

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 12-40026-FDS
	)	
JOHN J. O'BRIEN,	)	
ELIZABETH V. TAVARES, and	)	
WILLIAM H. BURKE, III,	)	
	)	
Defendants.	)	

**GOVERNMENT'S NOTICE OF INTENTION PURSUANT THE COURT'S ORDER OF  
NOVEMBER 21, 2013**

The United States respectfully states that it intends to introduce evidence of uncharged acts of misconduct on the part of the defendants and that this evidence is inextricably intertwined with the charged conspiracy. It is the government's position that this evidence is admissible under Federal Rule of Evidence 401 and does not implicate Federal Rule of Evidence 404(b). However, as the government clarified at the status conference held on November 21, 2013, the uncharged conspiratorial acts and instances of misconduct the government anticipates introducing at trial are intrinsic to the charged offenses and have been revealed to the defendants through the voluminous discovery produced to date. Therefore, because the evidence of other contemporaneous bad acts is inextricably intertwined with the charged conspiracy the defendants are not entitled to the pre-trial notice as required by Rule 404(b).

Respectfully submitted,

CARMEN M. ORTIZ  
United States Attorney

By: /s/ Fred M. Wyshak, Jr.  
Fred M. Wyshak, Jr.  
Assistant U.S. Attorney

/s/ Karin M. Bell  
Karin M. Bell  
Assistant U.S. Attorney

/s/ Robert A. Fisher  
Robert A. Fisher  
Assistant U.S. Attorney

Date: December 23, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Robert A. Fisher  
Robert A. Fisher  
Assistant United States Attorney

Date: December 23, 2013