

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury Sworn in on June 14, 2024

UNITED STATES OF AMERICA

v.

JENNIFER BRUNENKANT,

Defendant.

GRAND JURY ORIGINAL

CRIMINAL NO. \_\_\_\_\_

VIOLATIONS:

COUNTS 1-4:

26 U.S.C. § 7201 (Attempt to Evade or Defeat Tax)

COUNTS 5-16:

26 U.S.C. § 7202 (Failure to Collect, Account For, and Pay over Trust Fund Taxes)

COUNTS 17-19:

26 U.S.C. § 7203 (Failure to File Return, Supply Information, or Pay Tax)

INDICTMENT

The Grand Jury for the District of Columbia charges that, at all times material to this Indictment, on or about the dates and times stated herein:

Background

*Relevant Individuals and Entities*

1. JENNIFER BRUNENKANT (“BRUNENKANT”) was a resident of the State of Maryland until in or about September 2019, and was a resident of the District of Columbia from in or about September 2019 to the present.

2. In or around 2013, BRUNENKANT formed Herbal Alternatives II, LLC (“Herbal Alternatives”) in the District of Columbia. Herbal Alternatives operated a marijuana dispensary

that was licensed in the District of Columbia. The dispensary became operational in August of 2015.

3. Since 2017, BRUNENKANT has been the sole owner of Herbal Alternatives II in reality and on paper.

4. BRUNENKANT was a United States citizen with an obligation to file federal income tax returns and to pay federal income tax.

5. The Internal Revenue Service (“IRS”) was an agency of the United States Department of Treasury responsible for administering the tax laws of the United States including the ascertainment, computation, assessment, and collection of income taxes and employment taxes owed to the United States.

#### *Individual Income Taxes*

6. United States taxpayers who had income in excess of a certain amount were obligated to file an individual income tax return with the IRS. On said return, United States taxpayers were obligated to report their income.

7. IRS Form 1040, U.S. Individual Income Tax Return (“Form 1040”), was used by United States taxpayers to file individual income tax returns.

8. A sole-member Limited Liability Company (“LLC”) is treated as a “disregarded entity,” and all income items flow through to the member and should be reported on the single member’s Form 1040.

9. For all relevant tax years, because Herbal Alternatives was a sole proprietorship with BRUNENKANT as the 100% owner, Herbal Alternatives’s income should have been

reported on BRUNENKANT's Schedule C on her Form 1040 as there were no partners that shared in the profits of the business.

10. From tax year 1999 through tax year 2003, BRUNENKANT annually filed Forms 1040, Individual Income Tax Returns. In or around tax year 2004, BRUNENKANT stopped consistently filing Forms 1040 and paying federal income tax. For tax years 2008 through 2011, BRUNENKANT filed late and paid penalties and interest. BRUNENKANT has not filed a Form 1040 nor paid federal income tax since tax year 2011.

11. From at least 2015 forward, BRUNENKANT earned income from Herbal Alternatives such that she was obligated to file an individual income tax return with the IRS.

12. BRUNENKANT has never reported her income from Herbal Alternatives on a Form 1040, Individual Income Tax Return, or on any other federal tax form.

13. BRUNENKANT took various actions to evade and defeat the payment of tax due and to evade and defeat the assessment of a tax on her income from Herbal Alternatives, as described below.

14. Starting in or about December 2019, for tax year 2017 through tax year 2021, BRUNENKANT filed District of Columbia Government Forms D-30, Unincorporated Business Franchise Tax Forms, in the District of Columbia for Herbal Alternatives. On each of these tax returns, BRUNENKANT falsely averred, under penalty of perjury, that she filed federal income tax returns in Kentucky for the corresponding years.

15. On or about July 5, 2023, during a voluntary interview in the District of Columbia, BRUNENKANT falsely stated to Special Agents from the Internal Revenue Service Criminal

Investigation that she had filed her federal income tax returns from tax year 2017 through tax year 2021 and mailed them to Kentucky.

16. In or about November 2016 and October 2021, respectively, BRUNENKANT formed two additional businesses besides Herbal Alternatives: JBJ Mgmt LLC and HA-VP LLC. BRUNENKANT also opened corresponding business bank accounts for these entities. BRUNENKANT used these accounts to conduct business for Herbal Alternatives by both receiving deposits and paying expenses for it. BRUNENKANT thereby sought to hide the identification of her income from Herbal Alternatives, and thereby evade and defeat the assessment and payment of tax on such income.

17. BRUNENKANT opened a business account at Capital One in the name of JBJ Mgmt LLC on or about November 4, 2016, and was the only signer. Deposits from an electronic ATM associated with Herbal Alternatives were made into the account. The deposits were derived from customer payments and gross receipts for Herbal Alternatives.

18. Expenses related to Herbal Alternatives were paid out of the JBJ Mgmt account, including, but not limited to:

- a. Payments to vendors that delivered marijuana to Herbal Alternatives;
- b. Tax payments to the DC Office of Tax and Revenue (“OTR”) that referenced Herbal Alternatives;
- c. Payments to Herbal Alternatives’s security system, SECOM, that referenced Herbal Alternatives;

- d. Rent payments to Columbus Properties that referenced Herbal Alternatives;
- and
- e. Paychecks to Herbal Alternatives employees.

19. BRUNENKANT also opened a business bank account at United Bank in the name HA-VP on or about October 4, 2021, and was the only signer. As with the JBJ Mgmt account, deposits from Herbal Alternatives's ATMs were made into the HA-VP account, and the deposits were derived from customer payments and gross receipts for Herbal Alternatives.

20. Expenses related to Herbal Alternatives were also paid out of the HA-VP account, including, but not limited to:

- a. Paychecks to Herbal Alternatives employees; and
- b. Payments to DC OTR related to Herbal Alternatives.

21. In addition to using the JBJ Mgmt and HA-VP accounts for Herbal Alternatives's expenses, BRUNENKANT also used funds from those accounts to pay for personal expenditures, including, but not limited to:

- a. In 2018, BRUNENKANT used funds from the JBJ Mgmt bank account to pay monthly mortgage payments for her residence in Bethesda, Maryland. In 2018, there were eleven cashier's checks drawn from the JBJ Mgmt account totaling \$96,490 made payable to the individual holding the mortgage, and all but one check referenced BRUNENKANT's name in the memo line.
- b. From 2019 through 2023, BRUNENKANT rented an apartment in DC for approximately \$10,000 per month. Between August 2019 to December 2021, a

total of twenty-five checks totaling \$232,045.92 were drawn from the JBJ Mgmt or HA-VP accounts and issued to the owner of the apartment.

c. Veterinary expenses totaling \$12,598.54 were paid from JBJ Mgmt's account.

d. Dental expenses totaling \$5,000 were paid from JBJ Mgmt's account.

*Trust Fund Taxes*

22. Pursuant to the Internal Revenue Code and associated statutes and regulations, employers are required to withhold amounts from their employees' gross pay including Federal Insurance Contribution Act ("FICA") taxes, which represent Social Security and Medicare taxes, and federal income taxes (collectively "trust fund taxes"). Employers hold the withheld amounts of trust fund taxes in trust until paid over to the IRS. Employers are required to remit these withheld trust fund amounts to the IRS on a quarterly basis, no later than the last day of the month following the end of the quarter.

23. In addition to the trust fund taxes that must be withheld from pay, employers are separately required to make contributions under FICA for Social Security and Medicare in amounts matching the amounts withheld from their employees' pay for those purposes. Such employer contributions are likewise required to be remitted to the IRS no later than the last day of the month following the end of the quarter.

24. Collectively, these components required to be remitted quarterly are commonly referred to as "employment taxes," made up of the trust fund taxes withheld (individual income, Social Security, and Medicare taxes) and the matching amounts contributed by the employer.

25. Employers are required to file, one month after the conclusion of the calendar quarter, an Employer's Quarterly Federal Tax Return, Form 941 ("Form 941"), setting forth the total amount of income taxes withheld, the total amount of Social Security and Medicare taxes due, and the total tax deposits.

26. Employers are also required to file an Employer's Annual Federal Unemployment Tax Return, Form 940 ("Form 940"), setting forth unemployment taxes owed by the employer.

27. A person is responsible for collecting, accounting for, and paying over the employment taxes if he or she has the authority required to exercise significant control over the employer's financial affairs, regardless of whether the individual exercised such control in fact.

28. BRUNENKANT both had the authority required to exercise significant control over and did in fact exercise control over Herbal Alternatives's financial affairs by, among other acts, being the sole owner of the business; personally using Intuit software to prepare paychecks and paystubs for the business, and to withhold trust fund taxes from employee paychecks; being the sole signer on the JBJ Mgmt and HA-VP bank accounts, which BRUNENKANT used to conduct business for Herbal Alternatives; and preparing Herbal Alternatives's payroll. Thus, BRUNENKANT was a responsible person for collecting trust fund taxes, accounting for the employment taxes by filing Forms 941 with the IRS, and paying over to the IRS the employment taxes for Herbal Alternatives's employees.

29. Since 2015, Herbal Alternatives employed several dozen employees. For tax years 2015 and 2016, BRUNENKANT filed some of the required Forms 941, Employer's Quarterly

Federal Tax Return. BRUNENKANT ceased filing Forms 941 after the fourth quarter of 2016, or tax period 201612.

30. From 2015 to present, BRUNENKANT caused employment taxes to be withheld from the paychecks of the employees of Herbal Alternatives. BRUNENKANT did not pay over those withheld income taxes and employment taxes after tax period 201612. The last payment received by the IRS was made via a check signed by BRUNENKANT dated June 2, 2017.

31. Consequently, BRUNENKANT withheld trust fund taxes from employees' wages but failed to file Forms 941 or pay employment taxes for the period beginning in the fourth employment tax quarter of 2016 and continuing through the fourth quarter of 2021.

32. BRUNENKANT further failed to file Forms 940 for 2017 through 2021.

**COUNT ONE**

**(Tax Evasion – 2018)**

33. Paragraphs 1 through 32 are realleged.

34. During the calendar year 2018, BRUNENKANT received taxable income, upon which there was income tax due and owing to the United States of America. Knowing the foregoing facts and failing to make an income tax return on or before April 15, 2019, as required by law, to any proper officer of the Internal Revenue Service, and to pay the income tax to the Internal Revenue Service, BRUNENKANT, from in or about January 2018, through the present, in the District of Columbia and elsewhere, willfully attempted to evade and defeat income tax due and owing by her to the United States of America, for the calendar year 2018, by committing and causing to be committed the following affirmative acts, among others:



- a. First, filing Form D-30, Unincorporated Business Franchise Tax Forms, in the District of Columbia for Herbal Alternatives II, and falsely averring, under penalty of perjury, that she filed a federal income tax return in Kentucky;
- b. Second, forming a business and opening and/or maintaining a bank account in the name of JBJ Mgmt LLC, and using that bank account to conduct business for Herbal Alternatives by both receiving deposits and paying expenses for Herbal Alternatives; and
- c. Third, using the JBJ Mgmt LLC bank account to use funds derived from Herbal Alternatives to pay for personal expenditures.

**(Attempt to Evade or Defeat Tax, in violation of 26 U.S.C. § 7201)**

**COUNT TWO**

**(Tax Evasion – 2019)**

35. Paragraphs 1 through 32 are realleged.

36. During the calendar year 2019, BRUNENKANT received taxable income, upon which there was income tax due and owing to the United States of America. Knowing the foregoing facts and failing to make an income tax return on or before July 15, 2020, as required by law, to any proper officer of the Internal Revenue Service, and to pay the income tax to the Internal Revenue Service, BRUNENKANT, from in or about January 2018, through the present, in the District of Columbia and elsewhere, willfully attempted to evade and defeat income tax due and owing by her to the United States of America, for the calendar year 2019, by committing and causing to be committed the following affirmative acts, among others:

- a. First, filing Form D-30, Unincorporated Business Franchise Tax Forms, in the District of Columbia for Herbal Alternatives II, and falsely averring, under penalty of perjury, that she filed a federal income tax return in Kentucky;
- b. Second, forming a business and opening and/or maintaining a bank account in the name of JBJ Mgmt LLC, and using that bank account to conduct business for Herbal Alternatives by both receiving deposits and paying expenses for Herbal Alternatives; and
- c. Third, using the JBJ Mgmt LLC bank account to use funds derived from Herbal Alternatives to pay for personal expenditures.

**(Attempt to Evade or Defeat Tax, in violation of 26 U.S.C. § 7201)**

**COUNT THREE**

**(Tax Evasion – 2020)**

37. Paragraphs 1 through 32 are realleged.

38. During the calendar year 2020, BRUNENKANT received taxable income, upon which there was income tax due and owing to the United States of America. Knowing the foregoing facts and failing to make an income tax return on or before May 17, 2021, as required by law, to any proper officer of the Internal Revenue Service, and to pay the income tax to the Internal Revenue Service, BRUNENKANT, from in or about January 2018, through the present, in the District of Columbia and elsewhere, willfully attempted to evade and defeat income tax due and owing by her to the United States of America, for the calendar year 2020, by committing and causing to be committed the following affirmative acts, among others:

- a. First, filing Form D-30, Unincorporated Business Franchise Tax Forms, in the District of Columbia for Herbal Alternatives II, and falsely averring, under penalty of perjury, that she filed a federal income tax return in Kentucky;
- b. Second, falsely stating to Special Agents from the Internal Revenue Service Criminal Investigation that she had filed her federal income tax return and mailed it to Kentucky;
- c. Third, forming a business and opening and/or maintaining a bank account in the name of JBJ Mgmt LLC, and using that bank account to conduct business for Herbal Alternatives by both receiving deposits and paying expenses for Herbal Alternatives; and
- d. Fourth, using the JBJ Mgmt LLC bank account to use funds derived from Herbal Alternatives to pay for personal expenditures.

**(Attempt to Evade or Defeat Tax, in violation of 26 U.S.C. § 7201)**

**COUNT FOUR**

**(Tax Evasion – 2021)**

39. Paragraphs 1 through 32 are realleged.

40. During the calendar year 2021, BRUNENKANT received taxable income, upon which there was income tax due and owing to the United States of America. Knowing the foregoing facts and failing to make an income tax return on or before April 18, 2022, as required by law, to any proper officer of the Internal Revenue Service, and to pay the income tax to the Internal Revenue Service, BRUNENKANT, from in or about January 2018, through the present,

in the District of Columbia and elsewhere, willfully attempted to evade and defeat income tax due and owing by her to the United States of America, for the calendar year 2021, by committing and causing to be committed the following affirmative acts, among others:

- a. First, filing Form D-30, Unincorporated Business Franchise Tax Forms, in the District of Columbia for Herbal Alternatives II, and falsely averring, under penalty of perjury, that she filed a federal income tax return in Kentucky;
- b. Second, falsely stating to Special Agents from the Internal Revenue Service Criminal Investigation that she had filed her federal income tax return and mailed it to Kentucky;
- c. Third, forming a business and opening and/or maintaining a bank account in the name of JBJ Mgmt LLC, and using that bank account to conduct business for Herbal Alternatives by both receiving deposits and paying expenses for Herbal Alternatives;
- d. Fourth, using the JBJ Mgmt LLC bank account to use funds derived from Herbal Alternatives to pay for personal expenditures;
- e. Fifth, forming a business and opening and/or maintaining a bank account in the name of HA-VP LLC, and using that bank account to conduct business for Herbal Alternatives by both receiving deposits and paying expenses for Herbal Alternatives; and
- f. Sixth, using the HA-VP LLC bank account to use funds derived from Herbal Alternatives to pay for personal expenditures.

**(Attempt to Evade or Defeat Tax, in violation of 26 U.S.C. § 7201)**

**COUNTS FIVE THROUGH SIXTEEN**

**(Failure to Collect, Account For, and Pay over Trust Fund Taxes)**

41. Paragraphs 1 through 32 are realleged.

42. BRUNENKANT was a person required to collect, account for on quarterly Forms 941, and pay over to the IRS on behalf of Herbal Alternatives the trust fund taxes imposed on its employees by the Internal Revenue Code.

43. On or about the dates listed in the table below, for each of the calendar quarters listed below, in the District of Columbia and elsewhere, BRUNENKANT did willfully fail to collect, truthfully account for, and pay over the trust fund taxes due and owing to the IRS on behalf of the employees of Herbal Alternatives.

<b>Count</b>	<b>Calendar Quarter Ending</b>	<b>Due Date of Form 941</b>	<b>Trust Fund Taxes Due and Owing</b>
5	201903	April 30, 2019	\$9,111.59
6	201906	July 31, 2019	\$9,111.59
7	201909	October 31, 2019	\$9,111.59
8	201912	January 31, 2020	\$9,111.59
9	202003	April 30, 2020	\$14,364.89
10	202006	July 31, 2020	\$14,364.89
11	202009	October 31, 2020	\$14,364.89
12	202012	January 31, 2021	\$14,364.89
13	202103	April 30, 2021	\$10,018.96
14	202106	July 30, 2021	\$10,018.96
15	202109	October 31, 2021	\$10,018.96
16	202112	January 31, 2022	\$10,018.96

**(Failure to Collect, Account For, and Pay over Trust Fund Taxes,  
in violation of 26 U.S.C. § 7202)**

**COUNT SEVENTEEN**

**(Failure to File an Income Tax Return – 2019)**

44. Paragraphs 1 through 32 are realleged.

45. During the calendar year 2019, BRUNENKANT had and received gross income in excess of \$12,200. By reason of such gross income, BRUNENKANT was required by law, following the close of calendar year 2019, and on or before July 15, 2020, to make an income tax return to the Internal Revenue Service, stating specifically the items of BRUNENKANT's gross income and any deductions and credits to which BRUNENKANT was entitled. Knowing and believing all of the foregoing, BRUNENKANT did willfully fail, on or about July 15, 2020, in the District of Columbia and elsewhere, to make an income tax return.

**(Failure to File Return, Supply Information,  
or Pay Tax, in violation of 26 U.S.C. § 7203)**

**COUNT EIGHTEEN**

**(Failure to File an Income Tax Return – 2020)**

46. Paragraphs 1 through 32 are realleged.

47. During the calendar year 2020, BRUNENKANT had and received gross income in excess of \$12,400. By reason of such gross income, BRUNENKANT was required by law, following the close of calendar year 2020, and on or before May 17, 2021, to make an income tax return to the Internal Revenue Service, stating specifically the items of BRUNENKANT's gross income and any deductions and credits to which BRUNENKANT was entitled. Knowing and believing all of the foregoing, BRUNENKANT did willfully fail, on or about May 17, 2021, in the District of Columbia and elsewhere, to make an income tax return.

**(Failure to File Return, Supply Information,  
or Pay Tax, in violation of 26 U.S.C. § 7203)**

**COUNT NINETEEN**

**(Failure to File an Income Tax Return – 2021)**

48. Paragraphs 1 through 32 are realleged.

49. During the calendar year 2021, BRUNENKANT had and received gross income in excess of \$14,250. By reason of such gross income, BRUNENKANT was required by law, following the close of calendar year 2021, and on or before April 18, 2022, to make an income tax return to the Internal Revenue Service, stating specifically the items of BRUNENKANT's gross income and any deductions and credits to which BRUNENKANT was entitled. Knowing and believing all of the foregoing, BRUNENKANT did willfully fail, on or about April 18, 2022, in the District of Columbia and elsewhere, to make an income tax return.

**(Failure to File Return, Supply Information,  
or Pay Tax, in violation of 26 U.S.C. § 7203)**



EDWARD R. MARTIN, JR.  
United States Attorney  
for the District of Columbia

A TRUE BILL

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Foreperson  
Date: