by limiting the amount of records provided;
- Failing to provide translated documents;
- Involving TAS and upper management in an attempt to limit the scope and depth of the examination;
- Attempting to interfere with the interview of a third-party;
- Making allegations including harassment, depriving him of his rights, unfair treatment, extortion, and religious persecution against the Examiner and the original Counsel attorney.

Penalties - Recommended

As of the date of this report, the non-willful penalty with no mitigation is recommended. Mr. Bittner does not have reasonable cause for failure to file FBARs. In addition, Mr. Bittner does not qualify for any mitigation of the penalties.

Maximum non-willful penalty is calculated as followed:

Computation of Non-Willful FBAR Penalty					
Calendar Year	2007	2008	2009	2010	2011
Maximum Aggregate Balance	\$10,127,860	\$10,420,152	\$3,053,884	\$16,058,319	\$15,137,405
Maximum Total Penalty	\$8,029,159.50				
Penalty is \$10,000 per violation (statutory maximum)	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
# violations	61	51	53	53	54
Total Penalty per Year	\$610,000	\$510,000	\$530,000	\$530,000	\$540,000
Total Penalty	\$2,720,000				

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS <i>Exhibit</i>	Schedule No. or
Name of Taxpayer <i>Alexandru Bittner</i>		Year/Period Ended <i>2007 through 2011</i>

As noted in the accompanying Form 13449, Agreement to Assessment and Collection of Penalties under Title 31 USC 5321(a)(5) and 5321 (a)(6), this office has determined that one or more violations have occurred with respect to FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBARs), for foreign financial accounts maintained during calendar years 2007 through 2011. Too little time remains to provide an Appeals hearing before the expiration of the statute of limitations for assessing the proposed penalty; however, you have the right to request a post-assessment hearing with our Appeals office once you receive Letter 3708, *Notice and Demand for Payment of FBAR Penalty*. Letter 3708 will be mailed to you shortly. Please retain the enclosed Letter 3709 for reference if you plan to request a post-assessment hearing. You should follow the same procedures for requesting a post-assessment hearing as those listed in the enclosed Letter 3709 for pre-assessment hearings.

Post-assessed FBAR cases in excess of \$100,000 cannot be compromised by Appeals without approval of Department of Justice (DOJ). See 31 USC § 3711(a)(2) and 31 CFR § 901.1(a) and (b). Once assessed, the penalty becomes a claim of the U.S. Government. See IRM 8.11.6.1(6).

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	Case No. 4:19-cv-00415
v.)	
)	Filed Electronically
ALEXANDRU BITTNER,)	
Defendant.)	

NOTIFICATION TO THE COURT

Defendant, by their undersigned counsel, respectfully files this Notification to the Court and in support thereof, states as follows:

1. Counsel for Mr. Bittner has discovered that Exhibits Nos. 1-5 to Plaintiff's Motion for Partial Summary Judgment (Dkt. #29) are incomplete. Those exhibits are the corrected FBARs filed by Defendant; however, the government failed to include the accompanying 36-page schedule that Defendant supplied to the government on September 25, 2013 as part of his corrected FBAR filings.¹
2. In fact, Defendant pointed this deficiency out in his response to Plaintiff's Request for Admission No. 11. And, Plaintiff admitted in Paragraph 26 of its Motion for Partial Summary Judgment that Defendant filed FBARs and accompanying schedules listing the foreign accounts. Dkt. #29 at ¶26
3. Yet, Plaintiff continues to use the incomplete exhibits. Defendant has no issue with use of those exhibits, provided the accompanying schedules are included. To that end, attached as Exhibit A is the 36-page schedule that Defendant attached to his corrected FBARs.

¹ The 36 page schedule is what the Examiner relied upon in her report [Govt Exs. 61 and 62] that formed the basis of the penalty assessments.

Dated: June 3, 2020

Respectfully submitted,

By: /s/ Farley P. Katz
FARLEY P. KATZ, LEAD ATTORNEY
State Bar No. 11108790
FKatz@clarkhill.com
RACHAEL RUBENSTEIN
State Bar No. 24073919
RRubenstein@clarkhill.com
FORREST M. "TEO" SEGER III
State Bar No. 24070587
TSeger@clarkhill.com

CLARK HILL STRASBURGER
2301 Broadway Street
San Antonio, Texas 78215
210-250-6006 Ph.
210-258-2714 Fax

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 3, 2020, a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Herbert W. Linder
Attorney, Tax Division
United States Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201
Herbert.W.Linder@usdoj.gov
Attorney for Plaintiff,
United States

/s/Rachael Rubenstein
RACHAEL RUBENSTEIN

ALEXANDRU BITTNER							
MAXIMUM AMOUNT FOR A DAY IN ROMANIAN BANKS (USDOLLARS)							
BANK - BRANCH							
BANK ADDRESS							
ACCOUNT NO./IBAN		2006	2007	2008	2009	2010	2011
A. UNICREDIT TIRIAC BANK (EX HVB BANK)- CHARLES DU GAULLE BRANCH							
CHARLES DU GAULLE SQUARE, NR.15, SECTOR 1, BUCURESTI, ROMANIA							
RO19BACX00000000016980310	1,329,595	495,373	227,365	362,508	665,021	1,013,382	
RO89BACX00000000016980020	12,400	36,100	30,725	42,462	105,775	990,150	
RO40BACX00000000016980320	1,806,206	405,940	293,144	74,935	655,044	257,284	
B. PIRAEUS BANK - DOCTOR FELIX BRANCH							
NICOLAE TITULESCU STREET, NR.29-31, SECTOR 1, BUCURESTI, ROMANIA							
4259-490468-050 & sub accounts							835,111
4259-490468-052 & sub accounts							1,112,400
C. RAIFFEISEN BANK - BUCURESTI BRANCH							
VICTORIEI AVENUE, NR.155, BLOCK D1, SECTOR 1, BUCURESTI, ROMANIA							
RO31RZBR00000000060667874 & sub accts	9,565	10,270	10,900	5,785	10,945	4,980	
D. CREDIT EUROPE BANK (EX FINANSBANK)- DOAMNEI BRANCH (No Longer Exists)							
DOAMNEI STR., NR.17-19, SECTOR 3, BUCURESTI, ROMANIA							
012.25110.000-1052784.USD	48,010	7,450	7,327	7,243	7,212		
E. BANQUE SCS ALLIANCE							
P.O. BOX 1211, GENEVA 8, SWITZERLAND							
0012507.0001USD	53,241						
F. LIETCHTENSTEINISCHE LANDESBANK							
STADTLE 44, PO BOX 384, 9490 VADUZ, LIECHTENSTEIN							
208.653.60-IBAN L155	191,962	10,000	10,000	10,000	10,000	10,000	
208.653.71-IBAN L155	5,993						
G. ROYAL BANK OF CANADA SUISSE							
PO BOX 5696, GENEVA 11, SWITZERLAND							
1044264 and sub accounts	1,056,148	516,148	474,179	411,825	878,955	93,987	

PISCICOLA TOUR SRL		MAXIMUM AMOUNT FOR A DAY (USDOLLARS)							
BANK - BRANCH									
BANK ADDRESS									
ACCOUNT NO.		2006	2007	2008	2009	2010	2011		
A. UNICREDIT TIRIAC BANK (EX HVB BANK) - CHARLES DU GAULLE BRANCH									
CHARLES DU GAULLE SQUARE, NR.15, SECTOR 1, BUCURESTI, ROMANIA									
RO82BACX0000000031240310		495,275	1,442,328	2,176,972	229,550	158,425	52,588		
31240320									
31240020		449,959							
B. BRD GROUP SOCIETE GENERAL - TULCEA BRANCH									
STR.BABADAG, NR.116, TULCEA, JUD.TULCEA, ROMANIA									
RO21BRDE370SV04773483700		289,789	481,964	291,020	124,785	671,277	1,091,844		
RO11BRDE370SV07226813700		498,030							
0477363700EUR		34,154	21,307	24,349	52,030	45,529	49,853		
C. RAIFFEISEN BANK - TULCEA BRANCH									
STR.GRIVITEI, NR.19, TULCEA, JUD.TULCEA, ROMANIA									
RO76RZBR0000060003055107		143,866	18,431						
2045685EURO									
D. BANCA COMERCIALA ROMANA - TULCEA BRANCH									
STR.TOAMNEI, NR.2, TULCEA, JUD.TULCEA, ROMANIA									
RO12RNCB4600000241320001		71,349	18,092						

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DANUBIU RO 2002 SRL		MAXIMUM AMOUNT FOR A DAY (USDOLLARS)						
BANK - BRANCH								
BANK ADRESS								
ACCOUNT NO.		2006	2007	2008	2009	2010	2011	
A. UNICREDIT TIRIAC BANK (EX HVB BANK) - GRIGORE MORA BRANCH								
STR.GRIGORE MORA,NR.37,SECTOR 1,BUCURESTI,ROMANIA								
RO17BACX0000000031279310		370,166	22,955	70,325	24,929			
B. EXIM BANK - BUCURESTI BRANCH								
STR.SPLAIUL INDEPENDENTEI,NR.15,SECTOR.5,BUCURESTI,ROMANIA								
RO44EXIM101000002897RO02		75,010	395,205					
RO44EXIM101000002897US02								
D. BRD GROUP SOCIETE GENERALE - TULCEA BRANCH								
STR.BABADAG,NR.116,TULCEA,JUD.TULCEA,ROMANIA								
RO31BRDE370SV06186573700		199,322	90,640	49,314	19,271			
RO45BRDE370SV07261053700			25,613					
E. BANCA COMERCIALA ROMANA - TULCEA BRANCH								
STR.TOAMNEI,NR.2,TULCEA,JUD.TULCEA,ROMANIA								
RO25RNCB256043355110003		34,239	102,500	58,409				

PISCICOLA MURIGHIOL SRL		MAXIMUM AMOUNT FOR A DAY (USDOLLARS)						
BANK - BRANCH								
BANK ADDRESS								
ACCOUNT NO.	2006	2007	2008	2009	2010	2011		
A. BRD GROUP SOCIETE GENERAL - TULCEA BRANCH								
STR.BABADAG,NR.116,TULCEA,JUD.TULCEA,ROMANIA								
RO86BRDE370SV03080503700				100,093	1,355,585	1,359,333		
B. TREZORERIE - TULCEA BRANCH								
STR.BABADAG,NR.163,TULCEA,JUD.TULCEA,ROMANIA								
RO76TREZ641509801X004461						1,372,859		
C. BANCA COMERCIALA ROMANA - TULCEA BRANCH								
STR.TOAMNEI,NR.2,TULCEA,JUD.TULCEA,ROMANIA								
RO18RNCB0256043355240001		95,404	142,786	51,851				

TURISM SI AGREMENT SA		MAXIMUM AMOUNT FOR A DAY (USDOLLARS)							
BANK - BRANCH									
BANK ADRESS									
ACCOUNT NO.		2006	2007	2008	2009	2010	2011		
C. RAIFFEISEN BANK - TULCEA BRANCH									
STR.GRIVITEI,NR.19,TULCEA,JUD.TULCEA,ROMANIA									
RO54RZBR0000060001925744									
D. BRD GROUP SOCIETE GENERALE - TULCEA BRANCH									
STR.BABADAG,NR.116,TULCEA,JUD.TULCEA,ROMANIA									
RO65BRDE370SV05801773700									

	A	B	C	D	E	F	G
1	AVIPROD SRL						
2	MAXIMUM AMOUNT FOR A DAY (USDOLLARS)						
3	BANK - BRANCH						
4	BANK ADDRESS						
5	ACCOUNT NO.	2006	2007	2008	2009	2010	2011
6	A. BRD GROUP SOCIETE GENERAL - TULCEA BRANCH						
7	STR.BABADAG,NR.116,TULCEA,JUD.TULCEA,ROMANIA						
8	RO13BRDE370SV05722303700			73,811	15,780	25,443	18,616
9							
10	B. TREZORERIE - TULCEA BRANCH						
11	STR.BABADAG,NR.163,TULCEA,JUD.TULCEA,ROMANIA						
12	RO80TREZ6465070XXX000374				16,504		
13							
14	C. RAIFFEISEN BANK - TULCEA BRANCH						
15	STR.GRIVITEL,NR.19,TULCEA,JUD.TULCEA,ROMANIA						
16	RO49RZBR0000060004991519						

AQUAROM ELITE SRL									
MAXIMUM AMOUNT FOR A DAY (USDOLLARS)									
BANK - BRANCH									
BANK ADDRESS									
ACCOUNT NO.		2006	2007	2008	2009	2010	2011		
A. RAIFFEISEN BANK - DOROBANTI									
DOROBANTI SQUARE, NR.1, SECTOR 1, BUCURESTI, ROMANIA									
RO92BACX00000060005113741			108,813	165,621	148,717	48,595	20,001		
RO66BACX00000060012667308						568,910	1,898,831		
RO49BACX00000010014372246									
RO55BACX00000060012395227						117	348		

	A	B	C	D	E	F	G
1	RONGO INVEST SRL						
2	MAXIMUM AMOUNT FOR A DAY (USDOLLARS)						
3	BANK - BRANCH						
4	BANK ADDRESS						
5	ACCOUNT NO.	2006	2007	2008	2009	2010	2011
6	A. UNICREDIT TIRIAC BANK - CHARLES DU GAULLE BRANCH						
7	CHARLES DU GAULLE SQUARE, NR.15, SECTOR 1, BUCURESTI, ROMANIA						
8	RO60BACX0000000497106000					315,734	24,745
9	RO87BACX0000000497106001					300,446	52
10							
11	B. RBS ROMANIA BANK(EX ABN AMRO BANK) - WTC BRANCH						
12	MONTREAL SQUARE, NR.1, WTC, SECTOR 1, BUCURESTI, ROMANIA						
13	RO56ABNA4100264100207892	149,926	169,447	362,390	163,704	128,114	
14							
15	C. PIRAEUS BANK - DOMENII BRANCH						
16	ION MIHALACHE, NR. , SECTOR 1, BUCURESTI, ROMANIA						
17	RO59PIRB4250728786001000					5,880,729	1,428,908

TOP INVEST SRL										
MAXIMUM AMOUNT FOR A DAY (USDOLLARS)										
BANK - BRANCH										
BANK ADDRESS										
ACCOUNT NO.	2006	2007	2008	2009	2010	2011				
A. CREDIT EUROPE BANK(EX FINANSBANK) - DOAMNEI BRANCH										
DOAMNEI STR., NR.17-19, SECTOR 3, BUCURESTI, ROMANIA										
RO50FNNB001202016223R001	19,048	55,271	231,024	158,313	78,621	79,755				

SUPERMOB INTERNATIONAL SRL									
MAXIMUM AMOUNT FOR A DAY (USDOLLARS)									
BANK - BRANCH									
BANK ADDRESS									
ACCOUNT NO.		2006	2007	2008	2009	2010	2011		
A. CREDIT EUROPE BANK (EX FINANSBANK) - DOAMNEI BRANCH									
DOAMNEI STR., NR.17-19, SECTOR 3, BUCURESTI, ROMANIA									
RO54FNNB001202016285RO01		47,694			12,392	213,688	4,922		

INTEGRALNET SRL		MAXIMUM AMOUNT FOR A DAY (USDOLLARS)						
BANK - BRANCH								
BANK ADDRESS								
ACCOUNT NO.		2006	2007	2008	2009	2010	2011	
A. OTP BANK(EX ROBANK) - DOROBANTI BRANCH								
CALEA DOROBANTI STR., NR111-113, SECTOR 1, BUCURESTI, ROMANIA								
RO62OTPV13000024607RO01		12,661	21,645	18,301	17,937	54,128	34,646	

BETA MAC GRUP SRL

MAXIMUM AMOUNT FOR A DAY (USDOLLARS)									
BANK - BRANCH									
BANK ADDRESS									
ACCOUNT NO.									
A: UNICREDIT TIRIAC BANK (EX HVB BANK) - CHARLES DU GAULLE BRANCH									
CHARLES DU GAULLE SQUARE, NR.15, SECTOR 1, BUCURESTI, ROMANIA									
RO08BACX0000000031750310	7,867								

LCA SERVICE SRL										
MAXIMUM AMOUNT FOR A DAY (USDOLLARS)										
BANK - BRANCH										
BANK ADDRESS										
ACCOUNT NO.		2006	2007	2008	2009	2010	2011			
A. CREDIT EUROPE BANK (EX FINANSBANK) - DOAMNEI BRANCH										
DOAMNEI STR., NR.17-19,SECTOR 3,BUCURESTI,ROMANIA										
RO21FNNB001201052885RO02		871	205	80	197	204	33			

MIDAS CONSTRUCTII 2000 SRL		MAXIMUM AMOUNT FOR A DAY (USDOLLARS)						
BANK - BRANCH								
BANK ADDRESS								
ACCOUNT NO.		2006	2007	2008	2009	2010	2011	
A. CREDIT EUROPE BANK (EX FINANSBANK) - DOAMNEI BRANCH								
DOAMNEI STR., NR.17-19,SECTOR 3,BUCURESTI,ROMANIA								
RO76FNNB001201052798RO03		84,245	127,116	195,249	29,791	13,706	1,083	
B. RAIFEFSEN BANK - BUCURESTI BRANCH								
CALEA VICTORIEI STR.NR.63-81,SECTOR 1,BUCURESTI,ROMANIA								
4073251800		261,529	25,476	12,043				
C. BANCA COMERCIALA ROMANA - BUCURESTI SECTOR 1 BRANCH								
CALEA VICTORIEI STR.NR.155,SECTOR 1,BUCURESTI,ROMANIA								
2511.1-911.1ROL		23,565	14,690					
D. OTP BANK (EX ROBANK) - DOROBANTI BRANCH								
CALEA DOROBANTI STR., NR111-113,SECTOR 1,BUCURESTI,ROMANIA								
2511000017412ROL01/1100		2,036						

STIBRO 2000 SRL		MAXIMUM AMOUNT FOR A DAY (USDOLLARS)							
BANK - BRANCH									
BANK ADDRESS									
ACCOUNT NO.		2006	2007	2008	2009	2010	2011		
A. CREDIT EUROPE BANK (EX FINANSBANK) - BUCURESTI BRANCH									
SPLAIUL UNIRII STR., NR.12BL.B6,SECTOR 4,BUCURESTI,ROMANIA									
RO29FNNB000100197214RO01		6,694	460,914	31	25	24	25		
RO29FNNB000100197214EUR1		317	366	290	234	229	230		
B. RAIFFESEN BANK - BUCURESTI SECTOR 1 BRANCH									
CALEA VICTORIEI STR.NR.63-81,SECTOR 1,BUCURESTI,ROMANIA									
RO52RZBR00000600000671279		5,856	328,584	13,127	17,028	12,056	5,166		
RO25RZBR00000600000671280		2,249							

HOTEL VENETIA SRL									
		MAXIMUM AMOUNT FOR A DAY (USDOLLARS)							
BANK - BRANCH									
BANK ADDRESS									
ACCOUNT NO.		2006	2007	2008	2009	2010	2011		
A. CREDIT EUROPE BANK EX FINANSBANK) - DOAMNEI BRANCH									
DOAMNEI STR., NR.17-19, SECTOR 3, BUCURESTI, ROMANIA									
RO92FNNB001201052967RO02		15,435	3,876	2,769	385	479			