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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re GRAND JURY SUBPOENAS OF  
MARK FAINARU-WADA AND  
LANCE WILLIAMS

Case No. \_\_\_\_\_

**AFFIDAVIT OF MARK CORALLO IN  
SUPPORT OF THE MOTION TO QUASH  
SUBPOENAS AND/OR FOR A PROTECTIVE  
ORDER BY MARK FAINARU-WADA AND  
LANCE WILLIAMS**

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Place: \_\_\_\_\_  
Judge: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA )  
 )  
CITY OF ALEXANDRIA )

Mark Corallo, being first duly sworn, deposes and says:

1 I am a former Press Secretary and Public Affairs Director for the United States  
Department of Justice. In this capacity, from 2002 – 2005, I served as the chief spokesman for

1 Attorney General Ashcroft and the Department of Justice. Prior to my position with the  
2 Department of Justice, from 1999 – 2002 I was the Communications Director for the United  
3 States House of Representatives Committee on Government Reform. I have served as Press  
4 Secretary to U.S. Representative and Chairman of the Appropriations Committee, Bob  
5 Livingston, and I am a veteran of the United States Army Infantry.

6 2. I am fully familiar with the facts set forth herein and make this affidavit based on  
7 my personal knowledge unless otherwise stated. The exhibits attached to this affidavit are true  
8 and accurate copies of the documents cited herein.

9 3. During my tenure at the Department of Justice, I was and I am fully familiar with  
10 the Department of Justice Policy with regard to the issuance of subpoenas to members of the  
11 news media, codified at 28 C.F.R. § 50.10 (the “DOJ Guidelines”) and the United States  
12 Attorneys’ Manual Title 9, Section 13.400 entitled “News Media Subpoenas – Subpoenas for  
13 News Media Telephone Toll Records – Interrogation, Indictment, or Arrest of Members of the  
14 News Media.” A true and correct copy of the DOJ Guidelines is attached hereto as Exhibit A.  
15 A true and correct copy of the U.S. Attorneys’ Manual Title 9, Section 13.400 is attached hereto  
16 as Exhibit B.

17 4. According to the DOJ Guidelines and US Attorneys’ Manual, “No subpoena may  
18 be issued to any member of the news media . . . without the express authorization of the Attorney  
19 General” except in those cases where both a media representative agrees to provide the material  
20 sought and that material has been published or broadcast. See Exhibits A and B. During the  
21 administration of former Attorney General Ashcroft, there was a specific approval process by  
22 which requests for the issuance of a subpoena to a member of the news media were brought to  
23 the Attorney General for authorization. The request for a grand jury subpoena to a member of  
24 the press was initiated by a field office and was sent to the Chief of the U.S. Department of  
25 Justice Criminal Division for his recommendation. If the Criminal Division Chief recommended  
26 the issuance of the press subpoena, that request was then sent to me in my capacity as Public  
27 Affairs Director. If and only if I approved of the issuance of a subpoena to the member of the

1 news media, I would send the request to the Deputy Attorney General, who, upon his own  
2 concurrence, would forward to the Attorney General for final authorization

3 5 Any person in the chain of approval described in paragraph 4, myself included,  
4 had the authority to deny a request to issue a press subpoena. Once someone in the chain of  
5 approval denied a request, the request would not continue to be delivered "up the chain." In fact,  
6 on a few occasions after I had denied requests for such subpoenas, I received calls from Deputy  
7 Attorney General Curney to inquire about calls he had received from field offices complaining  
8 about the Department's denials. The Deputy Attorney General inquired as to the reasons why I  
9 had rejected said requests so that he could respond to the telephone calls he had received. My  
10 decisions to deny requests for news media subpoenas were never challenged or overturned

11 6. In analyzing a request for the issuance of a subpoena to a member of the news  
12 media in my capacity as Press Secretary and Public Affairs Director, I made my decision to  
13 affirm or deny the recommendation of the Chief of the U.S. DOJ Criminal Division based on the  
14 DOJ Guidelines, the U.S. Attorneys' Manual and the evidence before me. I considered the  
15 history of the underlying offense and the stated justifications for seeking to subpoena a member  
16 of the news media. I also determined, among other things, whether exigent circumstances  
17 existed and the proper balance between the public's interest in the free dissemination of ideas  
18 and information and the public's interest in effective law enforcement and the fair administration  
19 of justice.

20 7. The U.S. Attorneys' Manual 9-13.400 describes "exigent circumstances" as a  
21 situation "where immediate action is required to avoid the loss of life or the compromise of a  
22 security interest." Exhibit B. I understood the "compromise of a security interest" to mean the  
23 compromise of a national security interest and I applied the standard of "exigent circumstances"  
24 when considering requests for the issuance of a subpoena to a member of the news media. The  
25 requirement that "exigent circumstances" exist is separate and apart from the government's  
26 requirement to have unsuccessfully attempted to obtain the requested information from  
27 alternative nonmedia sources, another factor that I considered.

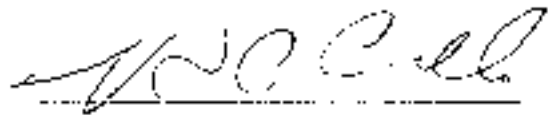
1           8       In the three years that I served as the Press Secretary and Public Affairs Director  
2 for the United States Department of Justice, I denied numerous requests for news media  
3 subpoenas, including one request in a public corruption case involving leaks of grand jury  
4 information, because I believed the exacting requirements needed for the issuance of such  
5 subpoenas were not met. In those three years, I affirmed the recommendation of the Chief of the  
6 Criminal Division to approve the issuance of a subpoena to a member of the news media only  
7 one time. In that single instance, the underlying matter involved an issue of grave national  
8 security.

9           9.       The subpoenas issued to Mark Fainaru-Wada and Lance Williams, reporters for  
10 the *San Francisco Chronicle*, are drastically different. I understand that the Department of  
11 Justice has issued subpoenas to Mr. Fainaru-Wada and Mr. Williams to testify before a San  
12 Francisco, California grand jury and to produce documents relating to their confidential sources  
13 on their investigation of the Bay Area Laboratory Co-Operative ("BALCO") and the steroid  
14 scandal in professional athletics that they helped bring to light. The issues of steroids and  
15 performance-enhancing drugs in professional sports and their use by young adults are issues of  
16 profound national importance, as evidenced by Attorney John Ashcroft's decision (in which I  
17 was involved) to go on national television to personally announce a 42-count indictment against  
18 various people tied to BALCO and to warn young people about the dangers of performance-  
19 enhancing drugs. A true and correct copy of the Department of Justice Press Release entitled  
20 "Four Individuals Charged in Bay Area With Money Laundering and Distribution of Illegal  
21 Steroids, dated Feb. 12, 2004, is attached hereto as Exhibit C.

22           10.       I would not have approved the issuance of the subpoenas served on Mr. Fainaru-  
23 Wada and Mr. Williams and, based on my experience, I do not believe that they would have been  
24 issued under former Attorney General Ashcroft's administration. In this case, there is no danger  
25 to life or issue of grave national security. There are, however, issues of immense national  
26 importance that were brought to light by the reporting of Mr. Fainaru-Wada and Mr. Williams.  
27 In the balance that is required under the DOJ Guidelines, the public's interest in the free  
28

1 dissemination of ideas and information clearly outweighs the public's interest in effective law  
2 enforcement and the fair administration of justice, particularly in a case where the BAICO  
3 criminal defendants plead guilty and have served their sentenced time in prison

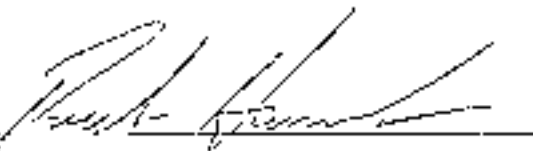
4       11. Based on my experience I believe that the subpoenas would not have been issued  
5 under former Attorney Ashcroft's administration for the further reason that compelling the  
6 reporters to testify in this instance would have an incalculable chilling effect on the press, and  
7 would be a waste of government and taxpayer resources

8  
9 

10 Mark Corallo

11  
12 Sworn to before me this

13 ~~24~~ day of May, 2006

14  
15 

16  
17 MY COMMISSION EXPIRES  
18 APR. 30, 2010

# **EXHIBIT A**

28 C.F.R. § 50.10

## C

Effective: [See Text Amendments]

Code of Federal Regulations Cententness

Title 28 Judicial Administration

28 Chapter 1, Department of Justice28 Part 50, Statements of Policy (Refs & Autos)

**→§ 50.10 Policy with regard to the issuance of subpoenas to members of the news media, subpoenas for telephone toll records of members of the news media, and the interrogation, indictment, or arrest of, members of the news media.**

Because freedom of the press can be no broader than the freedom of reporters to investigate and report the news, the prosecutorial power of the government should not be used in such a way that it impairs a reporter's responsibility to cover as broadly as possible controversial public issues. This policy statement is thus intended to provide protection for the news media from forms of compulsory process, whether civil or criminal, which might impair the news gathering function. In balancing the concern that the Department of Justice has for the work of the news media and the Department's obligation to the fair administration of justice, the following guidelines shall be adhered to by all members of the Department in all cases.

(a) In determining whether to request issuance of a subpoena to a member of the news media, or for telephone toll records of any member of the news media, the approach in every case must be to strike the proper balance between the public's interest in the free dissemination of ideas and information and the public's interest in effective law enforcement and the fair administration of justice.

(b) All reasonable attempts should be made to obtain information from alternative sources before considering issuing a subpoena to a member of the news media, and similarly all reasonable alternative investigative steps should be taken before considering issuing a subpoena for telephone toll records of any member of the news media.

(c) Negotiations with the media shall be pursued in

all cases in which a subpoena to a member of the news media is contemplated. These negotiations should attempt to accommodate the interests of the trial or grand jury with the interests of the media. Where the nature of the investigation permits, the government should make clear what its needs are in a particular case as well as its willingness to respond to particular problems of the media.

(d) Negotiations with the affected member of the news media shall be pursued in all cases in which a subpoena for the telephone toll records of any member of the news media is contemplated where the responsible Assistant Attorney General determines that such negotiations would not pose a substantial threat to the integrity of the investigation in connection with which the records are sought. Such determination shall be reviewed by the Attorney General when considering a subpoena authorized under paragraph (e) of this section.

(e) No subpoena may be issued to any member of the news media or for the telephone toll records of any member of the news media without the express authorization of the Attorney General. *Provided*, that, if a member of the news media with whom negotiations are conducted under paragraph (c) of this section expressly agrees to provide the material sought, and if that material has already been published or broadcast, the United States Attorney or the responsible Assistant Attorney General, after having been personally satisfied that the requirements of this section have been met, may authorize issuance of the subpoena and shall thereafter submit to the Office of Public Affairs a report detailing the circumstances surrounding the issuance of the subpoena.

(f) In requesting the Attorney General's authorization for a subpoena to a member of the news media, the following principles will apply:

(1) In criminal cases, there should be reasonable grounds to believe, based on information obtained from nonmedia sources, that a crime has occurred, and that the information sought is essential to a successful investigation--particularly with reference to directly establishing guilt or innocence. The subpoena should not be used to obtain peripheral, nonessential, or speculative information.

## 28 C.F.R. § 50.10

- (2) In civil cases there should be reasonable grounds, based on nonmedia sources, to believe that the information sought is essential to the successful completion of the litigation in a case of substantial importance. The subpoena should not be used to obtain peripheral, nonessential, or speculative information.
- (3) The government should have unsuccessfully attempted to obtain the information from alternative nonmedia sources.
- (4) The use of subpoenas to members of the news media should, except under exigent circumstances, be limited to the verification of published information and to such surrounding circumstances as relate to the accuracy of the published information.
- (5) Even subpoena authorization requests for publicly disclosed information should be treated with care to avoid claims of harassment.
- (6) Subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of the demand for documents.
- (g) In requesting the Attorney General's authorization for a subpoena for the telephone toll records of members of the news media, the following principles will apply:
- (1) There should be reasonable ground to believe that a crime has been committed and that the information sought is essential to the successful investigation of that crime. The subpoena should be as narrowly drawn as possible; it should be directed at relevant information regarding a limited subject matter and should cover a reasonably limited time period. In addition, prior to seeking the Attorney General's authorization, the government should have pursued all reasonable alternative investigation steps as required by paragraph (b) of this section.
- (2) When there have been negotiations with a member of the news media whose telephone toll records are to be subpoenaed, the member shall be given reasonable and timely notice of the determination of the Attorney General to authorize the subpoena and that the government intends to issue it.
- (3) When the telephone toll records of a member of the news media have been subpoenaed without the notice provided for in paragraph (c)(2) of this section, notification of the subpoena shall be given the member of the news media as soon thereafter as it is determined that such notification will no longer pose a clear and substantial threat to the integrity of the investigation. In any event, such notification shall occur within 45 days of any return made pursuant to the subpoena, except that the responsible Assistant Attorney General may authorize delay of notification for no more than an additional 45 days.
- (4) Any information obtained as a result of a subpoena issued for telephone toll records shall be closely held so as to prevent disclosure of the information to unauthorized persons or for improper purposes.
- (h) No member of the Department shall subject a member of the news media to questioning as to any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General. *Provided, however,* that where exigent circumstances preclude prior approval, the requirements of paragraph (1) of this section shall be observed.
- (i) A member of the Department shall secure the express authority of the Attorney General before a warrant for an arrest is sought, and whenever possible before an arrest not requiring a warrant, of a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media.
- (j) No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media,



28 C.F.R. § 50.10

without the express authority of the Attorney General

(k) In requesting the Attorney General's authorization to question, to arrest or to seek an arrest warrant for, or to present information to a grand jury seeking a bill of indictment or to file an information against, a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media, a member of the Department shall state all facts necessary for determination of the issues by the Attorney General. A copy of the request shall be sent to the Director of Public Affairs.

(l) When an arrest or questioning of a member of the news media is necessary before prior authorization of the Attorney General can be obtained, notification of the arrest or questioning, the circumstances demonstrating that an exception to the requirement of prior authorization existed, and a statement containing the information that would have been given in requesting prior authorization, shall be communicated immediately to the Attorney General and to the Director of Public Affairs.

(m) In light of the intent of this Section to protect freedom of the press, news gathering functions, and news media sources, this policy statement does not apply to demands for purely commercial or financial information unrelated to the news gathering function.

(n) Failure to obtain the prior approval of the Attorney General may constitute grounds for an administrative reprimand or other appropriate disciplinary action. The principles set forth in this section are not intended to create or recognize any legally enforceable right in any person.

[Order No. 916-60, 45 FR 76436, Nov. 19, 1980]

SOURCE: 50 FR 51677, Dec. 19, 1985; 51 FR 27022, July 29, 1986; 53 FR 8452, March 15, 1988; 56 FR 32327, July 16, 1991; Order No. 2013-96, 61 FR 13764, March 28, 1996; 61 FR 49260, Sept. 19, 1996; Order No. 2667-2003, 68 FR 18220, April 15, 2003; Order No. 2807-2006, 71 FR 11160, March 6, 2006, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 1921 et seq., 1973c; and Public Law 107-

273, 116 Stat. 1758, 1824

28 C.F.R. § 50.10, 28 CFR § 50.10

Current through May 18, 2006; 71 FR 29012

Case © 2006 Thomson/West

END OF DOCUMENT

# **EXHIBIT B**

UNITED STATES DEPARTMENT OF JUSTICE  
UNITED STATES ATTORNEYS' MANUAL  
TITLE 9 - CRIMINAL DIVISION  
CHAPTER 9-13 000 OBTAINING EVIDENCE  
October 19999-13.400 News Media Subpoenas Subpoenas for News Media Telephone Toll Records--  
Interrogation, Indictment, or Arrest of Members of the News Media

Procedures and standards regarding the issuance of subpoenas to members of the news media, subpoenas for the telephone toll records of members of the news media, and the interrogation, indictment, or arrest of members of the news media are set forth in 28 C.F.R. § 50.10.

It is the Department's policy to protect freedom of the press, the news gathering function, and news media sources. Therefore, all attorneys contemplating the issuance of such subpoenas, the interrogation of a member of the news media, or the initiation of criminal proceedings against a member of the news media should be aware of the requirements of 28 C.F.R. § 50.10.

Except in cases involving exigent circumstances, such as where immediate action is required to avoid the loss of life or the compromise of a security interest, the express approval of the Attorney General is necessary prior to the interrogation, indictment, or arrest of a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media. The Attorney General's authorization is also required before issuance of any subpoena to a member of the news media, except in those cases where both a media representative agrees to provide the material sought and that material has been published or broadcast. In addition, the Attorney General's permission is required before the issuance of a subpoena for the telephone toll records of a member of the news media. Failure to obtain the prior approval of the Attorney General, when required, may constitute grounds for disciplinary action.

Whenever the government seeks the Attorney General's authorization pursuant to 28 C.F.R. § 50.10 in a case or matter under the supervision of the Criminal Division, the Policy and Statutory Enforcement Unit of the Office of Enforcement Operations should be contacted at (202) 514-0856. A memorandum or letter requesting Attorney General authorization should summarize the facts of the prosecution/investigation and describe attempts to obtain the voluntary cooperation of the news media through negotiation. Specifically address and elaborate regarding those factors listed at 28 C.F.R. § 50.10 (b)(1)-(6), or (g)(1)-(4) as are applicable to the case or matter presented.

In cases or matters under the supervision of other Divisions of the Department of Justice, the appropriate Division should be contacted.

U.S. Attys' Man. 9-13 400  
END OF DOCUMENT

# **EXHIBIT C**



# Department of Justice

FOR IMMEDIATE RELEASE  
THURSDAY, FEBRUARY 12, 2004  
WWW.USDOJ.GOV

AG  
(202) 514-2007  
TDD (202) 514-1888

## FOUR INDIVIDUALS CHARGED IN BAY AREA WITH MONEY LAUNDERING AND DISTRIBUTION OF ILLEGAL STEROIDS

### Grand Jury Returns 42-Count Indictment Charging Individuals Associated With Bay Area Lab Cooperative (Balco)

WASHINGTON, D.C. - Attorney General John Ashcroft, United States Attorney Kevin Ryan, Internal Revenue Service Commissioner Mark Everson, FDA Commissioner Mark McClellan and San Mateo County Sheriff Don Horsley announced today that four individuals have been charged in a 42-count indictment returned by a San Francisco grand jury on charges of conspiracy, money laundering and distribution of anabolic steroids to dozens of elite track and field athletes and professional athletes from Major League Baseball and the National Football League.

The defendants named in the indictment today are Victor Conte, Jr., 53, of San Mateo, James J. Valente, 49, of Redwood City, Greg F. Anderson, 37, of Burlingame, and Remi Korchemny, 71, of Castro Valley. Defendant Conte was the president and chief executive officer of the Bay Area Lab Cooperative, or (BALCO). Defendant Valente was the vice-president of BALCO. Defendant Anderson was a personal trainer, who purchased performance-enhancing drugs from BALCO and distributed them to professional athletes. Defendant Korchemny was a track coach, who acquired performance-enhancing drugs from Conte and provided them to track athletes.

The charges returned by the grand jury today are: conspiracy to possess with intent to distribute anabolic steroids; possession with intent to distribute anabolic steroids; conspiracy to defraud the United States; introduction and delivery of misbranded drugs into interstate commerce with intent to defraud; and misbranding of drugs held for sale with intent to defraud. In addition, defendants Conte, Valente, and Anderson are charged with possession of human growth hormone with intent to distribute, conspiracy to launder monetary instruments and money laundering.

Under federal law, distribution of steroids is illegal because anabolic steroids are a controlled substance. Another federal law makes it illegal to distribute human growth hormone except under limited circumstances. The defendants are also charged with misbranding tetrahydrogestrinone (THG) - essentially, failing to correctly label the drug they were selling - which is a criminal violation of the Food Drug and Cosmetic Act.

"Nothing does more to diminish our potential - both as individuals and as a nation - than illegal drug abuse," said Attorney General Ashcroft. "The tragedy of so-called performance-enhancing drugs is that

they foster the lie that excellence can be bought rather than earned and that physical potential is an asset to be exploited rather than a gift to be nurtured. Illegal steroid use calls into question not only the integrity of the athletes who use them, but the integrity of the sports they play. These drugs are bad for sports, bad for the players and bad for the young people who look to athletes as role models."

"These illegal substances threaten to undermine the integrity of sport at the highest levels: at the Olympics, in the NFL, and in Major League Baseball," said U.S. Attorney Ryan. "The allegations contained in this indictment involve an organized effort to distribute illegal anabolic steroids and other performance-enhancing substances to top athletes. The indictment also alleges a systematic cover-up concerning the true nature of the drugs being trafficked in, by disguising the drugs, and by laundering the proceeds of the crime. The use of steroids sends exactly the wrong message to America's youth. In reality, there are no shortcuts to success."

"Similar to tax evasion, money laundering is a means by which criminals conceal the proceeds of illegal activity from the government," said IRS Commissioner Everson. "This investigation took shape when an IRS Criminal Investigator detected suspicious cash transactions on the part of Mr. Conte through a combination of traditional detective work and through the use of data housed in the Currency Banking Retrieval System, an anti-money laundering tool which tracks large movements of cash."

"FDA will continue to work with our law enforcement partners to take action against those who endanger the public by manufacturing, distributing, or selling illegal drugs and misusing legal drugs," said FDA Commissioner Mark B. McClellan M.D., Ph.D. "Unapproved anabolic steroids pose serious long-term health risks, and powerful prescription medicines like erythropoietin carry important risks when misused."

According to the indictment, the defendants are alleged to have conspired to distribute performance-enhancing drugs to dozens of professional athletes, including anabolic steroids, human growth hormone ("HGH"), erythropoietin ("EPO"), modafinil, and various other prescription drugs.

The athletes involved are not named either in the indictment or a search warrant affidavit which was unsealed today as well. The athletes' identities are not a matter of public record.

The indictment alleges that between December 2001 and September 3, 2003, Mr. Conte, Mr. Valente, Mr. Anderson, and Mr. Korchemny conspired to possess with intent to distribute anabolic steroids, and alleges six separate occasions in which steroids were actually distributed to athletes. The indictment further alleges that between September 1, 2000, and September 3, 2003, Mr. Conte, Mr. Valente, Mr. Anderson, and Mr. Korchemny conspired to defraud the United States through the distribution of drugs to athletes in violation of federal law in the following way:

- The defendants distributed an anabolic steroid in the form of a testosterone-based cream the conspirators described as "The Cream," without adequate directions regarding its use in its labeling. According to the indictment, the steroid had been mixed with an epitestosterone cream prior to its distribution to athletes specifically with the intention of balancing the user's testosterone/epitestosterone ratio, thus concealing the individual athlete's elevated testosterone level from drug testing.

- The defendants distributed a liquid drug described as "The Clear," subsequently identified as "tetrahydrogestrinone" or "THG," without adequate directions regarding its use in its labeling. According to the indictment, the co-conspirators recommended the substance to athletes as a "designer steroid" or "steroid-like derivative" which would provide "steroid-like" effects without causing the athlete to test positive for steroids.

The defendants dispensed human growth hormone, erythropoietin ("EPO") and modafinil to athletes without a required prescription and for a purpose other than treatment of a disease or recognized medical condition.

The indictment further alleges that Mr. Conte, Mr. Valente, Mr. Anderson, and Mr. Korchemny used a variety of techniques to execute their conspiracy to mask their activities and defraud federal law enforcement, including the use of false names on mailing labels of packages containing drugs; trafficking in drugs explicitly designed to avoid detection as controlled substances; and by referring to drugs in correspondence by using shorthand abbreviations and codes such as "The Cream," "C," "The Clear," "Liquid," "L," "G," "E," "P," and "Vitamin S."

In one email described in an IRS Special Agent's search warrant affidavit, after Mr. Conte instructed a coach to refer to drugs only by initials. He wrote, "And remember that all emails are saved for a very long time, so be careful about how you say what you say. Searches for keywords like 'anabolic' and many others are going on at all times by big brother."

According to allegations in the case, the defendants provided athletes with false cover stories to provide to authorities. Mr. Conte is also alleged to have entered into agreements with athletes in which they agreed to endorse ZMA, a nutritional supplement sold by Mr. Conte, in return for free drugs.

The indictment further alleges that defendants Mr. Conte, Mr. Valente, and Mr. Anderson conspired to launder the proceeds derived from the sale of anabolic steroids by: (1) segregating the proceeds derived from the sale of anabolic steroids from normal business proceeds by placing the criminal proceeds into a personal bank account; and (2) using a third party to negotiate checks written as payment for the purchase of anabolic steroids, rather than depositing the checks as normal business proceeds.

The maximum statutory penalty for the charged violation of conspiracy to possess with intent to distribute anabolic steroids and for possession with intent to distribute anabolic steroids is five years imprisonment and a \$250,000 fine. The maximum statutory penalty for each violation of introduction and delivery of misbranded drugs into interstate commerce with intent to defraud and misbranding of drugs held for sale with intent to defraud is three years imprisonment and a \$250,000 fine. The maximum penalty for each violation of possession of human growth hormone with intent to distribute is five years imprisonment and a \$250,000 fine. The maximum penalty for conspiracy to launder monetary instruments and for money laundering is 20 years imprisonment and a \$500,000 fine. However, any sentence following conviction would be dictated by the Federal Sentencing Guidelines, which take into account a number of factors, and would be imposed in the discretion of the Court.

It is important to note, an indictment simply contains allegations against an individual and, as with all defendants, Mr. Conte, Mr. Valente, Mr. Anderson, and Mr. Korchemny must be presumed innocent unless and until convicted.

Mr. Conte, Mr. Valente, Mr. Anderson, and Mr. Korchemny are all scheduled to make their initial appearance in federal court in San Francisco on February 13, 2004 at 9:30 a.m. before Magistrate Judge Maria-Elena James.

The prosecution is the result of an 18-month investigation overseen by the U.S. Attorney's Office as well as special agents of the Internal Revenue Service Criminal Investigation Division, the Food and Drug Administration Office of Criminal Investigations and the San Mateo County Narcotics Task Force. Jeff Nedrow is the Assistant U.S. Attorney who is prosecuting the case with the assistance of Susan Kreider.

A copy of this press release may be found on the U.S. Attorney's Office's website at <http://www.usdoj.gov/usao/can>. Related court documents and information may be found on the District Court website at <http://www.cand.uscourts.gov> or on <http://pacer.cand.uscourts.gov>.

###

04-083