



U.S. Department of Justice

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October 16, 1990

United States Sentencing Commission
1331 Pennsylvania Avenue, N.W.
Suite 1400
Washington, D.C. 20004

Attn: Communications Director

Gentlemen:

Re: Comments on Guideline
Issues

This is our response to your solicitation, dated August 9, 1990, for comments on Guideline issues and recommendations for potential amendments.

(1) In the prosecution of United States v. Brumlik, Case No. 89-234-CR-Orl (M.D. Fl.), the defendant was prosecuted for illegal money laundering. The defendant was advised by the undercover agent that the money to be laundered was from cocaine sales. Sentencing guideline Section 2S1.1(b) provides for an increase of three levels if the defendant knew the funds were the proceeds of illegal activity involving the importation or distribution of narcotics or other controlled substances. In this case, the funds were government funds and not the proceeds of an unlawful activity. While the defendant fully believed that the funds were from an unlawful source, we were unable to increase the base offense level.

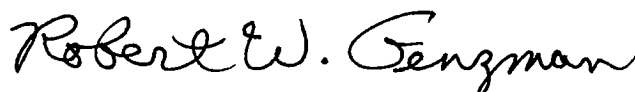
It is recommended that this specific offense category be amended to take into account "sting" operations. Accordingly, this paragraph should be changed to read: "If the defendant knew or believed the funds were the proceeds of illegal activity

involving the manufacture, importation or distribution of narcotics or other controlled substances increase by three levels."

(2) We also suggest a specific guideline for procedures to be employed in resolving controverted scores, to include which party has the burden of persuasion or proof, and what that standard may be in various circumstances. This guideline should also address what specific findings must be made by the court. It would be appropriate to require that all objections to guidelines applications be raised at sentencing or waived, as is the procedure recently enacted in the Eleventh Circuit in United States v. Jones, 899 F.2d 1097 (11th Cir. 1990).

We thank you for the opportunity to have input into these very important decisions.

Very truly yours,

A handwritten signature in cursive script that reads "Robert W. Genzman". The signature is written in dark ink and is positioned above the printed name.

ROBERT W. GENZMAN
United States Attorney