

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA)
)
 v.) **Criminal No. CR-05-86-P-H**
)
CORDELL LOCHIN)

GOVERNMENT’S SUPPLEMENTAL SENTENCING MEMORANDUM

NOW COMES the United States of America, by and through Paula D. Silsby, United States Attorney for the District of Maine, and Daniel J. Perry, Assistant United States Attorney, and submits the following supplemental sentencing memorandum on the defendant’s financial status.

The Government submits to the Court that Defendant’s financial assets, particularly, his ownership interests in La Esquina and the Box (and any related entities) are not clear from the information provided to the Court; in fact, as discussed below, the information provided to the Court raises more questions than answers. The information provided, however, does show the defendant has the ability to pay a substantial fine.

Defendant’s Net Worth Statement

Defendant submitted a “Net Worth Statement” to the Probation Office, dated December 19, 2006. In that statement, the defendant stated that he owned between 0-17 “ownership points” in La Esquina. (Exhibit A, p. 1) Defendant stated his ownership interest in La Esquina was between “0-12.5”; when asked to give a Fair Market Value of that interest, defendant responded “?”. (Exhibit A, p.3). Defendant identified Derek Sanders, Serge Becker, and James Gerstan as “Shareholders/Partners” in La Esquina and listed his ownership interest as “0-12.5 (all)”. (Exhibit A, p. 4). Defendant also stated that “[m]y partnership at La Esquina is at the mercy of my three

other partners and my shares as a 'key employee' will be voted upon if and when deemed necessary. My points will range between 0-12.5%." (Exhibit A, p.5)

In the same statement, the defendant identified Simon Hammerstein, Serge Becker, and Richard Kimmel as "Shareholders/Partners" in "The Box" and listed the ownership interest as "varied" (Exhibit A, p. 4). Defendant further stated that "[m]y involvement in The Box is under Serge Becker, LLC and as a senior executive I will make a percentage of the net, if I am able to retain this position." (Exhibit A, p.5).

Financial Documents Provided to Court

The Defendant also has provided the following financial documentation to the Court:

La Esquina

1. Operating Agreement of 114 Kenmare Associates, LLC, dated 12/3/2004
2. Operating Agreement of Corner Deli Management, LLC, dated 1/13/2006
3. Consulting Agreement between Corner Management, LLC and Cordell Lochin, undated

Defendant purports that these documents establish that defendant has no ownership interest in this venture. The Government believes that these documents, and other documents submitted to the Court, need further explanation. La Esquina is purported to have been opened by Serge Becker who asked the defendant to be his partner from the beginning - in an undated letter on La Esquina letterhead that defendant submitted to the Court, Serge Becker states "when I was planning to open the Mexican restaurant 'La Esquina', I asked him to become a partner ..." (Exhibit B, p.1). The defendant, in fact, listed Serge Becker as one of his three "Partners/Shareholders" in La Esquina in his Net Worth Statement. In the documents submitted to the Court relative to La Esquina, neither

Mr. Becker, nor the defendant, appear to have any interest in this business. In light of the defendant's Net Worth Statement and Mr. Becker's letter, this appears odd.

The submitted documents also conflict with the information provided by the defendant in his Net Worth Statement. These documents do not establish the defendant's right (or expectation) of ownership points or ownership interest in this business - yet the defendant stated he has such a right or expectation in the Net Worth Statement.

In addition, according to information provided by the defendant, La Esquina opened in early 2005, yet the Operating Agreement with Corner Deli was signed in January 2006. The defendant's consulting agreement relating to La Esquina is undated. The dating of these agreements may be significant because the defendant was arrested in November 2005.

These issues create a question whether any ownership or operation agreement relating to La Esquina was changed as a result of defendant's arrest on the pending charges to create an appearance that defendant has no ownership in this establishment.

The Box

From the documents submitted by the defendant, it is clear that Serge Becker, LLC is a member of the Variety Entertainment Group (hereinafter "VEG"), which is the General Partner of 189 Chrystie Partners, L.P., which owns and operates The Box.¹

As outlined in the September 2006 Investor Prospectus, these entities were "finalizing negotiations with Serge Becker and Cordell Lochin (La Esquina) to join VEG as members...". Serge

¹It should be noted that the Partnership Agreement submitted to the Court would not include information about whether Cordell Lochin or SBLLC have an equity interest in VEG. The submitted agreement predates the date that any of these entities would have obtained their equity stake.

Becker LLC's ownership interest in VEG is outlined in the September 27, 2006 memo. This memo was a "proposal for the services of Serge Becker and Cordell through Serge Becker LLC (SBLLC)..." The agreement spells out that SBLLC is required to raise at least \$500,000 as investment in 189 Chrystie Partners". In return for these efforts in raising capital, SBLLC "shall receive a prorated share of 25% of VEG...".

In an attempt to obtain a clearer picture of defendant's assets, the Government requested any documentation relating to Serge Becker, LLC; defense counsel informed the Government that no documentation exists relating to this entity. The documents submitted to the Court seemingly indicate that the defendant does not have a direct interest in The Box; however, the documentation indicates that Lochin has some relationship with Serge Becker, LLC which does have an ownership interest in VEG and The Box. Absent documentation relating to SBLCC, it is difficult to determine if defendant has a derivative equity interest in The Box.

Defendant has provided one document relating to the defendant's relationship with Serge Becker or Serge Becker, LLC relating to the Box, - an email from Serge Becker to defense counsel. This letter states that the defendant was going to be Becker's 50/50 partner related to their involvement in The Box. This arrangement was changed when a 3rd junior partner joined in February 2007. This changed the defendant's "split" to "40%". The email also explains that they are only drawing a minimal salary of \$1,000 choosing instead to reinvest their profits in The Box. The email also states that while Lochin is imprisoned, his share will be reduced to 25%. This email does not detail the amount of profits that are presently being reinvested by SBLLC and Lochin, nor does the email indicate what Lochin's interest will be upon his release from incarceration.

Defendant's Income

According to information provided by the defendant, the defendant has a salary of approximately \$50,000 a year from La Esquina. He is presently drawing a monthly check of \$6250 as his share from the La Esquina's profits, and he is presently drawing the reduced salary of \$1,000 per week from SBLLC for The Box. These amounts translate into an annual income of approximately \$177,000.

Conclusion

Defendant has pleaded guilty to an offense that involved a substantial amount of marijuana over a lengthy period of time. Defendant's motivation for becoming involved in this offense was money; this is not a case where an addict was trafficking to feed his habit. Rather, defendant engaged in this criminal conduct to make money. A substantial fine, in addition to a substantial term of imprisonment, is appropriate in this instance.

The documents submitted to the Court establish that defendant has an ability to pay a substantial fine.

Dated at Portland, Maine, this 14th day of December 2007.

Respectfully submitted,

PAULA S. SILSBY
United States Attorney

/s/Daniel J. Perry
Assistant United States Attorney
United States Attorney's Office
100 Middle Street
East Tower -6th Floor
Portland, Maine 04101

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2007 I electronically filed the document(s) with the Clerk of Court using the CM/ECF system which will send notification of such filing(s) to the following:

Richard S. Berne
22 Free St.
Portland, ME 04101

I further certify that I have caused a copy of the foregoing to be sent to the following by fax and/or by U.S. Mail:

Mark S. DeMarco
2027 Williamsbridge Rd.
Bronx, NY 10461

Paula D. Silsby
United States Attorney

/s/Daniel J. Perry
Assistant U.S. Attorney
U.S. Attorneys Office
100 Middle St.
Portland, ME 04101
dan.perry@usdoj.gov

PROB 48
(Rev. 9/00)

Last Name -

NET WORTH STATEMENT

NOTE: I = Individual J = Joint S = Spouse/Significant Other D = Dependent

ASSETS

BANK ACCOUNTS (Include all personal and businesses checking and savings accounts, credit unions, money markets, certificates of deposit, IRA and KEOGH accounts, Thrift Savings, 401K, etc.)

| I/J S/D | Name of Institution | Address | Type of Account | Account Number | Personal or Commercial | Balance |
|---------|---------------------|---------|-----------------|----------------|------------------------|---------|
| | NO SEE ATTACHED | | | | | |
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SECURITIES (Include all stocks in public corporations, stocks in businesses you own or have an interest in, bonds, mutual funds, U.S. Government securities, etc.)

| I/J S/D | Name and Kind of Security | Location of Security | Number of Units | Fair Market Value |
|---------|----------------------------------------|----------------------|-----------------|-------------------|
| | LA ESQUINA RESTAURANT OWNERSHIP POINTS | 106 KENMARE ST. NY | 0-17 | 0 |
| | | | | |
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MONEY OWED TO YOU BY OTHERS (Include all money owed to you by any person or entity.)

| I/J S/D | Name and Address of Debtor | Amount Owed to You | Reason Owed to You | Date Money Loaned | Relationship to Debtor (if any) | Monthly Payment or Date Full Payment Expected | Is Debt Collectible ? |
|---------|----------------------------|--------------------|--------------------|-------------------|---------------------------------|-----------------------------------------------|-----------------------|
| | None | | | | | | |
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| Last Name - | | | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------|--------------------------------------|------------------------------------------------|-----------------------------------------|-------------------------|-----------------------------|
| LIFE INSURANCE (Include type of policy [whole life, variable, or term], face amount [the stated amount of coverage] and cash surrender value [the value of the investment portion of a whole life or variable policy].) | | | | | | | |
| I/J S/D | Name and Address of Company and Name of Beneficiary | Policy Number | Type of Policy | Face Amount | Cash Surrender Value | Amount Borrowed | Amount You Can Borrow |
| | AXA EQUITABLES. | 153290828 | FLEXIBLE JOINT. | 750,000 | ? | 0 | ? |
| | parents are beneficiary | | | | | | |
| SAFE DEPOSIT BOXES OR STORAGE SPACE FACILITY (Include all safe deposit boxes or storage space you rent or places you have access to in which others are holding assets or items belonging to you.) | | | | | | | |
| I/J S/D | Name and Address of Box or Facility Location | Box Number or Space | Contents | Fair Market Value | | | |
| | None | | | | | | |
| MOTOR VEHICLES (Include all cars, trucks, mobile homes, motorcycles, all terrain vehicles, boats, airplanes, etc.) | | | | | | | |
| I/J S/D | Year, Make & License Number/Vehicle Identification Number | Mileage | Loan/Lease Balance (if any) | Date Loan/Lease Will be Paid Off or Ends | Monthly Payment | Fair Market Value | |
| | None | | | | | | |
| REAL ESTATE (Include property, parcels, lots, timeshares, and developed land with buildings.) | | | | | | | |
| I/J S/D | Real Estate Address (include county and state)/ Mortgage Company or Lien Holder | Purchase Date | Purchase Price | Mortgage Balance (if any) | Date Mortgage Will be Paid Off | Monthly Payment | Fair Market Value |
| | None | | | | | | |
| MORTGAGE LOANS OWED TO YOU (Include name, address, and relationship [if any] to the mortgagee [the party that bought the real estate you sold and is making payments to you].) | | | | | | | |
| I/J S/D | Mortgagee (name & address)/ Relationship to Mortgagee | Mortgage Balance | Date Mortgage Will be Paid Off | Balloon Payment? If Yes, Date? | Monthly Payment | Is Debt Collectible? | |
| | None | | | | | | |

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OTHER ASSETS (Include any cash on hand, jewelry, art, paintings, coin collections, stamp collections, collectibles, antiques, copyrights, patents, etc.)

| I/J S/D | Description | Loan Balance (if any) | Date Loan Will be Paid Off | Monthly Payment | Where is Asset Located? | Fair Market Value |
|------------|-------------|-----------------------------|----------------------------------|--------------------|----------------------------|----------------------|
| | None | | | | | |
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ANTICIPATED ASSETS (Include any assets you expect to receive or control from lawsuits for compensation or damages, profit sharing, pension plans, inheritance, wills, or as an executor or administrator of any succession or estate.)

| I/J S/D | Amount Received or Expected to Receive | Date Expected to Receive | Reason You Expect This | Name and Address of Person or Company That Can Verify This (e.g., attorney, financial institution, executor) |
|------------|-------------------------------------------|--------------------------------|------------------------|--------------------------------------------------------------------------------------------------------------------|
| | None | | | |
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TRUST ASSETS (Include all trusts in which you are a grantor or donor [the person who establishes the trust], the trustee or fiduciary [who controls the trust assets and income or the beneficiary who has or will receive benefits from the trust].)

| I/J S/D | Name of Trust/ Taxpayer ID# | Value of Trust | Your Annual Income From Trust | Your Interest in Trust Assets |
|------------|--------------------------------|-------------------|-------------------------------|-------------------------------|
| | None | | | |
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BUSINESS HOLDINGS (Include all businesses in which you have an ownership interest or with which you had an affiliation within the last three years; e.g., self-employed sole proprietor, officer, shareholder, board member, partner, associate, etc.) Complete Section N (attach additional pages, if necessary).

| I/J S/D | Name and Address of Business/ Taxpayer ID.# | Type of Business Entity | Industry of Business | Date Business Started | Capital Investment to Start | Your Ownership Interest Percentage | Sale Price or Fair Market Value of Your Interest |
|------------|---------------------------------------------------|-------------------------------|-------------------------|-----------------------------|-----------------------------------|---------------------------------------------|-----------------------------------------------------------|
| | LA ESQUINA 106 KENMARE, NY 10012 | RESTAURANT | FOOD | 02/05 | 1.2 MIL | 0-12.5 | ? |
| | | | | | | | |
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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------|---------------|-----------------------------------------------------------------------------|-----------------------------------------------|---------------------------------------------|
| INCOME TAX RETURNS | | | | | | |
| Type of Income Tax Return Filed | | Last Filing Year | | Years of Last 5 Income Tax Returns You Will Submit to the Probation Officer | | |
| Individual (Form 1040) | | 2005 | | | | |
| Partnership/Limited Liability Company (Form 1065) | | | | | | |
| Corporation (Form 1120) | | | | | | |
| S Corporation (Form 1120S) | | | | | | |
| TRANSFER OF ASSETS (Include any assets you have transferred or sold since the date of your arrest with a cost or fair market value of more than \$500.00. Also list any assets that someone else is holding on your behalf.) | | | | | | |
| I/J S/D | Description of Asset/ Reason Transferred/Sold | Date of Transfer/Sale | Original Cost | Amount You Received, if Any | Name of Purchaser or Person Holding the Asset | Sale Price or Fair Market Value at Transfer |
| | None | | | | | |
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| NAMES OF SHAREHOLDERS OR PARTNERS (Include all shareholders, officers, and/or partners, indicating each respective ownership interest.) | | | | | | |
| Name of Business | | Names of Shareholders/Partners | | | Ownership Interest Percentage | |
| LA ESQUINA | | DEREK SANDERS, SERGE BECKER, JAMES GERSTAN, | | | 0-12.5 (all) | |
| THE BOX | | SIMON HAMMERSTEIN, SERGE BECKER, RICHARD KIMMEL, | | | VARIED | |
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ASSETS YOU WILL LIQUIDATE (Include all assets you intend to liquidate to satisfy any criminal monetary penalties that may be imposed.)

| Asset Description | Estimated Value of Asset | Date You Will Liquidate | Current Location of Asset (if real property, county and state) |
|-------------------|--------------------------|-------------------------|----------------------------------------------------------------|
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PROSPECT OF INCREASE IN ASSETS (Give a general statement of the prospective increase of the value of any asset you own.)

My partnership at La Esquina is at the mercy of my three other partners and my shares as a 'Key employee' will be voted upon if and when deemed necessary. My points will range between 0-12.5%

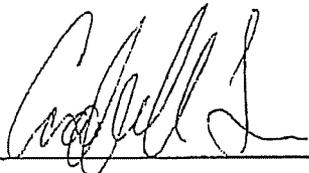
My involvement in The Box is under Serge Becker LLC and as a senior executive I will make a percentage of the net, if I am able to retain this position.

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| LIABILITIES | | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|----------------------------------|---------------------|------------------------------------|
| CHARGE ACCOUNTS AND LINES OF CREDIT (Include all bank credit cards, lines of credit, revolving charge accounts, etc.) | | | | | | |
| I/J S/D | Type of Account or Card | Name and Address of Creditor | Credit Limit | Amount Owed | Credit Available | Minimum Monthly Payment |
| | None | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| OTHER DEBTS (Include mortgage loans, notes payable, delinquent taxes, and child support.) | | | | | | |
| I/J S/D | Owed To | Address | Relationship (if any) | Amount Owed | Reason Owed | Monthly Payment |
| | State, + Federal IRS | | | | | |
| | Credit report | | | | | |
| | Atty fees | | | 5,000 | | |
| | | | | | | |
| PARTY TO CIVIL SUIT (Include any civil lawsuits you have ever been a party to.) | | | | | | |
| I/J S/D | Name of Plaintiff in the Case | Court of Jurisdiction and County | Case Number | Date of Suit Filed | Date of Judgment | Judgment Amount/ Unpaid Balance |
| | None | | | | | |
| | | | | | | |
| | | | | | | |
| BANKRUPTCY FILINGS (Include information requested for any Chapter 7, 11, or 13 bankruptcy filings you have ever been a party to as an individual or as a business entity.) | | | | | | |
| I/J S/D | Type of Bankruptcy (Voluntary or Involuntary)/ Name and Address of Trustee | Bankruptcy Case Number | Bankruptcy Court of Jurisdiction | County and State of Discharge | Date Filed | Date of Discharge |
| | None | | | | | |
| | | | | | | |
| | | | | | | |

Signature  Date DEC/19/06



To the Honorable D. Brock Hornby,
United States District Judge

I'm writing to you on behalf of Cordell Lochin. I've met Cordell in the early 1990's through my wife. He was a young energetic man full of enthusiasm and promise. Over the years I've watched him grow into a well liked and respected personality in the New York. He frequented my establishments and worked at many other popular places.

When I was planning to open the Mexican restaurant "La Esquina", I asked him to become a partner and as such he's made himself invaluable. His constant good humor, kind heart and boundless generosity is the mainstay of our business. Together we have since embarked on a string of two more successful business launches, the last one the critically acclaimed variety theater "The Box".

We're in the middle of the workshop phase of our first production and Cordell' job has been to assure that our venue is well marketed and we meet our financial goals, as well as management, he has also been key in all areas of human resources and hiring. He excels in these roles like no other and we're all depended on his presence.

As we're preparing for the potential absence of Cordell, we're becoming keenly aware that it is next to impossible to replace his skill set. Between the 2 places we have a total of 180 employees and they all rely daily on his managerial guidance and overall drive and support of our businesses.

We're also in the design phase of our second location of "La Esquina" in Miami Beach at "the Gale" hotel and we're not sure how we would accomplish opening the place without Cordell.

The nature of our business is fickle and Cordell has proven himself to be the most gracious host to the city's most discerning audience. As who's who of arts and entertainment, business and government personalities have come to rely on his constant attention to their needs and seem to dial his personal number constantly for access or advice.

GOVERNMENT
EXHIBIT

B



More than just a business partner I would like to convey to you the picture of my friend Cordell.

There isn't a person too little or unimportant to him to not be of help, or brighten their day with his smile. From the dry cleaner at the corner to the governor, he approaches all people with the same open helpful stance. He lives life with an inspiring drive and august spirit, and his only weakness can be his inability to read danger or ill intent. I'm sure that he will learn from this episode to pick his friends wisely, that there are no short cuts from hard work, and the importance to be able to say no.

My daughter thinks of him as her happy uncle, always ready to play and spend time no matter what pressures bear on him.

I'm proud of Cordell's growth in the last few years from a young impressionable young man into a person of integrity and feel fortunate to be able to call him a dear friend. He was able to walk away from his youthful mistakes on his own accord and make something of himself.

A grown man now, he's in the prime of his life. He leads a life examined, with his heart on his sleeve. There is no mystery to where Cordell will be when we call on him. He's always on our side, trusted and reliable and I speak for all of us here at all the various venues we operate that we hope from the bottom of our hearts that he will remain so.

Cordell realizes that he has broken the law and has to pay back his debt to society. However for the simple practical reason that his absence would severely hamper my ability to run our businesses, I ask respectfully of you to consider the full book of Cordell, not just one sorry chapter when deliberating your decision and if you could please show some leniency that would allow Cordell to continue his work while paying his debt.

I thank you for taking the time to read my letter.

Gratefully,

Serge Becker