

# Critical Threat to IRS Voluntary Disclosure Program: Richard Brasser's Legal Team Appeals Conviction to Prevent Devastating Injustice

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Charlotte, North Carolina – The IRS's Voluntary Disclosure Program (VDP), a cornerstone of the U.S. tax system designed to encourage taxpayers to self-report issues, resolve tax obligations, and avoid criminal prosecution, faces an existential threat due to the misguided prosecution of Richard Brasser in *United States v. Richard Brasser and Gregory Gentner* (3:23-CR-6-MOC). This case, wrongly pursued in the U.S. District Court for the Western District of North Carolina, risks shattering public trust in the VDP, deterring compliance, and undermining the IRS's mission, according to Brasser's legal team.

Even the IRS didn't want the case prosecuted.

Despite the IRS's clear lack of interest in criminal charges, Assistant U.S. Attorney Caryn Finley pressed forward with an indictment that mischaracterized a civil dispute involving rFactr, Inc. as criminal conduct, resulting in Mr. Brasser's conviction on technical charges under 26 U.S.C. § 7202 for failing to pay trust fund taxes—charges he now appeals. The jury acquitted him of the more serious tax evasion charges under 26 U.S.C. § 7201, yet AUSA Finley's decision to pursue this case, without apparent justification, threatens the VDP's foundation. The U.S. Court of Appeals for the Fourth Circuit (Case No. 25-4165) will reexamine the case, with Brasser's legal team arguing that the indictment violates public policy and could inflict lasting damage on the VDP. "Punishing a taxpayer who acted in good faith sends a chilling message," said appellate counsel Juan Chardiet. "This case must be overturned to safeguard the VDP and prevent an unconscionable travesty."

The VDP motivates taxpayers to disclose compliance failures, enter repayment plans, and resolve issues without fear of criminal punishment. In 2016, Mr. Brasser exemplified this spirit, proactively reporting rFactr's payroll tax challenges before any IRS investigation. Yet, the January 18, 2023, indictment threatens to unravel this vital program, signaling that honest efforts to comply may lead to punishment. This injustice demands urgent reexamination by the Court of Appeals to protect the VDP and taxpayers like Mr. Brasser, who acted in good faith and deserves no jail time.

## A Good Faith Fight Amid Crisis

In 2016, rFactr, Inc., a tech startup founded by Mr. Brasser, faced severe financial turbulence, falling behind on payroll "Trust Fund" taxes. Rather than conceal the issue, Mr. Brasser hired a fractional CFO, two tax attorneys, and a certified public accountant to navigate the VDP. On June 30, 2016, before any IRS inquiry, rFactr submitted a preclearance request, which the IRS

approved, admitting the company into the VDP by November 15, 2016. Mr. Brasser worked diligently with IRS revenue officers, making payments in 2016 and 2017, providing all requested data, and striving to save the business. He personally injected \$72,000 into rFactr, forwent his salary, and funded employee health insurance through November 2017. By September 2021, he secured loans against his family's Briarcliff Property, fully paying the principal, penalties, and interest for his Trust Fund Recovery Penalty (TFRP). The IRS released its tax lien against him on December 6, 2021, signaling a successful resolution—until this unwarranted prosecution emerged.

#### Personal Devastation, Unyielding Resolve

Amid these efforts, tragedy struck. In September 2016, a fire destroyed the Brasser family home, leaving Richard, his wife Megan, and their four children homeless and without possessions. Further blows followed: a contractor misappropriated insurance funds, and thieves stole stored belongings. Despite these hardships, Mr. Brasser pressed on, honoring his commitments to the IRS with extraordinary resolve.

#### A Misguided Prosecution Risks a Vital Program

Former senior DOJ and IRS officials, with decades of experience overseeing tax prosecutions, have condemned this indictment as “entirely unwarranted” and “one of the most egregious examples of prosecutorial discretion” they’ve witnessed. They call it a “terrible injustice” that strikes at the heart of the VDP. “It takes extraordinary courage to admit a mistake and work with the IRS to make it right,” said Juan Chardiet. “Punishing Richard Brasser—a man who told the truth, cooperated fully, paid his debts, and had no willful intent—sends a devastating signal that the VDP cannot be trusted.” Evidence from civil lawsuits suggests vengeful investors, including a board member, may have misrepresented rFactr’s financial struggles in 2018, falsely alleging “embezzlement or a Ponzi scheme”—claims never charged and unsupported by evidence.

#### No Crime, No Jail—An Urgent Plea

Mr. Brasser’s legal team insists this case never should have reached trial, and jail time would be a gross injustice. With no criminal history, he acted in good faith, fully repaid his obligations, and faced sabotage and personal loss. “Richard Brasser is not a criminal—he’s a father and entrepreneur who bared his soul to the IRS, rebuilt from ashes, and still faces this travesty,” said Steve Cash, Brasser’s defense attorney at trial. This prosecution isn’t just an attack on one man: it’s a dagger to the heart of the VDP. If this injustice isn’t corrected, the IRS will lose its ability to encourage honesty, and taxpayers will suffer.

#### A Call to Save the VDP and Deliver Justice

Now leading a thriving tech consulting firm, Mr. Brasser brings cutting-edge AI solutions to companies across the country while remaining an active part of the Charlotte business community. His legal team urgently calls on the court to reject incarceration, recognize his lack of criminal intent, diligent cooperation, and immense sacrifices, and consider the sabotage that derailed rFactr. “The VDP hangs in the balance. If the government punishes those who come forward, the program collapses, and tax compliance crumbles,” warned Juan Chardiet.

“Reexamining this case is not just about Richard Brasser—it’s about saving a system that millions rely on.”

#### CASE INFORMATION

U.S. District Court for the Western District of North Carolina

USA v. Brasser

Case No. 3:23-CR-6-MOC

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