

ISSUE _____ :

INEFFECTIVE ASSISTANCE OF COUNSEL AND/OR COURT ERROR
AS TO MOVANT JOHN GREGORY LAMBROS' DUE PROCESS RIGHTS
BEING VIOLATED IN COUNT ONE (1) - CONSPIRING TO DISTRIBUTE
A CONTROLLED SUBSTANCE - WHEN THE JURY RETURNED A "GENERAL
JURY VERDICT" AND MOVANT LAMBROS WAS SENTENCED TO A DRUG
CARRYING A HIGHER STATUTORY LIMIT APPLICABLE TO A
MARIJUANA-ONLY CONSPIRACY. MOVANT JOHN G. LAMBROS WAS
PREJUDICED.

Movant Lambros' due process rights were violated and he was prejudiced, when he was originally sentenced to a term of mandatory life without parole and resentenced to a term of 360 months (30 years) on Count One (1), after a GENERAL JURY VERDICT on a charged conspiracy to possess with intent to distribute cocaine and MARIJUANA, in violation of Title 21, United States Code, Sections 846 and 841 (a)(1). Movant Lambros was prejudiced when the court sentenced Movant Lambros to a sentence exceeding the maximum that the statute permits for a MARIJUANA-ONLY conspiracy. See, U.S. vs. OWENS, 904 F.2d 411, 414-415 (8th Cir. 1990); quoting, U.S. vs. DALE, 178 F.3d 429, 432-433 FootNote 1 (6th Cir. 1999)(District Court committed plain error in imposing maximum sentence for conspiracy to distribute crack cocaine, rather than imposing maximum sentence for conspiracy to distribute MARIJUANA, where jury returned only a GENERAL VERDICT FORM.)

TIME LINE AS TO REQUESTS LAMBROS MADE TO COURT AND ATTORNEY FOR A FINDING AS TO
TYPE OF DRUGS INVOLVED IN CONSPIRACY: (COCAINE? and MARIJUANA?)

1. Movant Lambros was sentenced by the Honorable Chief Judge Murphy on January 27, 1994 and represented by Attorney Faulner. Movant was sentence to a mandatory life sentence without parole on the Count One (1) conspiracy for the distribution of cocaine.

2. On May 6, 1993, Movant Lambros' family attorney Jeffrey L. Orren

faxed Movant's attorney Charles Faulkner requesting him to contact and serve a subpoena on LARRY PEBBLES, the king-pin of the conspiracy, as to his sale of **MARIJUANA** to Movant Lambros during the conspiracy. Larry Pebbles had become a government witness throughout the trial against Movant Lambros which ended in **January 1993**, with a conviction of all four counts. See, **EXHIBIT A.** (May 6, 1993, TELECOPY COVER SHEET and LETTER from Attorney Orren to Attorney Faulkner)

3. On July 19, 1993, Attorney Faulkner filed a "MOTION TO CALL WITNESSES AT EVIDENTIARY HEARING" with the court and Judge Murphy. The motion requested Judge Murphy to allow Movant Lambros to "call the following witnesses at a **SENTENCING EVIDENTIARY HEARING TO RESOLVE FACTUAL DISPUTES**" Attorney Faulkner stated the following witnesses would state:

a. **DONALD HENDRICKSON** - was the paid government informant who went to Florida to get cocaine and that he gave defendant [Movant Lambros] **MARIJUANA AND TRIED TO SELL HIM MARIJUANA.** (emphasis added)

b. **LAWRENCE PEBBLES** - will state that he sold **MARIJUANA** to defendant [Movant Lambros] and that he told the police about it during interrogations. See, **EXHIBIT B.** (July 14, 1993, "MOTION TO CALL WITNESSES AT EVIDENTIARY HEARING," filed on July 19, 1993, with cover letter to Judge Murphy)

4. On January 27, 1994, Movant Lambros was sentenced by Judge Murphy in this action. The transcripts of the proceeding state:

a. Page 9 & 10: "'Apparently you are concerned about getting **SUBPOENAS** out to certain individuals prior to the sentencing date. Please review the previous order that Chief Judge Murphy issued regarding this matter. This order clearly states that we **are not allowed** to SUBPOENA ANY WITNESS OR PRESENT ANY TESTIMONY AT THE SENTENCING HEARING.' I do not agree with Mr. Faulkner's analysis of that order, and I'd like to raise that issue at this point in time. **THE COURT:** Okay. Well, **YOUR RECORD IS PROTECTED IN THAT YOU'VE RAISED THE ISSUE.** You did ask

FOR AN EVIDENTIARY HEARING AT SEVERAL JUNCTIONS. The Court considered the matters that would be addressed at that and whether an evidentiary hearing was required and ruled on those motions. It is my position that pursuant to the provisions of Rule 32 of the Federal Rules of Criminal Procedure, I am entitled to have the Court make findings of fact as to each and every one of the items which I dispute in the **PSI [Pre-Sentence Investigation Report]."** (emphasis added)

b. Page 21 and 22: **DEFENDANT LAMBROS:** "And going back to the **PRESENTENCE INVESTIGATION**, on page 2, [Page 22] **DEFENDANT LAMBROS:** Well, he's a snitch. And Page No. 3, Mr. Pebbles has stated to us that he **ADMITS SELLING MARIJUANA TO ME**. He made the statement to an outside individual, and I believe Mr. Faulkner was made aware of that information. And I'd like it to go on record that Mr. Pebbles admits selling **MARIJUANA** to me, and I wanted him subpoenaed to state that. As you know, I'm here for allegedly Mr. Pebbles selling me cocaine. **IT WAS MARIJUANA**, as I've stated before, and he made this statement. And Mr. Fulkner was made aware of the fact. I believe DEA agents stated that Pebbles never sold me **MARIJUANA**. That has to do with paragraph 12." (emphasis added)

c. Page 27: **DEFENDANT LAMBROS:** "It says **MARIJUANA**. I want him to ----- **THE COURT:** I just will assume, for purposes of the record, THAT ALL OF THAT IS TRUE, for purposes of what we have to do today." (emphasis added) See, **EXHIBIT C.** (January 27, 1994, SENTENCING TRANSCRIPT, USA vs. LAMBROS, Criminal No. 4-89-82(05), Pages 9, 10, 21, 22, 26, & 27)

5. On or about January 28, 1994, Attorney Faulkner filed a NOTICE OF APPEAL, as per Judge Murphy's ORDER during sentencing and was removed from Movant's criminal case.

6. On or about February 1994, Attorney COLIA CEISEL was appointed to represent Movant Lambros. Attorney Ceisel submitted Movant Lambros' DIRECT APPEAL to the Eighth Circuit Court of Appeals on **May 18, 1995**. See, U.S. vs. LAMBROS, 65 F.3d 698 (8th Cir. 1995).

7. Movant Lambros requested Attorney Ceisel to raise the "GENERAL JURY VERDICT" issue as to Movant being sentenced to a drug carrying a higher statutory limit applicable to a MARIJUANA-ONLY CONSPIRACY. ATTORNEY COLIA CEISEL REFUSED TO SUBMIT THE ISSUE TO THE EIGHTH CIRCUIT WITHIN HER BRIEF SUBMITTED ON MAY 18, 1995.

8. On September 8, 1995, the Eighth Circuit vacated Count One (1) of Movant's sentence, as the mandatory life sentence without parole was illegal, as the conspiracy ended before November 1988, well after the February 1988 conspiracy end date charged in Count One (1) of Movant's indictment. See, U.S. vs. LAMBROS, 65 F.3d 698 (8th Cir. 1995).

9. On February 10, 1997, Movant Lambros was RESENTENCED by the district court on Count One (1), the conspiracy count, as per the Eighth Circuits order. Movant Lambros was represented by Attorney Colia Ceisel. Movant Lambros was entitled to present ANY RELEVANT EVIDENCE THE COURT COULD HAVE HEARD AT THE FIRST SENTENCING HEARING. See, U.S. vs. CORNELIUS, 968 F.2d 703, 705 (8th Cir. 1992):

"Once a sentence has been vacated or a finding related to sentencing has been reversed and the case has been remanded for RESENTENCING, the district court can hear any relevant evidence on that issue that it could have heard at the first hearing."(citing cases) (emphasis added)

Therefore, de novo resentencing occurred on February 10, 1997. The district court was bound to apply the precedent of the Eighth Circuit. See, HOOD vs. U.S., 342 F.3d 861, 864 (8th Cir. 2003). The U.S. Supreme Court held that the double jeopardy clause DOES NOT BAR RESENTENCING ON COUNTS WHICH WERE AFFIRMED ON APPEAL, when the sentences on other counts have been vacated. See, PENNSYLVANIA vs. GOLDHAMMER, 88 L.Ed.2d 183 (1985). Movant Lambros requested Attorney Ceisel to present RELEVANT EVIDENCE as to Movant Lambros' purchase and discussions of purchasing MARIJUANA during the course of the conspiracy that could of affected ALL COUNTS Movant was sentenced on. Movant could of been resentenced on ALL COUNTS if relevant evidence required the court to do same. See, FEDERAL SENTENCING AND FORFEITURE GUIDE, Third

Edition, Volume I, Page 1, by Attorney's HAINES, COLE, and WOLF.

10. **MOVANT LAMBROS REQUESTS JUDGE RENNER DURING RESENTENCING TO MAKE FINDING AS TO "TYPE OF DRUG" INVOLVED IN COUNT ONE (1) CONSPIRACY:** On February 10, 1997, Movant Lambros stated the following to Judge Renner during resentencing:

a. TRANSCRIPT PAGES 16 & 17: " ... in regard to COUNT I, Your Honor, I'm raising the argument right now that I was denied due process of law and effective assistance of counsel when at sentencing a **GENERAL VERDICT** - - I repeat, a **GENERAL VERDICT** - - was rendered by the JURY which did not specify which substantive offense of a multi object conspiracy was committed." (emphasis added)

b. TRANSCRIPT PAGE 18: "Instead of charging movement with a separate offense on each of the offenses following the jury verdict, the government **FAILED TO REQUEST A SPECIAL VERDICT FORM** identifying which offense movement conspired to commit." (emphasis added)

c. TRANSCRIPT PAGE 19: "I'm saying that a **GENERAL VERDICT** was rendered and that this Court doesn't have any idea on what phase of 841, if it's 841 or other counts, that it's sentencing me on today. So, I don't see how I can be sentenced until we have an **EVIDENTIARY HEARING** as to what exactly I was found guilty of by the JURY." (emphasis added)

d. TRANSCRIPT PAGE 64: "Okay. And regarding the **GENERAL VERDICT**, on which **ELEMENT** - - THE COURT: THAT'S A MATTER OF ARGUMENT THAT YOU WILL RAISE WITH THE COURT OF APPEALS IF THERE IS AN APPEAL." (emphasis added)

See, **EXHIBIT D.** (February 10, 1997, TRANSCRIPT PAGES 16, 17, 18, 19, & 64)

11. On March 14, 1997, Movant Lambros wrote Attorney Colia F. Ceisel via U.S. Certified Mail No. Z-209-887-400, requesting her to raise the following issue within Movant Lambros' RESENTENCING APPEAL:

"DEFENDANT'S SENTENCING ON THE CONSPIRACY COURT MUST BE VACATED AND REMANDED FOR A NEW TRIAL WHERE IT WAS NOT KNOWN OR THE JURY INTENDED TO CONVICT DEFENDANT FOR A **COCAINE - RELATED CONSPIRACY** OR FOR A **MARIJUANA - RELATED**

CONSPIRACY, WHICH HAS A PERMISSIBLE MAXIMUM SENTENCE OF FIVE (5) YEARS, OR FOR CONSPIRACY INVOLVING BOTH DRUGS; IN THE ALTERNATIVE THE GOVERNMENT MUST SENTENCE THE DEFENDANT ON THE BASIS OF THE QUANTITY OF MARIJUANA INVOLVED IN THE CONSPIRACY AND NOT THE QUANTITY OF COCAINE. (emphasis added)

The letter also included a nine (9) page motion regarding the above to assist Attorney Ceisel in writing and research of same for the appeal. Movant also included his March 4, 1997, typed review of excerpts from GRAND JURY and TRIAL TRANSCRIPTS which contain the word "MARIJUANA". See, EXHIBIT E. (March 14, 1997, letter from Movant Lambros to Attorney Ceisel and March 4, 1997, overview of GRAND JURY and TRIAL TRANSCRIPTS which contain the word "MARIJUANA". Also included within this exhibit is Movant Lambros' July 7, 2000 letter to Attorney Gregory J. Stenmoe, BRIGGS & MORGAN, as to conspiracy to distribute marijuana and excerpts from the grand jury and trial transcripts)

12. Attorney Ceisel refused to raise the GENERAL JURY VERDICT issue as to Movant Lambros being sentenced to a drug carrying a higher statutory limit applicable to a MARIJUANA - ONLY CONSPIRACY within Movant's appeal to the Eighth Circuit from the February 10, 1997, RESENTENCING. Movant believes Attorney Ceisel filed the resentencing appeal on or about April 28, 1997 and it was denied on September 2, 1997.

GRAND JURY AGREED UPON THE FACT - AND INDICTED LAMBROS - ON MARIJUANA TRANSACTIONS - WITHIN COUNT ONE (1) CONSPIRACY:

13. On May 17, 1989, JOHN J. BOULGER, Sergeant with the Minneapolis Police and assigned to the Drug Enforcement Administration Task Force, clearly stated to the GRAND JURY that Movant Lambros met on three (3) separate occasions and discussed MARIJUANA TRANSACTIONS as to Count One (1), Overt Act Paragraph Number 21, stating within the grand jury transcript:

a. Q. Earlier, we had talked about your use of an **INFORMANT** by the name of **DONALD HENDRICKSON** during the course of this investigation. As I understand it, Mr. Hendrickson had some contact with **JOHN LAMBROS**, correct?

b. A. He did.

c. Q. And in particular, in January of 1988 as **REFERENCED IN OVERT ACT PARAGRAPH NUMBER 21**, there were some discussions between Don Hendrickson and Mr. Lambros concerning drug trafficking, correct?

d. A. That's correct. They met on three (3) separate occasions and discussed **MARIJUANA TRANSACTIONS** and other drug transactions.

See, **EXHIBIT F.** (GRAND JURY TESTIMONY OF JOHN J. BOULGER, May 17, 1989, Pages 1, 13, 14, and 33)

14. Movant was only able to obtain the GRAND JURY testimony of John J. Boulger, 43 pages. Therefore, Movant is unable to offer exhibits to this court of information and facts offered to the grand jury as to all **MARIJUANA** allegations by the government to the grand jury. Movant requests copy of all grand jury transcripts in this action.

15. The District of Columbia Appeals Court offered an excellent overview of **GRAND JURY POWERS** in **GAITHER vs. U.S.**, 413 F.2d 1061, 1066 (1969):

"[F]or this reason, 12 ordinary citizens **MUST AGREE** upon an indictment **BEFORE** a defendant is tried on a felony charge. **THE CONTENT OF THE CHARGE**, as well as the decision to charge at all, is entirely up to the **GRAND JURY** - subject to its popular veto, as it were. **The grand jury's decision not to indict at all, or NOT TO CHARGE THE FACTS ALLEGED BY THE PROSECUTORIAL OFFICIALS, IS NOT SUBJECT TO REVIEW BY ANY OTHER BODY.** The sweeping powers of the grand jury over the terms of the indictment entail very strict limitations upon the power of prosecutor or court to change the indictment found by the jurors, or to **PROVE AT TRIAL FACTS DIFFERENT FROM THOSE CHARGED IN THAT INDICTMENT.** Since the grand jury has unreviewable power to refuse indictment, and to alter a proposed indictment, **PROOF AT TRIAL OF FACTS DIFFERENT FROM THOSE CHARGED CANNOT GENERALLY BE JUSTIFIED ON THE GROUNDS THAT THE SAME FACTS WERE BEFORE THE GRAND JURY AND THAT THE JURORS MIGHT OR EVEN SHOULD HAVE CHARGED THEM.**" (emphasis added)

See, **GAITHER vs. U.S.**, 413 F.2d at 1066.

16. The GRAND JURY indicted Movant Lambros on a conspiracy with two (2) objectives, the distribution of MARIJUANA and COCAINE. The petit jury returned a GENERAL JURY VERDICT OF GUILTY ON THE CONSPIRACY COUNT ONE (1) and did not make a "SPECIAL FINDING" as to the type of drug/controlled substance involved.

MARIJUANA TESTIMONY PRESENTED TO PETIT JURY DURING TRIAL:

17. The following persons offered testimony as to alleged MARIJUANA transactions during the course of the conspiracy to the PETIT JURY:

a. JOHN J. BOULGER, DEA AGENT: Pages 529, 532, 557, 856, 857, 862, 863, 864, and 867 of TRANSCRIPT.

b. LARRY PEBBLES, the alleged leader of the conspiracy that is testifying for the government for favorable treatment: Pages 51, 140, and 141 of TRANSCRIPT.

c. JOHN GREGORY LAMBROS, Movant: Pages 755 (I admit to the purchase of MARIJUANA), 758, 761, 766, 769, 771, 794, 803, 804, and 805 of TRANSCRIPT.

d. U.S. ASSISTANT ATTORNEY DOUGLAS PETERSON: Page 886, lines 15 thru 17, "He's dealing cocaine to John Lambros. EVEN ACCEPT LAMBROS' TESTIMONY THAT HE'S DEALING MARIJUANA. He has a drug relationship with John Lambros."

18. Movant incorporates and restates paragraph eleven (11) and EXHIBIT E., herein.

GOVERNMENT DID NOT REQUEST A "SPECIAL VERDICT":

19. The government DID NOT request a "SPECIAL VERDICT" as to the TYPE of drug/controlled substance involved in Counts 1, 5, 6, or 8. It is the responsibility of the government to request a "SPECIAL VERDICT". See, U.S. vs. BARNES, 158 F.3d 662, 672 (2nd Cir. 1998)(failure of defendant to seek a SPECIAL

VERDICT does not prevent him from RAISING THE ISSUE ON APPEAL.)

20. The indictment and evidence presented at trial should be viewed as a whole. Therefore, Movant Lambros could of been found guilty of: (a) cocaine; (b) **MARIJUANA**; or (c) some type of controlled substance. The petit jury was allowed to retire with a factually inaccurate impression as to which controlled substance(s) were part of Counts 1, 5, 6, and 8.

JURY INSTRUCTIONS WHERE CONFUSING AS TO "TYPE" OF CONTROLLED SUBSTANCE:

21. The jury instructions where confusing as to the "TYPE" of controlled substance involved in Counts 1, 5, 6, and 8. The following statements by Judge Murphy proves same:

a. "Also, the evidence NEED NOT prove the actual amount of the CONTROLLED SUBSTANCE that was part of the alleged transaction or the EXACT AMOUNT of the CONTROLLED SUBSTANCE alleged as possessed by the defendant with the intent to distribute. The government MUST PROVE beyond a reasonable doubt, however, that a MEASURABLE AMOUNT OF THE CONTROLLED SUBSTANCE was, in fact, knowingly and intentionally possessed by the defendant with the intent to distribute." See, COURT TRANSCRIPTS, Vol. VII., Page 935 (emphasis added)

b. "It is NOT NECESSARY for the government to prove that the defendant knew the precise nature of the CONTROLLED SUBSTANCE that was possessed with intent to distribute. It MUST PROVE beyond a reasonable doubt, however, that the defendant did know that SOME TYPE OF CONTROLLED SUBSTANCE was possessed with intent to distribute." See, COURT TRANSCRIPTS, Vol. VII., Pages 943 and 944. (emphasis added)

RULE OF LENITY APPLIES HERE:

22. The RULE OF LENITY is applicable in this action, as the RULE OF

LENITY provides that "where text, structure, and history fail to establish that the government's position is unambiguously correct, [Courts] apply the RULE OF LENITY and resolve the ambiguity in [the defendant's] favor." See, U.S. vs. GRANDERSON, 511 US 39, 54, 127 L.Ed.2d 611 (1994). Also see, U.S. vs. TRAN, 234 F.3d 798, 800, Head Note 16 (2nd Cir. 2000) ("'RULE OF LENITY' requires the sentencing court to impose the lesser of two (2) penalties where there is an actual ambiguity over which penalty should apply.")(emphasis added).

ATTORNEY WAS INEFFECTIVE AT TRIAL AND APPEAL FOR NOT RAISING ISSUE:

23. In 1990, the Eighth Circuit clearly stated in U.S. vs. OWENS, 904 F.2d 411 (8th Cir. 1990), that a defendant can not be sentenced to a statutory maximum sentence that exceeds the lowest-level narcotic charged in the indictment in a MULTIPLE-OBJECT CONSPIRACY CASE, when a general verdict form was used.

24. This type of error can be avoided by requiring the jury to make findings about the TYPE OF DRUG involved in a particular conspiracy.

25. Both of Movant Lambros' attorney's where ineffective in failing to raise this issue at **SENTENCING**, or at least on **APPEAL**. A REASONABLY COMPETENT ATTORNEY should have raised the issue, as the attorney's where not required to "forecast" and/or invent the law, as the Eighth Circuit had already held same as a recognizable issue in OWENS in 1990, three (3) years before Movant's trial.

26. A HEARING IS REQUIRED on a section 2255 motion when the movant asserts facts that, if proven, would entitle him to relief. See, BRUCE vs. U.S., 256 F.3d 592, 597 (7th Cir. 2001); see also, RODRIGUEZ vs. U.S., 286 F.3d 972, 986 (7th Cir. 2002)(hearing is required on section 2255 motion "when factual disputes exist" that cannot be determined on the paper record before the court).

27. The OWENS ^{Court} followed the teachings of U.S. vs. OROZCO-PRADA, 732 F.2d 1076, 1083-1084 (2nd Cir. 1984), which held that, while special verdicts were

generally not favored in criminal cases, they were appropriate when the information sought is relevant to the sentence to be imposed. Id. at 1084.

NO HARMLESS ERROR REVIEW:

28. At least two (2) circuits have held that OWENS [OROZCO-PRADA] maximum-sentence errors where not subject to harmless error review. See, U.S. vs. ALLEN, 302 F.3d 1260, 1276 (11th Cir. 2002); and U.S. vs. ZILLGITT, 286 F.3d 128, 139-40 (2nd Cir. 2002).

29. The Second Circuit stated in ZILLGITT, that the government argued in its brief that ZILLGITT's sentence was not prejudicial, in light of the "overwhelming evidence" of his involvement in a COCAINE CONSPIRACY. The Second Circuit agreed, "even significantly more, of the evidence presented to show the drug conspiracy related to COCAINE transactions than it did to MARIJUANA transactions. We nonetheless find the government's argument UNAVAILING FOR A NUMBER OF REASONS."

"We conclude that the relevant question is not whether there was sufficient evidence supporting a conviction for a COCAINE conspiracy, BUT rather whether there was sufficient evidence supporting conviction for a MARIJUANA CONSPIRACY." (emphasis added) See, ZILLGITT, 286 F.3d at 139. "Thus, even assuming there was more than enough evidence supporting a conspiracy involving COCAINE, we find that the district court's sentencing error affected ZILLGITT's substantial rights." Id. at 140.

LEGAL CASES TO ASSIST THIS COURT AND SUPPORT MOVANT'S ARGUMENT:

30. U.S. vs. OWENS, 904 F.2d 411 (8th Cir. 1990) (The general verdict form, however, did not allow the jury to indicate which of the **TWO (2) DRUGS** it found to be the object of the **CONSPIRACY.**)

31. U.S. vs. DALE, 178 F.3d 429 (6th Cir. 1999), this is an excellent

case and offers an overview of the circuit courts that have held:

a. "Five courts of appeals have held that when the jury returns a GENERAL VERDICT to a charge that a CONSPIRATORIAL AGREEMENT COVERED MULTIPLE DRUGS, the defendant must be sentenced as if he distributed only the drug carrying the lower penalty." Id. at 432. Listing U.S. vs. OWENS, 904 F.2d 411, 414-15 (8th Cir. 1990);

b. "Seven of the eight circuits that have directly considered this issue have decided that the punishment imposed cannot exceed the shortest maximum penalty authorized in the statute criminalizing the multiple objects if the punishment authorized by the conspiracy statute depends on the punishment provided for the substantive offenses which were the objects of the conspiracy." Id. at 432. Listing U.S. vs. OWENS, 904 F.2d 411, 414-15 (8th Cir. 1990).

32. U.S. vs. NICHOLSON, 231 F.3d 445 (8th Cir. 2000) In this case the jury heard taped telephone conversation and testimony as to the purchase of both cocaine and marijuana. The court stated, "For purposes of the GENERAL VERDICT, it does not matter which substance the jury believed Mr. Jenkins possessed." Id. at 454. "We cannot rule out the possibility that the jury followed this instruction and convicted Mr. Jenkins on a finding of MARIJUANA distribution EVEN THOUGH THE INDICTMENT ALLEGED COCAINE BASE. Mr. Jenkins CONSPIRACY CONVICTION suffers from the same ambiguity. Assuming that the jury based both of its guilty verdicts upon a finding that Mr. Jenkins CONSPIRED to possess, did possess, and intended to distribute nine ounces of MARIJUANA, he would be subject to a MAXIMUM SENTENCE OF FIVE (5) YEARS ON EACH COUNT. See, 21 USC §§841(b)(1)(D), 846." Id. at 454. The Court remanded Mr. Jenkins case for resentencing and ordered the court to impose a sentence within the statutory maximum of five (5) years for EACH of his convictions for MARIJUANA. Id. at 455.

33. U.S. vs. LOWE, 2000 WL 1768673 (S.D.W.Va. 11/28/2000)(Judge Goodwin) This case offers an excellent overview as to the sentences/penalties for MARIJUANA convictions - NAMELY WHAT IS THE CORRECT STATUTORY MAXIMUM PENALTY FOR A DEFENDANT

CONVICTED OF DISTRIBUTION OF MARIJUANA. Under the complex statutory scheme enacted by Congress, a defendant convicted of distributing MARIJUANA can be sentenced under one (1) of five (5) different statutory maximum penalty schemes - ranging from one (1) year to life imprisonment depending on a number of factors; and, as this case shows, it is easy to confuse which of the statutory provisions apply and under what circumstances. Four (4) of the penalty provisions for MARIJUANA convictions are set forth in 21 USC §841(b)(1) and the fifth is set forth in **§841(b)(4)**. In general, the penalty range applicable to particular drugs depends on the quantity of the drug attributable to the defendant. The LOWE case is the first case to have considered and analyzed the provisions of **§841(b)(4)** - and it held that the DEFAULT statutory maximum penalty in MARIJUANA cases where the jury HAS NOT determined the drug quantity by proof beyond a reasonable doubt should be ONLY ONE (1) YEAR - NOT THE FIVE (5) YEAR MINIMUM SPECIFIED IN THE CATCH-ALL PROVISION OF 21 USC §841(b)(1)(D). To expose a defendant to the increased penalties within **§841(b)(1)(D)**, the government must charge in an indictment, submit to a jury, and prove beyond a reasonable doubt that the amount of MARIJUANA distributed was not small OR that the DISTRIBUTION WAS FOR REMUNERATION. Judge Goodwin also noted that "[d]etermining whether **§841(b)(4)** or **§841(b)(1)(D)** applies also affects whether the defendant is CONVICTED OF A MISDEMEANOR or a FELONY. As the Fourth Circuit stated in U.S. vs. WILSON, 284 F.2d 407, 408 (4th Cir. 1960), "[a] fact which distinguishes a violation punishable by imprisonment for not more than one year from a violation punishable by imprisonment for ten years cannot be permitted to rest upon conjecture or surmise." The courts conclusion in this case had been suggested by DICTA in U.S. vs. HENDERSON, 105 F.Supp. 2d 523 (S.D.W.Va. 2000)(which was also written by Judge Goodwin; and is supported by the Fifth Circuit's later decision in U.S. vs. SALAZAR-FLORES, 238 F.3d 672 (5th Cir. 2001). Although the Fifth Circuit did not thoroughly analyze the issue in that case, it clearly implied that **§841(b)(4)** is the proper baseline default for MARIJUANA cases where the quantity is contested.

CONCLUSION - "GENERAL JURY VERDICT":

34. The District Court used COCAINE as the TYPE OF DRUG to sentence Movant Lambros on in Count One (1), conspiracy to distribute two (2) controlled substances, COCAINE and/or MARIJUANA. Movant was prejudiced when the court sentenced Movant to a sentence exceeding the maximum that the statute permitted for a MARIJUANA - ONLY CONSPIRACY.

35. Movant Lambros has proved that the jury returned a GENERAL VERDICT to a conspiracy that covered multiple drugs. Also, evidence presented to the GRAND JURY, PETIT JURY, and the final argument of U.S. Attorney Douglas Peterson to the jury stated, "[H]e's dealing cocaine to John Lambros. EVEN ACCEPT Lambros' testimony that he's dealing MARIJUANA. He has a drug relationship with John Lambros."

36. Movant Lambros requests this court to vacated his sentence on the Count One (1) conspiracy and remand for resentencing on Count One (1) for the receipt of MARIJUANA during the course of the Conspiracy.

JEFFREY L. ORREN
ATTORNEY AT LAW

JEFFREY L. ORREN
ATTORNEY AT LAW

TELECOPY COVER SHEET

From My Desk:

Solo Practitioner
and Of Counsel to
Rudenberg, Griswold, Orren & Klump

DATE: May 6, 1993

May, 1993

TO: Mr. Charles W. Faulkner
Attorney at Law
FAULKNER & FAULKNER

FAX #: 338-~~6258~~
0218

RE: John Lambros

NO PGS: 2 (including this cover page)

MESSAGE: Letter follows. By teletype only.

Jeffrey L. Orren
Attorney at Law

Mr. Charles Faulkner
~~FAULKNER & FAULKNER~~
Attorney at Law
701 Fourth Avenue South
Minneapolis, Minnesota 55402

BY TELECOPY ONLY

RE: John Gregory Lambros

Dear Mr. Faulkner:

John informs me that he wants a statement from Larry Pebbles regarding issues such as sale of marijuana, jewelry etc. Pebbles is currently at VOA and will be moving out tomorrow. He will tell the truth if asked, but due to his legal situation, he will not come forward voluntarily. He must be served with a subpoena. I suggest serving him tomorrow morning before he moves out of VOA. Otherwise, it may be difficult to locate him. Sorry about the short notice, but sometimes that is all we have to work with.

Very truly yours

Jeffrey L. Orren

JLO:djp

cc: John G. Lambros

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Charles W. Faulkner
Sheila Regan Faulkner

July 19, 1993

The Hon. Diana E. Murphy
Chief Judge of United States District Court
514 U. S. Courthouse
110 South Fourth Street
Minneapolis, MN 55401

Re: U. S. vs. John Gregory Lambros

Dear Judge Murphy:

Enclosed is Defendant John Lambros' Motion to Call Witnesses at Evidentiary Hearing. By copy of this letter we are serving the Assistant U.S. Attorney and the United States Probation Officer.

Sincerely,


Charles W. Faulkner

CWF:pjb
enclosures

cc: Douglas R. Peterson, Assistant U.S. Attorney
Jay Meyer, U.S. Probation Officer
✓ John Gregory Lambros
Jeffrey L. Orren, Esq.

EXHIBIT B.

16.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

UNITED STATES OF AMERICA.

Plaintiff,

vs.

CR 4-89-82(05)

JOHN GREGORY LAMBROS,

Defendant.

MOTION TO CALL WITNESSES
AT EVIDENTIARY HEARING

Defendant, John Gregory Lambros, respectfully requests that he be allowed to call the following witnesses at a sentencing evidentiary hearing to resolve factual disputes and represents that he believes each would say the following:

1. Margaret Duvall - will testify that Lambros dropped off \$2,000.00 to \$2,500.00 at Pebbles's office and that Lambros did, indeed, speak with her.
2. Donald Hendrickson - was the paid government informant who went to Florida with Pebbles to get cocaine and that he gave defendant marijuana and tried to sell him marijuana.
3. Jean St. Pierre (FCI Latuana, FBP #227-11-034) - will state that torture is done in prisons in Rio and that he has witnessed it. He will also state he saw a man returned to my cell in Rio who had been subjected to electroshock and beatings. He will say that he overheard conversations as to why no one wanted to be transferred to Brasilia, Brazil Federal Police Holding Facility.

4. Teryl Anderson (DEA Agent) - could testify that he arrested defendant for parole violation on May 17, 1991, in Brazil. On August 21, 1989 the U.S. parole commission issued the parole violation warrant. If was this warrant Lambros was arrested under as stated in Judge Noel's and Judge Lebedoff's orders.

5. Lawrence Pebbles - will state that he sold marijuana to defendant and that he told the police about it during interrogation. Also will say that he entered into an agreement to represent defendant as an attorney with respect to termination of parole status and that the \$2,500.00 delivered to his office was a retainer and that Lambros was his stock broker. He will also state that he asked defendant Lambros to do work for him in Brazil as well as other projects.

6. Robert Lewis (BCA Informant) - hopefully would say that Lambros asked him to obtain a Federal Arms Dealership License and that the false passport allegations were a lie.

7. Judith Van Hauer - will state that George F. Angelo was a client of Lambros and he purchased stock from defendant; that Pam Lemon was a client of Lambros and that Van Hauer did not see any mismanagement of Lemon's accounts. She would also state that Pebbles was a stock client of Lambros; and that Jim Hendrickson entered into stock negotiations with defendant, along with his brother in Duluth and Hendrickson never paid for the same.

8. George F. Angelo (federal fugitive) - could state that Lambros was his stock broker, that Lambros never purchased cocaine and that he was never a courier for defendant.

9. Tracey Greer - might testify that she mis-identified defendant as the driver of the Mercedes at the Sheraton. She said the driver had a

heard and Lambros had no beard. She would say Lambros never gave her \$2,500 or that Lambros was not the man who gave her \$2,500.

10. Luis Carlos Andreaci (Riverside House (halfway house), 968 South SW 2nd, Miami, FL) - he had implants implanted at Brasilia, Brazil, prior to extradition to the United States.

11. Jerry Boggs (FCI, Milan MI, FBP #026-94-089) - a man named "Kenny" at FCI, Milan, told him he had implants placed in him in Brazil and Boggs personally viewed the scar behind his ear from where the implants were removed. This person could be Luis Carlos Andreaci.

12. Clark Eugene Nelson - he spoke with a white male, around 50 years old, balding on top at FCI, Milan, who told of implants placed in him in Brazil and removed. Removal surgery left a scar behind his ear which Nelson personally viewed. The individual stated his name was "Kenny" and he fits the description of Luis Carlos Andreaci.

13. Pam Lemon - she could testify that she never showed defendant a copy of her arrest warrant and complaint, because she may not have received a copy. Could also state she never rented hotel rooms for defendant.


14. Mike Ayv - he accompanied defendant to Brazil on business and could testify to that. Ask government to produce copies of all stock transactions where it is alleged Lambros misdirected funds.

Defendant further requests permission to make the transcript of his extradition hearing before the Supreme Judicial Tribunal of Brazil part of the Court's record.

Dated: 7-14-93

Respectfully submitted,

FAULKNER & FAULKNER

By: 
Charles W. Faulkner
Suite 500
701 Fourth Avenue South
Minneapolis, MN 55415
Telephone: (612) 337-9573
Attorney Reg. No. 28551

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

-----X
 :
 United States of America, : 4-89 Crim. 82(05)
 :
 Plaintiff, :
 :
 -vs- :
 :
 John Gregory Lambros, : Minneapolis, Minnesota
 : January 27, 1994
 Defendant. : 3:00 o'clock p.m.
 :
 -----X

TRANSCRIPT OF PROCEEDINGS
(Sentencing)

BEFORE THE HONORABLE DIANA E. MURPHY,
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: Douglas R. Peterson,
Assistant U. S. Attorney

For the Defendant: Charles W. Faulkner

Court Reporter: Edith M. Kitto
552 U. S. Courthouse
Minneapolis, Minnesota

EXHIBIT C.

19.

50 PAGES TOTAL

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1 presentence report?

2 DEFENDANT LAMBROS: Yes, ma'am, I have. May I
3 address you from here?

4 THE COURT: Sure.

5 DEFENDANT LAMBROS: I have a considerable amount of
6 objections.

7 Number one, I'd like the Court to know, on January
8 20, 1994, Mr. Charles Faulkner wrote me a letter in care of
9 the Washington County Jail. "Enclosed are copies of two new
10 orders which have been received this morning from Chief Judge
11 Murphy. Also, I have faxed a January 12th letter Chief Judge
12 Murphy wrote to Senator Dave Durenberger to Jeff Warren this
13 afternoon."

14 The important paragraph: "Apparently you are
15 concerned about getting subpoenas out to certain individuals
16 prior to the sentencing date. Please review the previous
17 order that Chief Judge Murphy issued regarding this matter.
18 This order clearly states that we are not allowed to subpoena
19 any witnesses or present any testimony at the sentencing
20 hearing."

21 I do not agree with Mr. Faulkner's analysis of that
22 order, and I'd just like to raise that issue at this point in
23 time.

24 THE COURT: Okay. Well, your record is protected in
25 that you've raised the issue. You did ask for an evidentiary

1 hearing at several earlier junctions. The Court considered
2 the matters that would be addressed at that and whether an
3 evidentiary hearing was required and ruled on those motions.

4 DEFENDANT LAMBROS: Very good. My thoughts, or my
5 interpretation, were that an evidentiary hearing and a
6 sentencing hearing are two separate entities. And my
7 interpretation of your order was, even though you're denying
8 me an evidentiary hearing, that certain witnesses could be
9 brought forth at the sentencing hearing.

10 And at this point in time, I'd like to bring this to
11 the Court's attention. As the Court is aware, I have, both on
12 a pro se basis and through my counsel, registered numerous
13 objections to items contained in the presentence investigation
14 report, PSI.

15 It is my position that pursuant to the provisions of
16 Rule 32 of the Federal Rules of Criminal Procedure, I am
17 entitled to have the Court make findings of fact as to each
18 and every one of the items which I dispute in the PSI.

19 I further would advise the Court that I have
20 numerous witnesses that I desire to be subpoenaed to testify
21 at an evidentiary hearing concerning the disputed items in the
22 PSI. I would ask that I be permitted to call these witnesses
23 and have them come into court to testify at an evidentiary
24 hearing to be held prior to the imposition of sentencing.

25 At this point in time, Your Honor, as you know, an

EXHIBIT C. 21.

1 my benefit. And at this point in time I would ask Mr.
2 Faulkner, at the termination of today's sentencing hearing, to
3 request the Court that he be removed from the case.

4 THE COURT: Well, there's one thing here, Mr.
5 Lambros, that's important, and the Court of Appeals has a
6 rule, that the lawyer who is present at the time of the trial
7 should file the notice of appeal. Unless the notice of appeal
8 is filed within ten days, you lose your right to appeal.

9 So Mr. Faulkner should file the notice of appeal. I
10 assume you have no objection to being removed here, Mr.
11 Faulkner?

12 MR. FAULKNER: No objection, Your Honor.

13 THE COURT: Okay. So I grant your motion, Mr.
14 Lambros. I know that you're indigent. I will see that
15 another attorney is appointed to represent you on appeal, but
16 Mr. Faulkner will be charged with the responsibility of seeing
17 that the notice of appeal is filed within the ten days.

18 MR. FAULKNER: The notice is prepared, Your Honor,
19 and will be filed.

20 THE COURT: Okay.

21 DEFENDANT LAMBROS: And going back to the
22 presentence investigation, on page 2, I'd like the Court to be
23 aware of No. 2 paragraph. It states that on June 5th Lawrence
24 Pebbles received a 15-month prison sentence.

25 I believe there's some law, Title 18, 3553, No. 6,

1 saying that there should not be -- that there should be some
2 continuity between the individual who was the kingpin and
3 those underneath. I don't know exactly how to say it.

4 THE COURT: I know what you mean. You're saying
5 that he got off pretty light compared to what you're faced
6 with.

7 DEFENDANT LAMBROS: Well, he's a snitch. And page
8 No. 3, Mr. Pebbles has stated to us that he admits selling
9 marijuana to me. He made the statement to an outside
10 individual, and I believe Mr. Faulkner was made aware of that
11 information. And I'd like it to go on record that Mr. Pebbles
12 admits selling marijuana to me, and I wanted him subpoenaed to
13 state that.

14 As you know, I'm here for allegedly Mr. Pebbles
15 selling me cocaine. It was for marijuana, as I've stated
16 before, and he made this statement. And Mr. Faulkner was made
17 aware of the fact. I believe DEA agents stated that Pebbles
18 never sold me marijuana. That has to do with paragraph 12.

19 Mr. Angelo is in here. Mr. Angelo was a client of
20 mine when I was in the investment banking business. I did not
21 deal drugs with Mr. Angelo.

22 On page 4, paragraph 16, it talks about Tracy Greer,
23 stating that she met me at the Sheraton. Tracy Greer
24 misidentified me on the stand during the court proceedings.
25 Again, they say in the presentence investigation that she met

1 nightclub prior to going to work for Mr. Pebbles. There would
2 be no reason whatsoever for me not to speak to Margaret Duval.

3 I mean, it was convenient for the Government to put
4 that in there. Funds were dropped off. They were for legal
5 services by Mr. Pebbles. But I've known Ms. Duval for quite
6 some time. And, yes, she did also visit my offices in the
7 IDS, where she dropped off funds for options trading with Mr.
8 Pebbles.

9 Number 26, "When testifying, Lambros also repeatedly
10 denied dealing cocaine and contradicted much of the
11 incriminating evidence offered by Lawrence Pebbles," and so
12 forth. Then, again, Mr. Pebbles is willing to be
13 subpoenaed -- in fact, asked to be subpoenaed -- and I asked
14 Mr. Faulkner to testify to the fact that he received a fax
15 from attorney Jeff Orr, stating that Mr. Pebbles would be
16 available for subpoena for sentencing, stating that he did
17 marijuana business, jewelry, and other liquidation business.

18 Is that not true, Mr. Faulkner?

19 MR. FAULKNER: Does the Court want me to answer
20 these questions at this point?

21 THE COURT: Well, I think it's irrelevant here as
22 far as -- the record right now is about your objections to the
23 PSI.

24 DEFENDANT LAMBROS: Well, this is my objection. I
25 want him to verify it.

1 THE COURT: Well, Mr. --

2 DEFENDANT LAMBROS: It says marijuana. I want him
3 to --

4 THE COURT: I just will assume, for purposes of the
5 record, that all of that is true, for purposes of what we have
6 to do today.

7 DEFENDANT LAMBROS: And on page 7 it talks about
8 committing perjury. Mr. Peterson is saying I don't have
9 implants. Yet the Court won't let me have an MRI. May 6th, I
10 went to Abbott-Northwestern Hospital.

11 THE COURT: Okay, let's not get into that. I just
12 issued another order on it. I know that you disagree with it,
13 but let's not get into that now.

14 DEFENDANT LAMBROS: Okay. Number 36, I exercised
15 authority over individuals. I didn't exercise authority over
16 anybody, because I wasn't doing cocaine business. So I
17 disagree with the enhancement of two points.

18 Number 40 talks about my previous convictions. As
19 to constitutional law in Brazil, the specialty doctrine
20 applies; thus, all previous offenses are not applicable here.

21 I was arrested on the parole violation warrant. The
22 Supreme Court in Brazil threw it out, because it was not
23 applicable. If you look in the treaty of extradition between
24 the United States and Brazil at any offense
25 has to be dealt with in a sp

UNITED STATES FEDERAL COURT
FOR THE DISTRICT OF MINNESOTA

United States of America,
Plaintiff,

-vs- File No. CR.4-89-82(05)

John G. Lambros,
Defendant.

COPY

TRANSCRIPT OF PROCEEDINGS in the
above-entitled matter before the Honorable
Robert G. Renner on February 10, 1997 at
United States Federal Courthouse, St. Paul,
Minnesota, at 10:00 a.m.

APPEARANCES:

Douglas Peterson, Assistant United States
Attorney, appeared as counsel on behalf of the
Government.

Colia Ceisel, Attorney, appeared as
counsel on behalf of the Defendant.

REPORTED BY:

BARBARA J. EGGERTH, R.P.R.

EXHIBIT D.

RAY J. LERSCHEN & ASSOCIATES

26.

67 TOTAL PAGES

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1 received it this morning -- this is a
2 supplement to the presentence report. I
3 imagine Mr. Meyer was the one who composed
4 this. He is stating that my statutory penalty
5 for Count 1 is life imprisonment. I disagree
6 with that. I believe, as this court knows,
7 846 conspiracy, the penalty phase of 846 is
8 the 841. That's the object and the penalty.
9 And under that, within that time frame, I
10 believe the most I could have received was not
11 more than 30 years as was released by National
12 Legal Professional Associates out of Ohio in
13 their paper to the Eighth Circuit. So, that's
14 my position. The most I can be given on the
15 conspiracy count is 30 years, Your Honor, not
16 a life sentence. That's where I disagree with
17 Mr. Meyer and this court. Also, the 841 (b)
18 (1) (a) had a repeat offender provision which
19 called only for a term of imprisonment of not
20 more than 30 years and/or a fine.

21 Also, I would like to bring up regarding
22 -- this is very important -- in regard to
23 Count 1, Your Honor, I'm raising the argument
24 right now that I was denied due process of law
25 and effective assistance of counsel when at

EXHIBIT D.

RAY J. LERSCHEN & ASSOCIATES

27.

1 sentencing a general verdict -- I repeat, a
2 general verdict -- was rendered by the jury X
3 which did not specify which substantive
4 offense of a multi object conspiracy was X
5 committed. Therefore, to carry my argument
6 further, Your Honor, under the 841 penalty
7 facet, the least -- the least penalty of the X
8 offense is what I'm subject to. My -- am I
9 flowing correctly for you, sir? I'm sorry.
10 I'm stuttering and rambling a little bit.

11 THE COURT: You are doing fine.

12 THE DEFENDANT: Pardon me?

13 THE COURT: You're doing fine. I am
14 not asking you any questions because I
15 understand from your submissions what it is X
16 you are saying and I don't want to use up any
17 of your time.

18 THE DEFENDANT: Okay. If you
19 understand what I am saying, we can flow
20 faster.

21 THE COURT: I think I do.

22 THE DEFENDANT: Okay. So, on that
23 particular situation what I am saying is that
24 I went through my -- went through the
25 transcripts here and I laid it out just

EXHIBIT D.

RAY J. LERSCHEN & ASSOCIATES

28.

1 downstairs, I received them yesterday, where a
2 jury just gave a blanket verdict, general
3 verdict, so they didn't say which count or
4 which element of the conspiracy I was guilty
5 of. And that's not correct. So, I have a
6 brief that was done for somebody else out of
7 Leavenworth that's excellent, and it gets into
8 the multiple object conspiracy. And -- let's
9 see. Instead of charging movement with a
10 separate offense on each of the offenses
11 following the jury verdict, the government
12 failed to request a special verdict form
13 identifying which offense movement conspired
14 to commit. They didn't do this in this case.
15 So, as you are right today going to give me a
16 penalty for which facet of 841? And there is
17 other facets of the conspiracy. As you go
18 through the trial transcripts, Judge Murphy
19 reads the different elements of Conspiracy
20 Number 1. I would be more than happy to share
21 that with you right now, but it doesn't say
22 which one the jury found me guilty of. And
23 there is crimes in there that carry maybe five
24 years or ten years. I haven't had a chance to
25 research this. How do we attack this? I

EXHIBIT D.

RAY J. LERSCHEN & ASSOCIATES

29.

1 mean, I don't know how I am supposed to
2 communicate with you right now.

3 THE COURT: I leave that to you.

4 THE DEFENDANT: Okay. Are you
5 clear what I'm trying to say, Your Honor?

6 THE COURT: I think so.

7 THE DEFENDANT: Okay. So, I don't
8 have to go into -- any deeper into this
9 issue?

10 THE COURT: Well, that's up to you
11 to what extent you are going to explore any
12 issue.

13 THE DEFENDANT: I'm saying that a
14 general verdict was rendered and that this
15 court doesn't have any idea on what phase of
16 841, if it's 841 or other counts, that it's ~~X~~
17 sentencing me on today. So, I don't see how I
18 can be sentenced until we have an evidentiary
19 hearing as to what exactly I was found guilty
20 of by the jury.

21 I guess that's enough for that right
22 now.

23 Your Honor, when you were speaking now,
24 you said that all the motions that are filed
25 to date are being construed under 2255?

EXHIBIT D.

RAY J. LERSCHEN & ASSOCIATES

30.

1 wish to appeal this sentence, you have 10 days
2 within which to file your notices of appeal.

3 Ms. Ceisel, you will, if he wants to
4 appeal, you will be available to make sure
5 that proper instruments are filed?

6 MS. CEISEL: Yes, sir.

7 THE COURT: Yes, Mr. Lambros.

8 THE DEFENDANT: Yes, Your Honor. I
9 don't have a complete understanding. Now, the
10 motions that I -- that we spoke about, are
11 they --

12 THE COURT: I have denied them and
13 I have informed you that a written opinion
14 will be submitted so that you will have it in
15 front of you exactly what the court has done.

16 THE DEFENDANT: Okay. And
17 regarding the general verdict, on which
18 element --

19 THE COURT: That's a matter of
20 argument that you will raise with the Court of
21 Appeals if there is an appeal.

22 THE DEFENDANT: So, you are giving
23 me --

24 THE COURT: Well, I'm not -- your
25 attorney will advise you in that. It's not

March 14, 1997

John Gregory Lambros
Reg. No. 00436-124
USF Leavenworth
P.O. Box 1000
Leavenworth, Kansas 66048-1000
Web site: <http://members.aol.com/BrazilByct>

U.S. CERTIFIED MAIL NO.
Z-209-887-400

Attorney Colia F. Ceisel
Suite 500, Minnesota Building
46 East 4th Street
St. Paul, Minnesota 55101-1113

RE: APPEAL ISSUE ON RESENTENCING, LETTER TWO (2).

Dear Colia:

This is letter number two (2) addressing appealable issues I want you to raise from my resentencing on February 10, 1997, in front of Judge Renner.

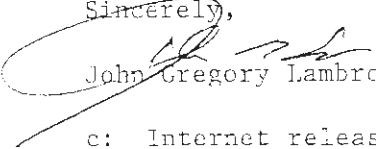
Please recall that Judge Renner refused to address me as to the object/overt acts that I was being sentenced to on February 10, 1997 and my argument of the general jury verdict, thus this argument is ripe for appeal:

DEFENDANT'S SENTENCING ON THE CONSPIRACY COUNT MUST BE VACATED AND REMANDED FOR A NEW TRIAL WHERE IT WAS NOT KNOWN OR THE JURY INTENDED TO CONVICT DEFENDANT FOR A COCAINE-RELATED CONSPIRACY OR FOR A MARIJUANA-RELATED CONSPIRACY, WHICH HAS A PERMISSIBLE MAXIMUM SENTENCE OF FIVE (5) YEARS, OR FOR CONSPIRACY INVOLVING BOTH DRUGS; IN THE ALTERNATIVE THE GOVERNMENT MUST SENTENCE THE DEFENDANT ON THE BASIS OF THE QUANTITY OF MARIJUANA INVOLVED IN THE CONSPIRACY AND NOT THE QUANTITY OF COCAINE.

Attached is my nine (9) page motion regarding same and the six (6) pages of excerpts from GRAND JURY and TRIAL TESTIMONY which proves that the jury knew of the OVERT ACTS of MARIJUANA.

Again please incorporate the above entitled entire motion or forward your draft so I may approve same prior to being submitted to the Eighth Circuit.

Sincerely,


John Gregory Lambros

c: Internet release and file

EXHIBIT E.

32'

March 4, 1997

John Gregory Lambros
reg. No. 00436-124
USP Leavenworth
P.O. Box 1000
Leavenworth, Kansas 66048-1000
Web site: <http://members.aol.com/BrazilByct>

THE FOLLOWING PAGES AND LINES WITHIN THE TRIAL TRANSCRIPT OF U.S. vs. LAMBROS, 4-89 Crim. 82(05) CONTAIN THE WORD "**MARIJUANA**" AND MAY REFERENCE IT TO BEING AN ILLEGAL CONTROLLED SUBSTANCE.

I. May 17, 1989, Grand Jury Transcript of **JOHN J. BOULGER**.

1. Page 33, line 16: Q And in particular, in January of 1988 as referenced in Overt Act Paragraph Number 21, there were some discussions between Don Hendrickson and Mr. Lambros concerning drug trafficking, correct? A. That's correct. They met on three separate occasions and discussed marijuana transactions and other drug transactions.

2. Page 34, line 1: Q. He indicated to Mr. Hendrickson he wasn't interested in marijuana as much, as he indicated his business was cocaine. And that it came to be that he didn't get involved with Mr. Hendrickson's interest in any cocaine trafficking or transactions. (I believe the word marijuana was left out)

3. Page 34, line 6: Q. Did Mr. Pebbles provide you with some information as to why Mr. Lambros did not pursue Don Hendrickson's interest in either marijuana or cocaine deals?

II. January 4 and 5, 1993, 9:30 A.M. Transcripts in Volume I, pages I-1 thru I-173.

1. Page 51 Line 18: Q. Were you distributing other drugs?
A. There were some Marijuana transactions.

2. Page 140 Line 25: Q. And would it be fair to say that the folks that you were dealing with in southern California were also in the Marijuana business? A. Yes Some of them were, yes.

3. Page 140 Line 4: Q. And you had a pretty extensive knowledge about their dealings in Thai marijuana, too, didn't you? A. Yes I did.

(1)

EXHIBIT E.

33.

4. Page 141 Line 7: Q. And to some extent you had been involved in that business too, hadn't you, sir? A. Yes, I have.

5. Page 141 Line 12: Q. And some of your dealings also took you in that area into various cities in Canada? A. Not personally, but yes. But not with the Thai marijuana.

6. Page 141 Line 16: Q. Marijuana, at any rate? A. On one occasion, that's true, yeah.

7. Page 141 Line 18: Q. Now, sir, is it fair to say that a broker, a person in the situation that you were in, would always want to keep his customers secret from each other? A. Some of the customers came with groups attached to them, and I couldn't keep them secret from each other. But, as a rule, that's true. The wisdom to that is so that they didn't collapse on each other if there were a problem; also to maintain your position as an intermediary.

III. January 7, 1993, 9:30 A.M. Transcripts in Volume III, pages III-365 thru III-523

1. Page III-516 Line 2: Q. Okay, Now, sir, is it correct that your investigation revealed that at the time that the California Mr. Siegel was staying at the Red Lion, he and Mr. Pebbles and Mr. Schriewer from St. Louis, in addition to this cocaine deal were engaged in a marijuana deal? A. That's correct.

2. Page III-516 Line 8: Q. And that, in fact, Mr. Schriewer was in California to pick up 160 plus pounds of marijuana? A. Yes, sir. We learned that from Mr. Pebbles.

3. Page III-516 Line 11: Q. And it was going to be delivered back to Missouri in a Honda Civic? A. I believe it was.

4. Page III-516 Line 23: Q. And all during this time, Mr. Pebbles --well, he was involved in the marijuana deal? A. Yes, sir. After his arrest and after he talked to us, he described these events of Mr. Schriewer coming out and staying at the Balboa Inn. We got those hotel records. They went up to the Ramada Inn off the exit near Mill Valley.

IV. January 8, 1993 1:00 P.M. Transcripts in Volume IV, pages IV-524 thru IV-608

1. Page IV 529 Line 15: A. The two specific meetings that I recall were both in January of 1988, January 12th and I believe January 28th. Mr. Hendrickson and Mr. Lambros met and discussed drug transactions involving marijuana and cocaine. And there came a time that it was more or less left -- there were drugs to be coming in, and they would talk later about the deal. They had arranged a place to exchange drugs, but then the events in February took place and nothing of that sort happened.

2. Page IV.-532 Line 23: Q. And in some of these instances were any drugs exchanged? A. Yes. Mr. Hendrickson had provided a sample of marijuana to Mr. Lambros for his purpose to test it to see if it was marketable. They spoke later on a bout that at the meeting on the 22nd at the restaurant. Q. So Mr. Hendrickson gave Mr. Lambros some marijuana? A. That's correct. It was a sample provided by Mr. Hendrickson to Mr. Lambros so Mr. Lambros could see if he could market larger quantities. Q. And Mr. Lambros never returned the sample, is that right? A. He returned the sample, and there was discussion about what a third party thought of the sample. (The sentence should read "HE NEVER RETURNED THE SAMPLE")

3. Page IV-557 Line 1: Q. Remind us which drugs were involved in those discussions. A. Two drugs, marijuana and cocaine. Q. Did Mr. Lambros indicate a preference? A. He indicated his preference was cocaine. My recollection is the word "forte" was used. He indicated that he didn't like to be involved in marijuana because of the bulk involved as opposed to cocaine, which takes up less space.

VI. January 14, 1993 9:15 A.M. Transcripts in Volume VI pages VI-672 thru VI-824

1. Page VI 755 Line 3: Q. What was the money for? A. It was two situations, and I can't be clear of the dates. But, number one, I repaid funds I borrowed from Mr. Pebbles -- I've borrowed money from Mr. Pebbles before for investment purposes -- also repayment of precious stones. And also I had purchased marijuana from Mr. Pebbles. Q. During the time you knew Mr. Pebbles after you got out of prison, how much marijuana did you purchase from him? A. I'd say maybe 300 pounds. Q. Three-hundred pounds of marijuana? A. Yes, sir. Q. How did Mr. Pebbles deliver the marijuana to you? A. Drove to my house. Q. And how did you routinely pay him for that marijuana? A. Well, I didn't keep all of it, to be honest with you. I took some of it, and I talked to, to be quite honest with you, an old friend that wanted to buy it, that might want to buy it. And I returned some of it, and I sold some of it.

2. Page VI 758 Line 15: Q. Did Mr. Angelo confide in you as to what his relationship was with Pebbles? A. No. I assumed he was fooling around, doing something, but I don't want to hear about it. That's not my business. I sold some marijuana. I shouldn't have done it. But I don't want to know about things they were doing. It was just like this Anderson called me up and wanting to do drugs. My object is, listen, I've got a deal, this is stock.

3. Page VI 760 Line 4: Q. Did he try to get you to engage in a marijuana deal with him? A. Yes, he did. Q. And did you, in fact, receive a sample of some marijuana from him? A. At one time he pushed. But before then, to be quiet honest with you, and what really irked me out, he had continually called me at the office. And I said, "Do you want to invest?" He said, "Well, maybe my brother will invest." So he gave me the telephone number to his brother in Duluth. I called his brother. His brother made a trade for me for three, three and a half thousand

dollars, and he didn't pay. So, I mean, after X amount of days when you don't pay, I have to resell the stock, and the difference between what I sell the stock for and what he purchases it for, I have to pay the difference.

And when I found out later that he's working for the Bureau of Criminal Apprehension and they're having him institute stock trades and not paying, I mean, what the hell kind of business is that?

4. Page VI 761 Line 4: Q. Did Mr. Hendrickson push you in regard to a marijuana deal? A. He pushed me. He tried to sell me -- he said, do you want to buy cocaine? Do you want to buy marijuana? I said, you know, fine. I'll listen to what the guy has to say. To be quite honest with you, the man isn't that educated. And if he wants to talk about marijuana or women or whatever, I'm a salesman. I'm supposed to listen to my people, what they have to say.

So I listened to him. I don't want to do it. In fact one of the transcripts shows that I'm not interested in doing that. He wanted to give me some marijuana. I said, fine, I'll take a handful. And I took a handful. He had a big bag of it in his car. Q. Did you ever engage in any marijuana dealing with Mr. Hendrickson? A. No, sir.

5. Page VI 766 Line 12: A. Because, number one, I'm an ex-felon on parole. I don't know what happening. I do know how the Government works. They get these people and say, listen, we're looking for this and this person, and we think he's been doing somethin.

And I had been dealing marijuana; she wasn't aware of that, or anything else. I mean, I was very vulnerable. I don't know what the hell this woman is going to do when she's put up against the wall like she was.

6. Page VI 769 Line 11: A. I was in a very vulnerable situation. I knew I had done the marijuana transaction with him. I was scared. I had done stones with him that were illegal stones, I knew that, and possibly some other investment situations of borrowing the funds could be illegal. I mean, I can talk about this now, because I have immunity under the extradition treaty regarding that.

7. Page VI 771 Line 4: A. It was repayment back. He had borrowed me money -- remember, money was going back and forth from us a lot. I had purchased marijuana from him, and I had purchased stones from him. And also the money he borrowed me, I had used for the market for my out-of-the-country dealings. Q. Did Mr. Pebbles ever include you in the planning of his cocaine dealing business? A. He wanted me to get involved. And I wasn't interested in getting involved. I'd do the marijuana, but, you know, I wasn't interested in the cocaine. Q. Mr. Lambros, do you know a person by the last name of Lewis? A. Roger Lewis? Q. Yes. A. Yes, sir. Q. Where did you meet Roger Lewis? A. I met Roger Lewis maybe back in 1969 or 1970

maybe, possibly '70, '71. Q. Where did you meet Roger Lewis?
A. Roger Lewis was a marijuana pilot.

8. Page VI-803 Line 17: Q. But when it did happen, you left the house because of the jealousies of Pam Lemon. Is that your testimony? A. Also that, and then also because of marijuana dealings. Q. So it wasn't because these were just calls from other women? A. No. Some of it had to do with marijuana dealings, sir.

9. Page VI-805 Line 2: Q. So you did have a drug-dealer-to-drug dealer relationship with Lawrence Pebbles? A. Yes. I bought marijuana from Mr. Pebbles. I didn't buy cocaine, but I bought marijuana.

VII. January 15, 1993 9:30 A.M. Transcripts in Volume VII pages VII-825 thru VII - 961.

1. Page VII-844 Line 1: Q. During these years, as I understand it, you're dealing marijuana, right? A. Yes, sir. Q. You knew it was illegal? A. Yes, sir. Q. You had no respect for those laws? A. If I sold it, obviously I didn't have respect for those laws. Q. Do you believe that you can pick and choose which laws that you agree with, which ones to follow? A. No, but I can accept responsibility for my actions.

2. Page VII-861 Line 18: Q. No question that Donny Hendrickson had sample amounts of marijuana given to him by government agents, correct? A. One time, yes, sir. He had a sample amount provided by us. It was a procedure we used that was cleared through the superintendent's office. Q. And it was marijuana? A. There's no doubt about that. Q. It was not cocaine? A. That's correct. Q. Did Donny Hendrickson ever bring a sample of cocaine to John Lambros? A. No, sir. Q. Did you ever authorize him to obtain a sample of cocaine from some other source to bring to John Lambros? A. No, sir. Q. That would be outside your procedures, correct? A. Yes, sir. Q. You, in the course of looking at Lawrence Pebbles' operation, determined that he had been involved in the marijuana dealing business, did you not, sir? A. He told us that, yes, sir. Q. Did you confirm that with anyone else? A. Yes, sir. Q. In fact, is it not correct that on February 18, 1988, Mr. Pebbles was involved in a 160 pound-plus marijuana deal in California with Thomas Schriewer-- A. Schriewer, from St. Louis. Q. -- sorry about the pronunciation -- and that that marijuana was driven back to Missouri? A. That's correct.

3. Page VII-886 Line 12: Q. But Mr. Lambros says, well, there's this trade slip, Defense Exhibit 1 and Defense Exhibit 2. First of all, keep in mind your common sense again. Lawrence Pebbles is a careful guy. He's dealing cocaine to John Lambros. Even accept Lambros' testimony that he's dealing marijuana. He has a drug relationship with John Lambros. (This is U.S. Assistant Attorney Douglas Peterson's FINAL ARGUMENT TO THE JURY.)

(5)

EXHIBIT E.

37.

4. Page VI-888 Line 22: Testimony incinsistent with that of John Lambros, but testimony consistent with all the other circumstantial evidence, which includes money laundering for Pamela Lemon, meeting Donny Hendrickson, talking to him about doing stock transactions in his dying brother's name, and consistent with the Larry Pebbles', or so-called Larry Pebbles', Campbell's Soup stock option deal, consistent with having Ziploc bags and gloves, consistent with having those duffel bags in his bedroom next to the safe in the bedroom closet, a safe which, as a bedroom safe, is not going to be holding these bales of marijuana, but certainly a bedroom safe big enough for 2.2. pound packages of cocaine.

(6)

EXHIBIT E.

38.

July 7, 2000

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U.S. CERTIFIED MAIL NO. 7099-3220-0003-7350-0943 - RETURN RECEIPT REQUESTED

**RE: LAMBROS vs. FAULKNER, et al.
COUNT ONE (1) MAXIMUM SENTENCE FOR MARIJUANA IS FIVE (5) YEARS
SEE, U.S. vs. DALE, 178 F.3d 429 (6th Cir. 1999)**

Dear Mr. Stenmoe:

As you know, the CONSPIRACY within my indictment included the alleged distribution and/or possession of **MARIJUANA**. Although not stated within my indictment, evidence presented at trial and GRAND JURY testimony offers proof of same. The CONSPIRACY count is count one (1) within my indictment.

U.S. vs. DALE, 178 F.3d 429 (6th Cir. 1999):

In DALE, as in the **EIGHTH CIRCUIT**, the District Court committed plain error in imposing maximum sentence for conspiracy to distribute crack cocaine, rather than imposing maximum sentence for conspiracy to distribute marijuana, where jury was given enhanced unanimity instructions but returned only a **GENERAL VERDICT FORM**. This case offers references to **EIGHTH CIRCUIT** cases needed for this argument.

CONSPIRACY:

Conspiracy is itself the crime. See, DALE, at 431. A single conspiracy may have as its objective the distribution of two different drugs without rendering it duplicitous. See, DALE, at 431.

Seven of the eighth circuits that have directly considered this issue have decided that the punishment imposed [in distribution of Marijuana & cocaine] CANNOT exceed the **SHORTEST** maximum penalty authorized in the statutes criminalizing the multiple objects [marijuana/cocaine] if the punishment authorized by the **CONSPIRACY** statute depends on the punishment provided for the substantive offenses which were the objects of the CONSPIRACY. See, DALE, at 432. [Eighth Circuit included]

EXHIBIT E.

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File

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July 7, 2000

Lambros' letter to Attorney Stenmoe

RE: **LAMBROS vs. FAULKNER, et al. - COUNT 1 - MARIJUANA/COCAINE SENTENCING STATUTE**

This is the case in both DALE and LAMBROS. The maximum sentence for conspiracy to distribute a **CONTROLLED SUBSTANCE** depends on the **CONTROLLED SUBSTANCE TO BE DISTRIBUTED**. Title 21 U.S.C. § 846. LAMBROS' and DALE's facts are the same, thus the maximum sentence for a conspiracy to distribute **MARIJUANA** is **FIVE (5) YEARS, Title 21 U.S.C. § 841(b)(1)(D)**.

EVIDENCE PRESENTED TO THE JURY DURING LAMBROS' TRIAL WHICH SUPPORTS THE ALLEGED POSSESSION AND/OR POSSIBLE DISTRIBUTION OF MARIJUANA:

TRIAL AND GRAND JURY TRANSCRIPT EVIDENCE AS TO MARIJUANA:

1. GRAND JURY TESTIMONY OF JOHN J. BOULGER, DEA AGENT: May 17, 1989, at 11:51 a.m., page 33, lines 20 thru 22;
2. Testimony of Larry Pebbles during trial: Volume I, pages 140, 141;
3. SENTENCING TRANSCRIPT: Lambros stating to court at sentencing that he purchased marijuana from Larry Pebbles and Lambros requesting to have PEBBLES subpoenaed to state same again at the sentencing court so he could be sentenced for marijuana. SENTENCING TRANSCRIPT pages 22, 27; (Please note that FAULKNER would not offer the argument and refused to subpoena PEBBLES.)
4. Testimony of JOHN J. BOULGER, DEA Agent: Volume III, page 516, lines 23 thru 25;
5. Testimony of JOHN J. BOULGER, DEA Agent: Volume IV, pages 529, lines 15 thru 18; page 532, lines 23 thru 25; page 533, lines 3 thru 9; page 557, lines 1 thru 7; (Remind us which drugs were involved in those discussions. Two drugs, **MARIJUANA AND COCAINE**)
6. Testimony of JOHN GREGORY LAMBROS: Volume VI, page 755, lines 3 thru 20; (I admit to the purchase of MARIJUANA); page 758, lines 18 & 19; page 761, lines 4 thru 20; page 766, lines 16 thru 19; page 769, lines 11 & 12; page 771, lines 4 thru 6, 13 thru 14; page 794, lines 8 & 9, lines 12 thru 25; page 803, lines 19 thru 23; page 804, lines 23 thru 25; page 805, lines 1 thru 5;
7. Testimony of JOHN GREGORY LAMBROS: Volume VII, page 844, lines 1 thru 11;
8. Testimony of JOHN J. BOULGER: Volume VII, page 856 & 857. Boulger lies on the stand as to PEBBLES never stating that he sold marijuana to Lambros. Page 862, Boulger admits that PEBBLES is involved in the MARIJUANA business. Page 863, Boulger admits other marijuana deals that PEBBLES was involved in during the CONSPIRACY. Page 864, Boulger again admits MARIJUANA during the investigation and/or CONSPIRACY. Page 867, lines 11 thru 16.

Page 3

July 7, 2000

Lambros' letter to Attorney Stenmoe

RE: **LAMBROS vs. FAULKNER, et al. - COUNT 1 - MARIJUANA/COCAINE SENTENCING STATUTE**

9. FINAL ARGUMENT OF U.S. ASSISTANT ATTORNEY DOUGLAS PETERSON: VOLUME VII, page 886, lines 15 thru 17, "[He's dealing cocaine to John Lambros. **EVEN ACCEPT LAMBROS' TESTIMONY THAT HE'S DEALING MARIJUANA.** He has a drug relationship with John Lambros]".

10. REBUTTAL BY U.S. ATTORNEY PETERSON: VOLUME VII, page 910, lines 8 thru 10; lines 20 & 21; page 911, lines 5 thru 24; page 922, lines 19 & 20;

11. JURY INSTRUCTIONS BY JUDGE MURPHY: VOLUME VII, starts on page 924.

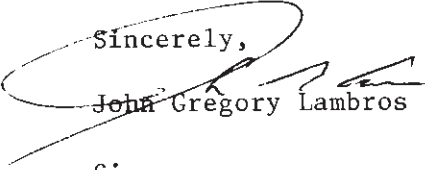
GENERAL VERDICT FORM was requested by Judge Murphy in my trial as to Count One (1) the Conspiracy Count. Therefore, the above references to pages within my transcripts, that you have copy of, proves that I could only of been sentenced under **MARIJUANA, Title 21 U.S.C. § 841(b)(1)(D), A MAXIMUM OF FIVE YEARS INCARCERATION ON COUNT ONE.**

Hopefully the above argument will assist you and your research staff as to the negligence by Attorney Faulkner. You may even want to add this letter to your response to Attorney Faulkner's request for SUMMARY JUDGEMENT.

I have attached a copy of U.S. vs. DALE, 178 F.3d 429 (6th Cir. 1999) for your review.

Thanking you in advance for your continued assistance.

Sincerely,


John Gregory Lambros

c:
File

UNITED STATES OF AMERICA)
)
DISTRICT OF MINNESOTA.)

BEFORE A GRAND JURY OF THE UNITED STATES
FOR THE DISTRICT OF MINNESOTA

TESTIMONY OF:

JOHN J. BOULGER

The following is a transcript of testimony of the above witness before a United States Grand Jury for the District of Minnesota on this 17th day of May, 1989, in the United States Courthouse at St. Paul, Minnesota, commencing at 11:51 a.m.

APPEARANCE:

DOUGLAS R. PETERSON
ASSISTANT UNITED STATES ATTORNEY
District of Minnesota

ORIGINAL

43 TOTAL PAGES

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EXHIBIT F.

42.

BINGO

1 for us. We utilized electronic surveillance videotape
2 equipment. We recorded telephone calls with the consent
3 of one party. There was no wire tapping done in this
4 case, but the Court allows us to record telephone calls if
5 one of the two parties involved in the telephone call
6 consents to it. So we used tape recorded conversations
7 made by an informant with Mr. Pebbles to get information
8 as to what was going on in the investigation.

9 We utilized subpoenas to obtain travel records,
10 documents regarding automobiles owned by various people
11 within the group.

12 We used subpoenas to get hotel records to show
13 where these people were, when they were there, and what
14 calls they were making from the hotel rooms while they
15 were staying in these hotel rooms.

16 And these things allowed us to kind of put
17 together a general picture of who was involved, what their
18 roles were, what the time frame was for a particular trip
19 that Mr. Pebbles or Miss Greer would make, so we could
20 kind of get an overall picture as to who was in the
21 organization, how frequently they were doing this and how
22 much drugs were involved.

23 Q The informant who was utilized in the investigation,
24 at least one of them, is a gentleman by the name of Donald
25 Hendrickson, correct?

EXHIBIT F.

43

1 A That's correct.

2 Q I'll show you what has been marked as Grand Jury
3 Exhibit G. Is this a transcript of some of the testimony
4 of Donald Hendrickson?

5 A Yes, sir.

6 MR. PETERSON: This would not be a transcript
7 that you would have copies of but I'll simply mark a copy
8 here.

9 THE WITNESS: Yes, sir.

10 MR. PETERSON: Mr. Foreperson, I would ask that
11 this Grand Jury receive this transcript as it was a
12 transcript of a proceeding before another Grand Jury.

13 THE FOREPERSON: Okay.

14 BY MR. PETERSON:

15 Q The informant, Donald Hendrickson, as I understand
16 it, had contact with Lawrence Pebbles?

17 A Yes.

18 Q John Lambros?

19 A Yes.

20 Q And also had contact with Tracy Penrod or Tracy
21 Greer?

22 A That's correct.

23 Q And I understand that you've also undertaken a number
24 of other interviews of other various witnesses to some of
25 these events?

EXHIBIT F.

1 bills?

2 A That the cash payments were moneys that had been
3 generated through the sales of cocaine and that Pebbles
4 would have the money delivered to the law office or
5 contact people and ask them to bring money over to the law
6 office because he was frequently out of town and in south
7 Florida or in Brazil or in California and the office
8 needed the cash to run with. So he would ask these
9 individuals to take money over and deliver it to the law
10 office so the bills could be met at the law office.

11 Q Earlier, we had talked about your use of an informant
12 by the name of Donald Hendrickson during the course of
13 this investigation. As I understand it, Mr. Hendrickson
14 had some contact with John Lambros, correct?

15 A He did.

16 Q And in particular, in January of 1988 as referenced
→ 17 in Overt Act Paragraph Number 21, there were some
18 discussions between Don Hendrickson and Mr. Lambros
19 concerning drug trafficking, correct?

20 A That's correct. They met on three separate occasions
21 and discussed marijuana transactions and other drug
22 transactions.

23 Q With regard to Mr. Hendrickson's suggestions and
24 proposals, what did Mr. Lambros indicate concerning the
25 nature of his business?

EXHIBIT F.